



The Gujarat Panchayats Act, 1961

Act 6 of 1962

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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this part in order that it may be filed as a separate compilation

PART IV

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The following Acts, Ordinances, etc., have been published as Extraordinary Gazette on the dates shown against them:—

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SATURDAY, FEBRUARY 24, 1962 PHALGUNA 5, 1883

The following Act of the Gujarat Legislature having been assented to by the President on the 20th February 1962 is hereby published for general information.

M. G. MONANI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT No. VI OF 1962.

(First published after having received the assent of the President in the "Gujarat Government Gazette" on the 24th February 1962.

An Act to consolidate and amend the law relating to village panchayats and district local boards in the State of Gujarat with a view to reorganise the administration pertaining to local government in furtherance of the object of the democratic decentralisation of powers in favour of different classes of panchayats.

It is hereby enacted in the Twelfth Year of the Republic of India as follows:—

CHAPTER 1.

PRELIMINARY

1. (1) This Act may be called the Gujarat Panchayats Act, 1961.
- (2) It extends to the whole of the State of Gujarat.
- (3) This section shall come into force at once; and all or any of the remaining provisions of this Act shall come into force in such district and

Short ti
extent of
enactment.

on such date as the State Government may, by notification in the *Official Gazette* appoint; and different dates may be appointed in respect of different districts and different provisions.

Definitions

2. In this Act, unless the context otherwise requires—

(1) "building" includes a hut, shed, or other enclosure whether used as a human dwelling or for any other purpose whatsoever and also includes walls, verandahs, fixed platforms, plinths, doorsteps and the like;

(2) "case" means with reference to any judicial proceedings, a criminal proceeding in respect of any offence triable by a Nyaya Panchayat;

(3) "cattle" means and includes bulls, bullocks, heifers, cows and their young, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, swine, sheep, ewes, rams, lambs, goats and kids ;

(4) "city" means a city as defined in the Bombay Provincial Municipal Corporations Act, 1949; Bom.
LIX
of
1949.

(5) "competent authority" means such Government Officer, panchayat or authority as the State Government may, by notification in the *Official Gazette*, appoint to perform the functions of a competent authority under such provisions of this Act and in respect of such panchayats as may be specified in the said notification;

(6) "district" means a district formed under this Act ;

(7) "District Development Officer" means such officer as the State Government may appoint to be a District Development Officer for the purposes of this Act;

(8) "district panchayat" means a district panchayat constituted under this Act;

(9) "factory" means a factory as defined in the Factories Act, 1948; LXIII
of
1948.

(10) "general election" means the election held under this Act for the constitution or the reconstitution of a panchayat after the expiry of its term or otherwise ;

(11) "gram" means a gram formed under this Act;

(12) "gram panchayat" means a gram panchayat constituted or deemed to be constituted under this Act;

(13) "gram sabha" means a gram sabha deemed to be constituted under this Act ;

(14) "land" includes land which is built upon, or covered with water;

(15) "Land Revenue Code" means —

(a) in the Bombay and Saurashtra areas of the State of Gujarat the Bombay Land Revenue Code, 1879, and Bom.
V of
1879.

(b) in the Kutch area of the State of Gujarat the said Code as applied to that area;

(16) "list of voters" means a list of voters provided for and maintained under section 21;

(17) "nagar" means a nagar formed under this Act;

(18) "nagar panchayat" means a nagar panchayat constituted under this Act;

(19) "Nyaya Panchayat" means a Nyaya Panchayat constituted or deemed to have been constituted under this Act for the purpose of the trial of suits and cases ;

(20) "octroi" or "octroi duty" means a tax on the entry of goods into a gram or nagar, for consumption, use or sale therein;

(21) "panchayat" means a gram panchayat, nagar panchayat, taluka panchayat or district panchayat;

(22) "Panchayat Functions List" means the list of matters enumerated in Schedules I, II and III;

(23) "population" in relation to gram, nagar, taluka or district, means the population thereof as ascertained at the last preceding census of which the relevant figures have been published;

(24) "prescribed" means prescribed by rules;

(25) "rules" means rules made, or deemed to have been made, under this Act;

(26) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Gujarat under article 341 of the Constitution of India;

(27) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Gujarat under article 342 of the Constitution of India;

(28) "Secretary" means a secretary of a panchayat appointed or deemed to be appointed under this Act;

(29) "street" means any road, footway, square, court, alley or passage accessible whether permanently or temporarily to the public, whether a thoroughfare or not;

(30) "suit" means a civil suit triable by a Nyaya Panchayat under this Act;

(31) "taluka" means a taluka formed under this Act;

(32) "Taluka Development Officer" means such officer as the State Government may appoint to be a Taluka Development Officer for the purposes of this Act;

(33) "taluka panchayat" means a taluka panchayat constituted under this Act;

(34) "tax" means a tax, cess, rate or other impost leviable under this Act, but does not include a fee;

(35) "ward" means an area into which a gram or as the case may be, nagar is divided under section 20 ;

(36) "year", except in the case of the term of a panchayat, means the year commencing on the 1st day of April unless another date is specified by the State Government by notification in the *Official Gazette*.

CHAPTER II.

ESTABLISHMENT OF PANCHAYATS OF DIFFERENT TIERS

(A) *Establishment of panchayats and their area of jurisdiction.*

Establishment of panchayats of different tiers.

3. For the purposes of this Act, there shall be in each district—

- (1) a gram panchayat for each gram,
- (2) a nagar panchayat for each nagar,
- (3) a taluka panchayat for each taluka, and
- (4) a district panchayat for the district.

Establishment of Nyaya Panchayats.

4. (1) For the purpose of the administration of civil and criminal justice as provided in this Act, there shall be a Nyaya Panchayat —

(a) for each nagar to be known by the name specified by the State Government; and

(b) for each group of such grams not being less than five in number as the State Government may, by notification in the *Official Gazette*, determine to be known by the name specified in the notification.

(2) The grams comprising a group shall, as far as possible, be contiguous.

Conciliation panch.

5. For settling disputes between parties by conciliation under this Act there shall be a conciliation panch for each gram and for each nagar for which a Nyaya Panchayat has been constituted.

Gram-sabha.

6. There shall be a gram sabha for a gram for performing such functions as are provided in this Act and such other functions as may be prescribed.

Incorporation of panchayats of different classes.

7. (1) A gram panchayat shall be a body corporate by the name of "The Gram Panchayat".

(2) A nagar panchayat shall be a body corporate by the name of "The Nagar Panchayat".

(3) A taluka panchayat shall be a body corporate by the name of "The Taluka Panchayat".

(4) A district panchayat shall be a body corporate by the name of "The District Panchayat".

(5) Every panchayat mentioned in sub-section (1), (2), (3) or (4) shall have perpetual succession and a common seal and may sue and be sued in its corporate name, and subject to the provisions of this Act, shall be competent to acquire and hold property, both movable and immovable, whether within or without the limits of the area over which it has authority, to lease, sell or otherwise transfer any movable or immovable property which may have

become vested in it, or have been acquired by it, to raise loans upon the security of its fund in the manner and subject to the limits and other requirements including guarantees prescribed by rules, and to contract and do all other things necessary for the purposes of this Act.

8. (1) A gram panchayat or nagar panchayat shall, subject to the authority of the taluka panchayat and the district panchayat, have authority for the purposes of this Act over the area for which it is constituted.

Subordination of panchayats amongst themselves and their powers, functions and duties.

(2) A district panchayat and subject to the authority of the district panchayat a taluka panchayat, shall have authority for the purposes of this Act over the area for which it is constituted, except that portion of the area which for the time being is within the limits of a city, municipal borough, municipal district, notified area or cantonment constituted under any law for the time being in force.

(3) Subject to the control of the State Government and the competent authority —

(a) a gram or nagar panchayat shall be subordinate to the taluka panchayat and the district panchayat, and

(b) a taluka panchayat shall be subordinate to the district panchayat.

(4) A district panchayat, a taluka panchayat, a nagar panchayat and a gram panchayat shall exercise such powers, perform such functions and duties and shall have such responsibilities and authority as are provided by or under this Act or any other law for the time being in force.

9. (1) After making such inquiries as may be prescribed, the State Government may, by notification in the *Official Gazette*, declare any local area, comprising a revenue village, or a group of revenue villages or hamlets forming part of a revenue village, or such other administrative unit or part thereof,—

Declaration of nagar and gram.

(a) to be a nagar, if the population of such local area exceeds 10,000 but does not exceed 30,000, and

(b) to be a gram, if the population of such local area does not exceed 10,000.

(2) After consultation with the taluka panchayat, the district panchayat and the nagar or gram panchayat concerned (if already constituted) the State Government may, by like notification, at any time —

(a) include within, or exclude from, any nagar or gram, any local area or otherwise alter the limits of any nagar or gram ; or

(b) declare that any local area shall cease to be a nagar or gram ;

and thereupon the local area shall be so included or excluded, or the limits of the nagar or gram so altered or, as the case may be, the local area shall cease to be a nagar or gram.

Formation of districts and talukas for purposes of this Act.

10. For the purposes of this Act —

(i) a district as constituted from time to time under the Land Revenue Code shall be a district, and

(ii) a taluka or mahal as constituted from time to time under the Land Revenue Code shall be a taluka.

Panchayat organisation and the exercise of control over panchayats by State Government.

11. (1) The gram panchayats, nagar panchayats, taluka panchayats, district panchayats, gram sabhas, Nyaya Panchayats and conciliation panchas shall constitute the Panchayat Organisation of the State of Gujarat.

(2) The State Government shall exercise its control over the panchayats either directly or through such officer or officers as it may by general or special order appoint for the purpose.

(B) *Constitution of panchayats and their term.*

Constitution of gram panchayats.

12. (1) A gram panchayat shall subject to the provisions of sub-section (3) consist of such number of members not less than 9 and not more than 15 as the district panchayat may determine, elected from amongst the qualified voters of the gram.

(2) A gram panchayat shall have a Sarpanch and a Upa-Sarpanch elected by its members from amongst themselves.

(3) Out of the seats of members to be determined under sub-section (1) —

(a) two seats shall be reserved for women,

(b) one seat or if in the case of any gram, the State Government, having regard to the population of Scheduled Castes in the gram, specifies more seats in this behalf, the seats so specified, shall be reserved for Scheduled Castes, and

(c) if in the case of any gram the State Government, having regard to the population of Scheduled Tribes in the gram, specifies any seat or seats for being reserved for Scheduled Tribes, the seat or seats so specified shall be reserved for Scheduled Tribes :

Provided that nothing in clause (b) shall apply to a gram, where there is no population of Scheduled Castes.

Constitution of nagar Panchayats.

13. (1) A nagar panchayat shall subject to the provisions of sub-section (3) consist of such number of members not less than 15 and not more than 31 as the district panchayat may determine, elected from amongst the qualified voters of the nagar.

(2) A nagar panchayat shall have a Chairman and a Vice-Chairman elected by its members from amongst themselves.

(3) Out of the seats of members to be determined under sub-section (1) —

(a) two seats shall be reserved for women,

(b) one seat or if in the case of any nagar the State Government, having regard to the population of Scheduled Castes in the nagar, specifies more seats in this behalf, the seats so specified, shall be reserved for Scheduled Castes, and

(c) if in the case of any nagar, the State Government, having regard to the population of Scheduled Tribes in the nagar, specifies any seat or seats for being reserved for Scheduled Tribes, the seat or seats so specified shall be reserved for Scheduled Tribes.

14. (1) A taluka panchayat shall consist of the following *ex-officio*, elected, co-opted and associate members, namely :—

Constitution of taluka panchayat.

(A) *Ex-officio members.*

(i) The Sarpanchas of all the gram panchayats within the taluka;

(ii) The Chairmen of all the nagar panchayats within the taluka:

Provided that in the absence of the Sarpanch of any gram panchayat or the Chairman of any nagar panchayat, or where the Sarpanch or as the case may be, the Chairman, becomes an associate member under sub-section (4), the Upa Sarpanch of the gram panchayat, or as the case may be, the Vice-Chairman of the nagar panchayat shall act as the *ex-officio* member :

Provided further that where the Upa-Sarpanch or the Vice-Chairman, as the case may be, becomes an associate member under sub-section (4) then such member as the gram or nagar panchayat as the case may be, may elect shall act as the *ex-officio* member in the absence of the Sarpanch or the Chairman as the case may be;

(B) *Elected members.*

(iii) Members elected by the Chairmen of all the co-operative societies situate within the taluka from amongst themselves. The number of members to be so elected shall be as nearly as may be one-tenth of the total number of *ex-officio* members as may be determined by the district panchayat;

(C) *Co-opted members.*

(iv) two women who may be interested in the welfare activities pertaining to women and children ;

(v) two representatives of the Scheduled Castes in the taluka ;

(vi) two representatives of the Scheduled Tribes in the taluka, if the population of the Scheduled Tribes in the taluka is not less than five per cent. of the total population of the taluka ;

(vii) two persons from amongst social workers residing in the taluka and having practical experience in respect of matters pertaining to rural development;

(D) *Associate members.*

(viii) Members of the Gujarat Legislative Assembly elected from any constituency other than a City Constituency in the taluka or part thereof;

(ix) the Mamlatdar or Mahalkari of the taluka or mahal, as the case may be;

(x) presidents of all the municipalities situate within the taluka,

(xi) members of the District Panchayat elected under clause (iii) of sub section (1) of section 15 and ordinarily residing in the taluka.

(2) A taluka panchayat shall have a President and a Vice-President elected by its *ex-officio*, elected, appointed and co-opted members from amongst themselves.

(3) A Sarpanch of a gram panchayat or a Chairman of a nagar panchayat if elected as the President of the taluka panchayat of which he is an *ex-officio* member, shall vacate the office of Sarpanch or Chairman, as the case may be, but shall continue to be an *ex-officio* member of the taluka panchayat.

(4) Where any *ex-officio* elected or co-opted member of a taluka panchayat is also a member of the Gujarat Legislative Assembly he shall cease to be such member but shall continue only as an associate member of the panchayat.

constitution district panchayats. 15. (1) A district panchayat shall consist of the following *ex-officio*, elected, co-opted and associate members, namely :—

(A) *Ex-officio* members.

(i) the Presidents of all the taluka panchayats in the district:

Provided that in the absence of the President of any taluka panchayat, or where the President becomes an associate member under sub-section (4) he Vice-President of the taluka panchayat shall act as the *ex-officio* member :

Provided further that where the Vice-President of a taluka panchayat becomes an associate member of a district panchayat under sub-section (4) then such member as the taluka panchayat may elect shall act as the *ex-officio* member in the absence of the President.

(B) *Elected* members.

(ii) one member elected by each taluka panchayat in the district from amongst its own members;

(iii) members elected to such number of seats not exceeding the total seats of the *ex-officio* members and elected members representing the taluka panchayats under clauses (i) and (ii) of this sub-section as the State Government may determine :

Provided that out of the seats so determined—

(a) two seats shall be reserved for women,

(b) one seat or such number of seats as the State Government may determine on the basis of the proportion which the population of Scheduled Castes in the district bears to the total population of the district shall be reserved for Scheduled Castes,

(c) where the population of the Scheduled Tribes in the district is not less than five per cent of the total population of the area within the jurisdiction of the district panchayat such number of seats as the State Government may determine on the basis of the proportion which the population of Scheduled Tribes in the district bears to the total population of the district shall be reserved for Scheduled Tribes :

Provided further that the aforesaid reserved seats shall be allotted by rotation to different constituencies in the district in the prescribed manner.

(C) *Co-opted* members.

(iv) Two persons having practical experience in respect of matters pertaining to education and residing in the district.

(D) Associate members.

(v) Members of the House of the People elected from the areas within the jurisdiction of the district panchayat or part thereof ;

(vi) members of the Council of States residing in the area within the jurisdiction of the district panchayat ;

(vii) members of the Gujarat Legislative Assembly of the State of Gujarat elected from the area within the jurisdiction of the district panchayat;

(viii) the Collector of the district;

(ix) Presidents of all municipalities situate within the district.

(2) A district panchayat shall have a President and a Vice-President elected by its *ex-officio*, elected, appointed and co-opted members, from amongst themselves.

(3) A President of a taluka panchayat if elected as the President of a district panchayat of which he is an *ex-officio* member, shall vacate his office of the President of the taluka panchayat but shall continue to be an *ex-officio* member of the district panchayat.

(4) where any *ex-officio*, elected or co-opted member of a district panchayat is also a member of the Gujarat Legislative Assembly or of Parliament he shall cease to be such member of the panchayat but shall continue as an associate member of the panchayat.

16. All persons whose names are included in the list of voters maintained for a gram shall be deemed to constitute the gram sabha of the gram. Consti-
tution of
gramsabha

17. (1) The term of a panchayat as constituted at its first meeting shall, save as otherwise provided in this Act, be four years from the date of such meeting. Term of
panchayat
and re-
constitution
thereof on
expiry of
term.

(2) The State Government may by order in writing and for reasons recorded therein extend the said term for a period not exceeding in the aggregate one year.

(3) On the expiry of the term under sub-section (1) or sub-section (2), as the case may be, the panchayat shall be reconstituted.

(4) Sub-sections (1) and (2) shall apply *mutatis mutandis* to a panchayat so reconstituted.

CHAPTER III.

ELECTION, APPOINTMENT OR CO-OPTION OF MEMBERS OF PANCHAYATS,
ELECTION DISPUTES ETC.

18. (1) The election of members to a panchayat shall be held on such date as the District Development Officer may appoint in that behalf; Election.

Provided that in the case of the reconstitution of a panchayat on account of the expiry of its term such date shall not be earlier than two months or later than fifteen days before the expiry of the term.

(2) Such election shall be conducted in the prescribed manner.

(3) The names of the elected members shall be published by the District Development Officer in the prescribed manner.

19. (1) If for any reason an election does not result in the return of the required number of qualified persons willing to take office, then—

(a) in the case of a gram panchayat, nagar panchayat, or taluka panchayat, the district panchayat,

(b) in the case of a district panchayat, the competent authority, shall as soon as possible appoint, from persons qualified to be elected, such persons as are necessary to make up the required number and the persons so appointed shall be deemed to have been duly elected to the relevant panchayat. The names of the members so appointed shall be published by the appointing authority in the prescribed manner.

(2) Notwithstanding anything contained in sub-section (1), where two-thirds or more of the total number of members required to be elected are elected, failure to elect the remaining members shall not affect the constitution of the relevant panchayat.

Provisions relating to elections.

20. (1) For the purposes of elections of members to a gram panchayat and a nagar panchayat, each gram and nagar shall be divided into wards. The number of wards and the number of members to be elected from each ward shall be such as the competent authority may determine.

(2) At any time before the date for entertaining the nominations of candidates for a general election of a gram or nagar panchayat is notified, it shall be lawful for the competent authority to alter for reasons to be recorded in writing the limits of any ward or as the case may be, the number of members to be elected from any ward determined by it in sub-section (1).

(3) For the purposes of election of members to a district panchayat under clause (iii) of sub-section (1) of section 15, the State Government shall divide each district into as many single-member territorial constituencies as there are seats determined under that clause and delimit their extent.

(4) Each ward constituted under sub-section (1) and each territorial constituency constituted under sub-section (3) shall be an electoral division.

(5) An electoral division in respect of a panchayat determined under the foregoing provisions of this section for the purposes of the general election shall continue until the expiry of the term of panchayat.

Circumstances in which members shall be appointed in lieu of elected members.

Electoral divisions.

XIII 21. (1) The electoral roll of the Gujarat Legislative Assembly prepared **of** under the provisions of the Representation of the People Act 1950, and in **1959** force on such date as the State Government may, by general or special order, notify in this behalf for such part of the constituency of the Assembly as is included in the relevant electoral division, shall be the list of voters for that electoral division. List of voters.

(2) Such officer as the State Government may specify in this behalf shall maintain a list of voters for each electoral division; the list shall be published in the prescribed manner.

(3) The officer may rectify any mistake in the list of voters, either on an application made to him in that behalf or on his own motion and for that purpose amend, delete or add any entry in the list.

22. (1) Every person whose name is in the list of voters shall, unless dis- **Persons qualified to vote and be elected.** qualified under this Act or any other law for the time being in force, be qualified to vote at the election of a member for the electoral division to which such list pertains.

(2) Every person whose name is in the list of voters shall, unless disqualified under this Act or under any other law for the time being in force, be qualified to be elected from any electoral division. No person whose name is not entered in the list of voters for the gram or nagar shall be qualified to be elected from any electoral division thereof.

(3) Every person qualified to be elected shall be qualified to be appointed or co-opted as a member of a panchayat.

(4) Subject to any disqualification incurred by a person, the list of voters shall be conclusive evidence for the purpose of determining under this section whether any person is or is not qualified to vote, or as the case may be to be elected at any election.

23. No person shall be a member of a panchayat or continue as such **Disqualification.** who—

(a) has, whether before or after the commencement of this Act, been convicted—

XXII (i) of an offence under the Untouchability (Offences) Act, 1955, or **of** under the Bombay Prohibition Act, 1949, or any law corresponding **1955.** thereto in force in any part of the State, unless a period of four years, or such lesser period as the State Government may allow in any particular case, has elapsed since his conviction; or

Bom. (ii) of any other offence and been sentenced to imprisonment for **XXV** not less than six months, unless a period of four years, or such lesser **of** period as the State Government may allow in any particular case, **1949.** has elapsed since his release; or

(b) has been adjudged by a competent court to be of unsound mind; or

(c) has been adjudicated an insolvent and has not obtained his discharge; or

(d) has been removed from any office held by him in any panchayat under any provisions of this Act or in any panchayat, municipality or

district local board before the commencement of this Act under any law for the time being in force; and a period of four years has not elapsed from the date of such removal, unless he has, by an order of the State Government notified in the *Official Gazette*, been relieved from the disqualification arising on account of such removal from office; or

(e) has been disqualified from holding office under any provision of this Act and the period for which he was so disqualified has not elapsed; or

(f) holds any salaried office or place of profit in the gift or disposal of any panchayat, other than an office of President or Vice President of a panchayat or of a Chairman of an Education Committee of a panchayat, while holding such office or place; or

(g) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of a panchayat, or in any contract with, by or on behalf of, or employment with or under any panchayat; or

(h) has directly or indirectly by himself or his partner any share or interest in any transaction of loan of money advanced to or borrowed from any officer or servant of any panchayat; or

(i) fails to pay any tax or fee or any other sum due to the panchayat within three months from the date on which the amount of such tax or fee or sum is required to be paid according to the bill presented to him under sub-section (1) of section 192; or

(j) is a servant of the Government or a servant of any local authority; or

(k) has voluntarily acquired the citizenship of a foreign State or is under any acknowledgment of allegiance or adherence to a foreign State; or

(l) is disqualified under any other provision of this Act, and the period for which he was so disqualified has not elapsed.

Explanation 1.—A person shall not be disqualified under clause (g) for membership of a panchayat by reason only of such person—

(a) having share in any joint stock company or a share or interest in any society registered under any law for the time being in force which shall contract with or be employed by or on behalf of any panchayat; or

(b) having a share or interest in any newspaper in which any advertisement relating to the affairs of any panchayat may be inserted; or

(c) holding a debenture or being otherwise concerned in any loan raised by or on behalf of any panchayat; or

(d) being professionally engaged on behalf of any panchayat as a legal practitioner.

Explanation 2.—For the purpose of clause (i)—

(i) a person shall not be deemed to be disqualified if he has paid the amount of any tax, fee or sum due, prior to the day prescribed for the nomination of candidates;

(ii) failure to pay any tax, fee or sum due to the panchayat by a member of an undivided Hindu family or by a person belonging to a group or unit the members of which are by custom joint in estate or residence, shall be deemed to disqualify all members of such undivided Hindu family or as the case may be, all the members of such group or unit.

Com. III of 1874. *Explanation 3.*— For the purpose of clause (j) an officiating revenue or police patel or revenue or police patel who is an officiator under the Bombay Hereditary Offices Act, 1874, or any other corresponding law for the time being in force, shall be deemed to be a servant of the Government.

24. (1) If the validity of any election of a member of a panchayat is brought in question by any person qualified to vote at the election to which such question refers, such person may, at any time within fifteen days after the date of the declaration of the results of the election, apply to the Civil Judge (Junior Division), and if there be no Civil Judge (Junior Division) then to the Civil Judge (Senior Division), (hereinafter referred to as "the Judge") having ordinary jurisdiction in the area within which the election has been or should have been held for the determination of such question. Det. r-
mination
of validity
of elections,
enquiry by
Judge and
procedure.

(2) An enquiry shall thereupon be held by the Judge and he may after such enquiry as he deems necessary pass an order, confirming or amending the declared result, or setting the election aside. For the purposes of the said enquiry the said Judge may exercise all the powers of a civil court, and his decision shall be conclusive.

(3) All applications received under sub-section (1) —

(a) in which the validity of the election of members to represent the same electoral division is in question, shall be heard by the same Judge, and

(b) in which the validity of the election of the same member elected to represent the same electoral division is in question, shall be heard together.

V of 1908. (4) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit —

(a) any application to be compromised or withdrawn, or

(b) any person to alter or amend any pleading unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.

(5) (a) If on the holding of such enquiry the Judge finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (6) he shall declare the candidate disqualified for the purpose of that election and of such fresh election as may be held under section 26 and shall set aside the election of such candidate if he has been elected.

(b) If, in any case to which clause (a) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person known or unknown, in giving or obtaining it :

Provided further that after such computation if an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidate or candidates, as the case may be, selected by lot drawn in the presence of the Judge in such manner as he may determine.

(6) A person shall be deemed to have committed a corrupt practice —

(a) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury to any person, or

(b) who, with a view to inducing any person to stand or not to stand or to withdraw or not to withdraw from being a candidate at an election, offers or gives any money or valuable consideration or holds out any promise of individual profit or holds out any threat of injury to any person, or

(c) who hires or procures, whether on payment or otherwise, any vehicle or vessel for the conveyance of any voter (other than the person himself, the members of his family or his agent) to and from any polling station :

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint cost for the purpose of conveying him or them to or from any such polling station shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power :

Provided further that the use of any public transport vehicle or vessel or any tram car or railway carriage by any voter at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

Explanation 1.— A corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 2.— “ A promise of individual profit ” does not include a promise to vote for or against any particular measure which may come before a panchayat for consideration, but subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

Explanation 3.— The expression “ vehicle ” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise.

25. (1) If any member of a panchayat,—

Disability
from conti-
nuing as
member.

(a) who is elected or appointed as such, was subject to any of the dis-qualifications mentioned in section 23 at the time of his election or appointment, or

(b) during the term for which he has been elected or appointed, incurs any of the disqualifications, mentioned in section 23,

he shall be disabled from continuing to be a member, and his office shall become vacant.

(2) In every case, the question whether a vacancy has arisen, shall be decided by the competent authority. The competent authority may give its decision either on an application made to it by any person, or on its own motion. Until the competent authority decides that the vacancy has arisen, the member shall not be disabled under sub-section (1) from continuing to be a member. Any person aggrieved by the decision of the competent authority may, within a period of fifteen days from the date of such decision, appeal to the State Government and the orders passed by the State Government in such appeal shall be final :

Provided that no order shall be passed under this sub-section by the competent authority against any member without giving him a reasonable opportunity of being heard.

26. If the election of any member is set aside under section 24 or if his office becomes vacant under section 25 a fresh election for the vacancy so caused shall, as soon as may be, be held in accordance with the provisions of this Act.

fresh
election if
election or
appointment
is
invalid.

Election Offences.

27. (1) No person shall, on the date or dates on which a poll is taken in any polling station, commit any of the following acts within the polling station, or in any public or private place within a distance of one hundred yards of the polling station, namely :—

Prohibi-
tion of
canvassing
in or near
polling
station.

(a) canvassing for votes; or

(b) soliciting the vote of any voter; or

(c) persuading any voter not to vote at the election; or

(d) persuading any voter not to vote for any particular candidate; or

(e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under this section shall be cognizable.

Penalty for disorderly conduct in or near a polling station.

28. (1) No person shall, on the date or dates on which a poll is taken at any polling station,

(a) use or operate, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or

(b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

Penalty for misconduct at a polling station.

29. (1) Any person who during the hours fixed for the poll at any polling station, misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(4) An offence punishable under sub-section (3) shall be cognizable.

Maintenance of secrecy of voting.

30. (1) Where an election is held by ballot, every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(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 three months or with fine or with both.

31. (1) No person who is a returning officer, or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall, in the conduct of the management of the election do any act (other than the giving of his vote) for the furtherance of the prospects of the election of a candidate.

Officers, etc.
at elections
not to act for
candidates or
influence
voting.

(2) No such person as aforesaid, and no member of a police force, shall endeavour —

- (a) to persuade any person to give his vote at an election, or
- (b) to dissuade any person from giving his vote at an election, or
- (c) to influence the voting of any person at an election in any manner.

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

32. (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

Breaches
of official
duty in
connection
with
elections.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the returning officers, presiding officers, polling officers and any other persons appointed to perform any duty in connection with the maintenance of the list of voters, the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

33. (1) Any person who, at any election, fraudulently takes or attempts to take a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

Removal
of ballot
papers from
polling
stations to
be offence.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer :

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

34. (1) A person shall be guilty of an offence, if, at any election he—

(a) fraudulently defaces or fraudulently destroys any nomination paper;
or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer ; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper ; or

(d) without due authority supplies any ballot paper to any person; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in ; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election ; or

(g) fraudulently or without due authority as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an offence under this section shall,—

(a) if he is a returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years or with fine or with both ;

(b) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression " official duty " shall not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under clause (b) of sub-section (2) shall be cognizable.

Prosecution
in certain
offences.

35. No court shall take cognizance of an offence punishable under section 31 or under section 32 or under clause (a) of sub-section (2) of section 34 except on a complaint made by an order of or under authority from the competent authority.

Requisitioning of premises for the purposes of election.

36. (1) If it appears to an officer authorised by the State Government for conduct of elections under this Act (hereinafter referred to as "the requisitioning authority ") that in connection with an election under this Act —

Requisitioning of premises, vehicles, etc., for election purposes.

(a) any premises are needed or are likely to be needed for being used as a polling station, or for the storage of ballot boxes after a poll has been taken, or

(b) any vehicle, vessel or animal is needed or likely to be needed for the purpose of transport of ballot boxes to or from any polling station or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election,

the requisitioning authority may by order in writing requisition such premises, or as the case may be, such vehicle, vessel or animal and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning :

Provided that, no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section, until, the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property, and such order shall be served in the manner prescribed by rules made by the State Government under this Act on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

(4) In this section —

(a) " premises " means any land, building or part of a building and includes a hut, shed or other structure or any part thereof ;

(b) " vehicle " means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise.

37. (1) Whenever in pursuance of section 36 the requisitioning authority requisitions any premises, the panchayat shall pay to the persons interested compensation the amount of which shall be determined by the requisitioning authority by taking into consideration the following factors, that is to say —

Payment of compensation.

(i) the rent payable, in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality ;

(ii) if in consequence of the requisition of premises, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change :

Provided that, where any person interested being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine :

Provided further that, where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the requisitioning authority to an arbitrator appointed in this behalf by the requisitioning authority for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression “person interested” means the person who was in actual possession of the premises requisitioned under section 36 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 36, the requisitioning authority requisitions any vehicle, vessel or animal, the panchayat shall pay to the owner thereof compensation the amount of which shall be determined by the requisitioning authority on the basis of fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal :

Provided that, where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the time prescribed by rules made by the State Government to the requisitioning authority for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine :

Provided further that, where immediately before the requisitioning, the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the requisitioning authority in this behalf may decide.

Power to obtain information.

38. The requisitioning authority may, with a view to requisitioning any property under section 36 or determining the compensation payable under section 37 by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

Power of entry into and inspection of premises, etc.

39. (1) Any person authorized in this behalf by the requisitioning authority may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so, in what manner, an order under section 36 should be made in relation to such premises, vehicles, vessel or animal, or with a view to securing compliance with any order made under that section.

(2) In this section, the expressions 'premises' and 'vehicle' have the same meaning as in section 36.

40. (1) Any person remaining in possession of any requisitioned premises in contravention of an order made under section 36 may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

Eviction from requisitioned premises.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

41. (1) When any premises requisitioned under section 36 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

Release of premises from requisition.

(2) Where the person to whom possession of any premises requisitioned under section 36 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the *Official Gazette*.

(3) When a notice referred to in sub-section (2) is published in the *Official Gazette* the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the requisitioning authority or the panchayat shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

42. If any person contravenes any order made under section 36 or section 38, he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine, or with both.

Penalty for contravention of any order regarding requisition.

Co-option of members.

43. (1) Subject to the provisions of sub-section (2), a taluka panchayat or a district panchayat, as the case may be, shall choose its co-opted members in the prescribed manner.

Co-option of members to a taluka panchayat and district panchayat.

(2) When members of a taluka panchayat or district panchayat are to be co-opted at the first constitution of the taluka panchayat or district panchayat or the reconstitution thereof under section 17 there shall be held

on such day before the first meeting of the relevant panchayat as the competent authority may fix, a preliminary meeting thereof for choosing its co-opted members.

(3) The preliminary meeting shall consist of—

(a) the *ex-officio* members of the panchayat, and

(b) the members elected at the general election.

(4) The preliminary meeting shall be presided over by such officer as the competent authority may by order appoint in this behalf.

CHAPTER IV.

PROVISIONS RELATING TO PRESIDING OFFICERS OF PANCHAYATS AND MEMBERS OF PANCHAYATS.

PART I.

Gram Panchayats and Nagar Panchayats.

First meeting of panchayat and election of Sarpanch and Upa-sarpanch, or Chairman and Vice-chairman.

44. (1) On the constitution of a gram or nagar panchayat or on its re-constitution under section 17 or under any other provision of this Act, there shall be called the first meeting thereof for the election of its Sarpanch and Upa-sarpanch or as the case may be, its Chairman and Vice-chairman.

(2) The meeting shall be held on such day within four weeks from the date on which the names of members elected at the general election are published under section 18 as may be fixed by the competent authority :

Provided that where no day is fixed within the aforesaid period of four weeks, the competent authority shall report the fact to the State Government or an officer or authority authorised by the State Government and the meeting shall be held on such day as the State Government or the said officer or authority, as the case may be, may specify.

(3) The first meeting shall be presided over by such officer as the competent authority may by order appoint in that behalf. Such officer shall have such powers and follow such procedure as may be prescribed but shall not have the right to vote.

(4) No business other than the election of the Sarpanch and Upa-sarpanch or as the case may be, the Chairman and the Vice-chairman shall be transacted at the meeting.

(5) If at the election under this section, there is an equality of votes, the result of the election shall be decided by lot drawn in the presence of the presiding officer in such manner as he may determine.

(6) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section, the dispute shall be referred to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.

45. (1) Save as otherwise provided in this Act, the term of office of—

(a) the members of a gram panchayat or nagar panchayat,

(b) the Sarpanch and Upa-sarpanch of a gram panchayat, and

(c) the Chairman and Vice-chairman of a nagar panchayat,

shall be co-extensive with the term of the panchayat.

Term of office of members of gram and nagar panchayat and of Sarpanch, Chairman, etc. thereof.

(2) After the expiry of his term of office, a Sarpanch or, as the case may be, a Chairman shall continue to carry on the current duties of his office until such time as a new Sarpanch or Chairman is elected and takes charge of the office.

46. (1) The Sarpanch, or as the case may be, the Chairman may resign from his office by tendering his resignation in writing to the competent authority but the resignation shall not take effect until it is accepted by the competent authority.

Resignation of members of Sarpanch, Chairman, etc.

(2) The Upa-sarpanch, or as the case may be, the Vice-chairman may resign from his office by tendering his resignation in writing to the panchayat but the resignation shall not take effect until it is accepted by the panchayat.

(3) Any other member of the panchayat may resign from his office by tendering his resignation to the Sarpanch or, as the case may be, the Chairman and the resignation shall take effect on the date on which it is received by the Sarpanch or the Chairman.

47. (1) Save as otherwise expressly provided by or under this Act, the executive power, for the purpose of carrying out the provisions of this Act and the resolutions passed by a gram panchayat or nagar panchayat vests in the Sarpanch or, as the case may be, the Chairman thereof who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this Act. In the absence of the Sarpanch or as the case may be, the Chairman his powers and duties shall, save as may be otherwise prescribed by rules, be exercised and performed by the Upa-sarpanch or as the case may be, the Vice-chairman.

Executive functions of Sarpanch, Chairman, Upa-sarpanch or as the case may be, Vice-chairman.

(2) Without prejudice to the generality of the foregoing provisions—

(i) in the case of a gram panchayat, its Sarpanch and in the case of a nagar panchayat, its Chairman shall —

(a) preside over and regulate the meetings of the panchayat;

(b) exercise supervision and control over the acts done and action taken by all officers and servants of the panchayat;

(c) incur contingent expenditure upto ten rupees at any one occasion ;

(d) operate on the fund of the panchayat including authorisation of payment, issue of cheques and refunds;

(e) be responsible for the safe custody of the fund of the panchayat;

(f) cause to be prepared all statements and reports required by or under this Act ;

(g) exercise such other powers and discharge such other functions as may be conferred or imposed upon him by this Act or rules made thereunder.

(ii) The Upa-Sarpanch or the Vice-Chairman shall—

(a) in the absence of the Sarpanch or Chairman preside over and regulate the meetings of the panchayat ;

(b) exercise such of the powers and perform such of the duties of the Sarpanch or Chairman as the Sarpanch or Chairman may, from time to time, delegate to him ;

(c) pending the election of the Sarpanch or the Chairman or in case the Sarpanch or Chairman has been continuously absent from the gram or as the case may be nagar for more than fifteen days or is incapacitated, exercise the powers and perform the duties of the Sarpanch or as the case may be, the Chairman.

(3) In the absence of both the Sarpanch and the Upa-Sarpanch, or as the case may be, the Chairman and the Vice-Chairman, every meeting of the panchayat shall be presided over by such one of the members present as may be chosen by the meeting to be Chairman for the occasion.

48. (1) A motion of no confidence may be moved by any member of a panchayat against its Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman after giving such notice thereof as may be prescribed.

(2) If the motion is carried by a majority of not less than two-thirds of the total number of the then members of the panchayat, the Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman, as the case may be, shall cease to hold office after a period of three days from the date on which the motion was carried unless he has resigned earlier ; and thereupon the office held by him shall be deemed to be vacant.

(3) Notwithstanding anything contained in this Act or the rules made thereunder a Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman, as the case may be, shall not preside over a meeting in which a motion of no confidence is discussed against him ; but he shall have a right to speak or otherwise to take part in the proceedings of such a meeting (including the right to vote).

(4) When in the of a gram panchayat the offices of both the Sarpanch and Upa-Sarpanch and in the case of a nagar panchayat, the offices of both the Chairman and Vice-Chairman become vacant simultaneously, such officer as the Taluka Development Officer may authorise in this behalf shall, pending the election of the Sarpanch or as the case may be, Chairman exercise all the powers and perform all the functions and duties of Sarpanch or as the case may be, Chairman but shall not have the right to vote in any meetings of the panchayat.

49. (1) The competent authority may remove from office any member of a panchayat or the Sarpanch, the Upa-Sarpanch, the Chairman or as the case may be, the Vice-Chairman, thereof after giving him an opportunity of being heard and giving due notice in that behalf to the panchayat and after such inquiry as it deems necessary, if such member, Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman, as the case may be, has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties under this Act. The Sarpanch, Upa-Sarpanch, Chairman or as the case may be, Vice-Chairman so removed may at the discretion of the competent authority also be removed from the membership of the panchayat. Removal
from
Office.

(2) The competent authority may, after following the procedure laid down in sub-section (1), disqualify for a period not exceeding four years, any person who has resigned his office as a member, Sarpanch, Upa-Sarpanch Chairman or Vice-Chairman or otherwise ceased to hold any such office and has been guilty of misconduct specified in sub-section (1) or has been incapable of performing his duties :

Provided that an action shall be taken within six months from the date on which the person resigns or ceases to hold, any such office.

(3) Any person aggrieved by an order of the competent authority under sub-section (1) or (2) may, within a period of thirty days from the date of the communication of such order, appeal to the State Government.

50. (1) Any member of a gram panchayat or nagar panchayat who, during his term of office — Leave of
absence.

(a) is absent for more than three consecutive months from the gram or as the case may be, nagar unless leave not exceeding four months so to absent himself has been granted by the panchayat ; or

(b) absents himself for four consecutive months from the meetings of the panchayat without the leave of the said panchayat,

shall cease to be a member and his office shall be vacant and thereupon the panchayat shall, as soon as may be, inform him that the vacancy has occurred.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the competent authority, whose decision shall be final.

(3) Whenever leave is granted under sub-section (1) to a member who is an Upa-Sarpanch or Vice-Chairman, another member shall, subject to the conditions to which the election of the Upa-Sarpanch or Vice-Chairman so absenting himself was subject, be elected to perform all the duties and exercise all the powers of an Upa-Sarpanch or Vice-Chairman during the period for which such leave is granted.

Suspension of Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman.

51. (1) The District Development Officer may suspend from office the Sarpanch or Upa-Sarpanch of a gram panchayat or as the case may be, the Chairman or Vice-Chairman of a nagar panchayat against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in a prison during trial under the provisions of any law for the time being in force.

(2) Where any Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman has been suspended under sub-section (1), another member of the gram panchayat or as the case may be, nagar panchayat shall, subject to the conditions to which the election of the Sarpanch, Upa-Sarpanch, Chairman or, as the case may be, Vice-Chairman so suspended was subject, be elected to perform all the duties and exercise all the powers of a Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman during the period for which such suspension continues.

(3) An appeal shall lie against an order passed under sub-section (1) to the State Government. Such appeal shall be made within a period of thirty days from the date of the order.

Eligibility of certain members for re-election.

52. A member of a gram panchayat or nagar panchayat whose office has become vacant under section 25 or under section 50 shall, if his disqualification or disability has ceased, be eligible for re-election.

Filling up of vacancies.

53. (1) Any vacancy of which notice has been given to the competent authority in the prescribed manner due to the disablement, death, resignation, disqualification, absence without leave or removal of a Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman or member of a panchayat shall be filled by the election of a Sarpanch, Upa-Sarpanch, Chairman or Vice-Chairman or member, as the case may be, who shall hold office so long only as the Sarpanch, Upa-Sarpanch, Chairman, Vice-Chairman or member, in whose place he has been elected, would have held office if the vacancy had not occurred :

Provided that if no member is so elected within two months from the date on which notice of the vacancy is given to the competent authority, the competent authority shall, as soon as possible, appoint a person who is qualified to be elected, and the person so appointed shall be deemed to have been duly elected under this sub-section :

Provided further that if vacancy of a member occurs within four months preceding the date on which the term of the panchayat expires under section 17, it shall not be filled.

(2) The meeting for the election of the Sarpanch or Upa-Sarpanch of a gram panchayat or of the Chairman or Vice-Chairman of a nagar panchayat under sub-section (1) shall be convened by the competent authority on such date as it may fix.

(3) When the offices of both the Sarpanch and Upa-Sarpanch or the Chairman and Vice-Chairman, as the case may be, become vacant simultaneously, such officer as the Taluka Development Officer may authorise in this behalf shall, pending the election of the Sarpanch or as the case may be, Chairman exercise all the powers and perform all the functions and duties of Sarpanch or as the case may be, Chairman but shall not have the right to vote in any meeting of the panchayat.

54. During any vacancy in a gram panchayat or nagar panchayat the continuing members may act as if no vacancy had occurred.

Vacancy not to affect proceedings of panchayats.

PART II.

Taluka Panchayats.

55. (1) On the constitution of a taluka panchayat or on its reconstitution under section 17 or under any other provisions of this Act there shall be called the first meeting thereof for the election of its President and vice-President.

First meeting of Panchayat and election of President and Vice-President.

(2) The meeting shall be held on such day within four weeks from the date of its preliminary meeting held under section 43 as may be fixed by the competent authority :

Provided that where no day is fixed within the aforesaid period of four weeks, the competent authority shall report the fact to the State Government or an officer or authority authorised by the State Government and the meeting shall be held on such day as the State Government or the said officer or authority, as the case may be, may specify.

(3) The first meeting shall be presided over by such officer as the competent authority may by order appoint in that behalf. Such officer shall, have such powers and follow such procedure as may be prescribed but shall not have the right to vote.

(4) No business other than the election of the President and Vice-President shall be transacted at the meeting.

(5) If at the election under this section, there is an equality of votes, the result of the election shall be decided by lot drawn in the presence of the presiding officer in such manner as he may determine.

(6) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section, the dispute shall be referred to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.

Honorarium allowances etc. to President and Vice-President and travel allowances to members. 56. (1) The taluka panchayat shall pay to its President an honorarium of Rs. 200 per month.

(2) (a) The President shall be entitled without payment of rent, to the use of a residence in the headquarters of the panchayat throughout his term of office and for a period of fifteen days immediately thereafter, or in lieu of such residence a house allowance at such rate as the State Government may determine by a general or special order.

(b) No charge shall fall on the President personally in respect of the maintenance of any residence provided under this sub-section.

(3) During the leave or absence of the President the Vice-President shall be paid such honorarium and allowances as may be prescribed.

(4) The President, Vice-President and members of the panchayat shall be entitled to travelling allowances while touring on public business at such rates and upon such conditions as may be determined by rules.

Term of office of members, President and Vice-President 57. (1) Save as otherwise provided in this Act, the term of office of members, President and Vice-President of a taluka panchayat shall be co-extensive with the term of the panchayat :

Provided that where any person in his capacity as a Chairman of a co-operative society has been elected as a member of the panchayat he shall cease to be a member if he ceases to be such Chairman.

(2) After the expiry of his term of office, the President shall continue to carry on the current duties of his office until such time as a new President is elected and takes charge of his office.

Resignation. 58. (1) The President may resign from his office by tendering his resignation in writing to the competent authority but the resignation shall not take effect until it is accepted by the competent authority.

(2) The Vice-President may resign from his office by tendering his resignation in writing to the panchayat but the resignation shall not take effect until it is accepted by the panchayat.

(3) Any other member of the panchayat other than an *ex-officio* member may resign by tendering his resignation to the President and the resignation shall take effect on the date on which it is received by the President.

Powers and functions of President and Vice-President. 59. (1) (a) The President shall —
(i) convene, preside at, and conduct meetings of the taluka panchayat;
(ii) have access to the records of the panchayat ;
(iii) discharge all duties imposed, and exercise all the powers conferred on him by or under this Act ;

(iv) watch over the financial and executive administration of the panchayat and submit to the panchayat all questions connected therewith which shall appear to him to require its orders; and

(v) exercise administrative supervision over the Taluka Development Officer for securing implementation of resolutions or decisions of the panchayat or of any committee thereof.

(b) The President may in cases of emergency direct the execution or suspension or stoppage of any work or the doing of any act which requires the sanction of the panchayat or any authority thereof, and immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the Taluka Fund :

Provided that, he shall report forthwith the action taken under this subsection, and the full reasons therefor, to the Executive Committee or any appropriate Standing Committee at its next meetings.

(2) The Vice-President shall —

(a) in the absence of the President, preside at the meetings of the panchayat ;

(b) exercise such of the powers and perform such of the duties of the President as the President from time to time may, subject to the rules made by the State Government in this behalf, delegate to him by an order in writing ; and

(c) pending the election of President, or during the absence of the President, exercise the powers and perform the duties of the President.

60. (1) A motion of no confidence may be moved by any member of a taluka panchayat against its President or Vice-President after giving such notice thereof as may be prescribed. Motion of no confidence.

(2) If the motion is carried by a majority of not less than two-thirds of the total number of the then members of the panchayat, the President or the Vice-President, as the case may be, shall cease to hold office after a period of three days from the date on which the motion was carried, unless he has resigned earlier ; and thereupon the office held by such President or Vice-President shall be deemed to be vacant.

(3) Notwithstanding anything contained in this Act or the rules made thereunder a President or Vice-President shall not preside over a meeting in which a motion of no confidence is discussed against him ; but he shall have a right to speak or otherwise to take part in the proceedings of such a meeting including the right to vote).

(4) When the offices of both the President and Vice-President become vacant simultaneously, the District Development Officer or such other officer as he may authorise in this behalf shall, pending the election of the President, exercise all the powers and perform all the functions and duties of the President but shall not have the right to vote in any meeting of the panchayat.

Remova
from
office.

61. (1) The competent authority may remove from office any member of a panchayat except an associate member or any President or Vice-President thereof after giving him an opportunity of being heard and giving due notice in that behalf to the panchayat and after such inquiry as it deems necessary, if such member, President or Vice President has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties under this Act. The President or as the case may be, the Vice-President so removed may at the discretion of the competent authority also be removed from the membership of the panchayat.

(2) The competent authority may, after following the procedure laid down in sub-section (1), disqualify for a period not exceeding four years, any person who has resigned his office as a member, President or Vice-President or otherwise ceased to hold any such office and has been guilty of misconduct specified in sub-section (1) or has been incapable of performing his duties :

Provided that an action shall be taken within six months from the date on which the person resigns, or ceases to hold, any such office.

(3) Any person aggrieved by an order of the competent authority under sub-section (1) or (2) may within a period of thirty days from the date of the communication of such order appeal to the prescribed authority.

Leave of
absence.

62. (1) Any member of a panchayat who, during his term of office —

(a) is absent for more than three consecutive months from the taluka unless leave not exceeding four months so to absent himself has been granted by the panchayat, or

(b) absents himself for four consecutive months from the meetings of the panchayat without the leave of the said panchayat,

shall cease to be a member and his office shall be vacant and thereupon the panchayat shall, as soon as may be, inform him that the vacancy has occurred.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the competent authority, whose decision shall be final.

(3) Whenever leave is granted under sub-section (1) to a member who is Vice-President another member shall subject to the conditions to which the election of the Vice-President so absenting himself was subject, be elected to perform all the duties and exercise all the powers of a Vice-President during the period for which such leave is granted.

Suspension
of President
or Vice-
President.

63. (1) The competent authority may suspend from office any President or Vice-President against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in a prison during trial under the provisions of any law for the time being in force.

(2) Where any President or Vice-President has been suspended under sub-section (1) another member shall, subject to the conditions to which the election of the President or, as the case may be, Vice-President so suspended was subject, be elected to perform all the duties and exercise all the powers of a President or a Vice-President during the period for which such suspension continues.

(3) An appeal shall lie against an order passed under sub-section (1) to the State Government. Such appeal shall be made within a period of thirty days from the date of the order.

64. A member of a panchayat whose office has become vacant under section 25 or under section 62, shall, if his disqualification or disability has ceased, be eligible for re-election.

Eligibility of certain members for re-election.

65. (1) Any vacancy of which notice has been given to the competent authority in the prescribed manner due to the disablement, death, resignation, disqualification, absence without leave or removal of a President, Vice-President or member of a panchayat, shall be filled, by the election of a President or Vice-President or member who shall hold office so long only as the President, Vice-President or member, in whose place he has been elected, would have held office if the vacancy had not occurred :

Filling up of vacancies.

Provided that if no member is so elected within two months from the date on which notice of the vacancy is given to the competent authority, the competent authority shall as soon as possible appoint a person who is qualified to be elected, and the person so appointed shall be deemed to have been duly elected under this sub-section :

Provided further that if the vacancy of a member occurs within four months preceding the date on which the term of the panchayat expires under section 17, it shall not be filled.

(2) The meeting for the election of a President, Vice-President or member under sub-section (1) shall be convened by the competent authority on such date as it may fix.

(3) When the offices of both the President and Vice-President become vacant simulataneously, such officer as the Taluka Development Officer may authorise in this behalf shall pending the election of the President exercise all the powers and perform all the functions and duties of President but shall not have the right to vote in any meeting of the panchayat.

66. During any vacancy in the panchayat, the continuing members may act as if no vacancy had occurred.

Vacancy not to affect proceedings of panchayat.

PART III. *District Panchayats.*

67. (1) On the constitution of a district panchayat or on its reconstitution under section 17 or under any other provisions of this Act there shall be called the first meeting thereof for the election of its President and the Vice-President.

First meeting of district panchayat and election of President and Vice-President.

(2) The meeting shall be held on such day within four weeks from the date of the preliminary meeting held under section 43, as may be fixed by the competent authority :

Provided that where no day is fixed within the aforesaid period of four weeks, the competent authority shall report the fact to the State Government or officer or authority authorised by the State Government and the meeting shall be held on such day as the State Government or the said officer or authority, as the case may be, may specify .

(3) The first meeting shall be presided over by such officer as the competent authority may by order appoint in that behalf. Such officer shall, have such powers and follow such procedure as may be prescribed but shall not have the right to vote.

Such officer shall have such powers and follow such procedure as may be prescribed but shall not have the right to vote.

(4) No business other than the election of the President and the Vice-President shall be transacted at the meeting.

(5) If at the election under this section, there is an equality of votes, the result of the election shall be decided by lot drawn in the presence of the presiding officer in such manner as he may determine.

(6) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section, the dispute shall be referred to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.

68. (1) The district panchayat shall pay to its President an honorarium of Rs. 400 per month.

(2) (a) The President shall be entitled, without payment of rent, to the use of a residence throughout his term of office and for a period of fifteen days immediately thereafter, or in lieu of such residence a house allowance at such rate as the State Government may determine by a general or special order.

(b) No charge shall fall on the President personally in respect of the maintenance of any residence provided under this sub-section.

(3) During the leave or absence of the President the Vice-President shall be paid such honorarium and allowances as may be prescribed.

(4) The President, Vice-President and members of the panchayat shall be entitled to travelling allowance while touring on public business at such rates and upon such conditions as may be determined by rules.

69. (1) Save as otherwise provided in this Act, the term of office of members, President and Vice-President of a district panchayat shall be co-extensive with the term of the panchayat:

Provided that where any person being a member of a taluka panchayat in his capacity as a Chairman of a co-operative society has been elected as a member of the district panchayat, he shall cease to be such member if he ceases to be such Chairman.

(2) After the expiry of his term of office, the President shall continue to carry on the current duties of his office until such time as a new President is elected and takes charge of his office.

70. (1) The President may resign from his office by tendering his resignation in writing to the competent authority but the resignation shall not take effect until it is accepted by the competent authority.

(2) The Vice-President may resign from his office by tendering his resignation in writing to the panchayat but the resignation shall not take effect until it is accepted by the panchayat.

(3) Any other member of the panchayat other than an *ex-officio* member may resign by tendering his resignation to the President and the resignation shall take effect on the date on which it is received by the President.

71. (1) (a) The President shall —

- (i) convene, preside at, and conduct meetings of the district panchayat
- (ii) have access to the records of the panchayat ;

(iii) discharge all duties imposed, and exercise all the powers conferred on him by or under this Act ;

(iv) watch over the financial and executive administration of the panchayat and submit to the panchayat all questions connected therewith which shall appear to him to require its orders ; and

(v) exercise administrative supervision over the District Development Officer for securing implementation of resolutions or decisions of the panchayat or of any Committee thereof.

(b) The President may in cases of emergency direct the execution or suspension or stoppage of any work or the doing of any act which requires the sanction of the panchayat or any authority thereof, and immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such act shall be paid from the District Fund :

Provided that, he shall report forthwith the action taken under this subsection, and the full reasons therefor, to the Executive Committee or any appropriate Standing Committee at its next meetings.

(2) The Vice-President shall —

(a) in the absence of the President, preside at the meetings of the panchayat ;

(b) exercise such of the powers and perform such of the duties of the President as the President from time to time may, subject to the rules made by the State Government in this behalf, delegate to him by an order in writing ; and

(c) pending the election of President, or during the absence of the President, exercise the powers and perform the duties of the President.

72. (1) A motion of no confidence may be moved by any member of a district panchayat against its President or Vice-President after giving such notice thereof as may be prescribed. Motion of no confidence.

(2) If the motion is carried by a majority of not less than two-thirds of the total number of the then members of the panchayat, the President or the Vice-President, as the case may be, shall cease to hold office after a period of three days from the date on which the motion was carried, unless he has resigned earlier ; and thereupon the office held by such President or Vice-President shall be deemed to be vacant.

(3) Notwithstanding anything contained in this Act or the rules made thereunder a President or Vice-President shall not preside over a meeting in which a motion of no confidence is discussed against him ; but he shall have a right to speak or otherwise to take part in the proceedings of such a meeting (including the right to vote).

(4) When the offices of both the President and Vice-President become vacant simultaneously, the District Development Officer or such other officer as he may authorise in this behalf shall, pending the election of the President, exercise all the powers and perform all the functions and duties of the President but shall not have the right to vote in any meetings of the panchayat.

Removal
from office.

73. (1) The competent authority may remove from office any member of a panchayat except an associate member, or a President or Vice-President thereof after giving him an opportunity of being heard and giving due notice in that behalf to the panchayat and after such inquiry as it deems necessary, if such member, President or Vice-President has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties under this Act. The President or, as the case may be, the Vice-President so removed may at the discretion of the competent authority also be removed from the membership of the panchayat.

(2) The competent authority may, after following the procedure laid down in sub-section (1), disqualify for a period not exceeding four years, any person who has resigned from his office of member, President or Vice-President or otherwise ceased to hold any such office and has been guilty of misconduct as specified in sub-section (1) or has been incapable of performing his duties :

Provided that such action shall be taken within six months from the date on which the person resigns or ceases to hold, any such office.

(3) Any person aggrieved by an order of the competent authority under sub-section (1) or (2) may, within a period of thirty days from the date of the communication of such order appeal to the prescribed authority.

Leave of
absence.

74. (1) Any member of a panchayat who, during his term of office —

(a) is absent for more than three consecutive months from the district, unless leave not exceeding four months so to absent himself has been granted by the panchayat or

(b) absents himself for four consecutive months from the meetings of the panchayat, without the leave of the said panchayat, shall cease to be a member and his office shall be vacant and thereupon the panchayat shall, as soon as may be, inform him that the vacancy has occurred.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the competent authority, whose decision shall be final.

(3) Whenever leave is granted under sub-section (1) to a member who is Vice-President another member shall subject to the conditions to which the election of the Vice-President so absenting himself was subject, be elected to perform all the duties and exercise all the powers of a Vice-President during the period for which such leave is granted.

Suspension
of President
or Vice-
President.

75. (1) The competent authority may suspend from office any President or Vice-President against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in a prison during trial under the provisions of any law for the time being in force.

(2) Where any President or Vice-President has been suspended under sub-section (1) another member shall, subject to the condition to which the election of the President or, as the case may be, Vice-President suspended was subject, be elected to perform all the duties and exercise all the powers of a President or a Vice-President during the period for which such suspension continues.

(3) An appeal shall lie against an order passed under sub-section (1) to the State Government. Such appeal shall be made within a period of thirty days from the date of the order.

76. A member of a panchayat whose office has become vacant under section 25 or under section 74, shall, if his disqualification or disability has ceased, be eligible for re-election.

Eligibility of certain members for re-election.

77. (1) Any vacancy of which notice has been given to the competent authority in the prescribed manner due to the disablement, death, resignation, disqualification, absence without leave or removal of a President, Vice-President or member of the panchayat shall be filled, by the election of a President or Vice-President or member who shall hold office so long only as the President, Vice-President or member, in whose place he has been elected, would have held office if the vacancy had not occurred :

Filling up of vacancies.

Provided that if no member is so elected within two months from the date on which notice of the vacancy is given to the competent authority, the competent authority shall as soon as possible appoint a person who is qualified to be elected, and the person so appointed shall be deemed to have been duly elected under this sub-section :

Provided further that if the vacancy of a member occurs within four months preceding the date on which the term of the panchayat expires under section 17, it shall not be filled.

(2) The meeting for the election of a President, Vice-President or member under sub-section (1) shall be convened by the competent authority on such date as it may fix.

(3) When the offices of both the President and Vice-President become vacant simultaneously, such officer as the District Development Officer may authorise in this behalf shall pending the election of the President exercise all the powers and perform all the functions and duties of President but shall not have the right to vote in any meeting of the panchayat.

78. During any vacancy in the panchayat, the continuing members may act as if no vacancy had occurred.

Vacancy not to affect proceedings of panchayat.

CHAPTER V.

CONDUCT OF BUSINESS, ADMINISTRATIVE POWERS AND DUTIES, PROPERTY AND FUND AND ACCOUNTS ETC. OF PANCHAYATS.

PART I.

Provisions relating to Gram Panchayats and Nagar Panchayats

(A) General.

79. The provisions of this part shall unless specifically distinguished, apply generally to gram panchayats and nagar panchayats.

Provisions of Part I to apply to gram and nagar panchayats.

(B) Conduct of business.

Meeting
of
panchayats.

80. The meeting of a panchayat shall be held at such intervals as may be prescribed :

Provided that the Sarpanch or, as the case may be, the Chairman for any specified reason may, and upon the written request of not less than one third of the members shall, call a meeting of the panchayat at any other time.

Gram
Panchayat
committees,
their con-
stitution,
powers,
functions
and duties.

81. (1) A gram panchayat shall for each year constitute the following committees for exercising such of its powers and performing such of its functions and duties as the panchayat may assign to each such committee, namely:—

(i) A Production Committee for performing functions relating to agricultural production, animal husbandry and industries.

(ii) An Education Committee for performing functions pertaining to literacy drives including pre-primary education, primary education, adult education and other cultural activities.

(iii) A Public Health and Public Works Committee for performing the rest of the functions of the panchayat.

(2) Each Committee shall consist of three members elected by the panchayat from amongst its members and the members of the committee shall elect from amongst themselves the chairman of the committee

Provided that—

(a) where the Sarpanch and Upa-Sarpanch both are members of any such committee, the Sarpanch and

(b) where only one of them is a member thereof, he shall be the *ex-officio* Chairman of such Committee.

(3) A member once elected to a Committee shall be eligible for re-election.

(4) A member may resign from membership of a committee by tendering his resignation to the panchayat.

(5) Any vacancy occurring in a committee shall be filled by election under sub-section (2).

(6) Such of the powers, functions and duties of the panchayat as are not assigned to any committee shall be exercised and performed by the panchayat.

(7) The panchayat may at any time withdraw from any committee the powers, functions and duties assigned to it and assign the same to any other committee.

(8) In addition to the aforesaid committees, a gram panchayat may constitute one or more committees consisting of such members of the panchayat and other residents of the gram as the panchayat may determine, or appoint any of its members, to execute any work or scheme decided upon by the panchayat or to inquire into and report to the panchayat on matters which the panchayat may refer to such committee or member. The panchayat may regulate the procedure of any such committee.

32. (1) A nagar panchayat shall for the performance of its functions constitute for each year the following committees, namely:—

Nagar panchayat committees, their constitution, powers, functions and duties.

(i) A Production Committee for performing functions relating to agricultural production, animal husbandary, electrical energy, soil conservation, contour bunding and soil reclamation.

(ii) An Education Committee for performing functions pertaining to literacy drive including pre-primary education, adult education and other cultural activities.

(iii) A Health and Public Works Committee for performing functions pertaining to communications, building, natural calamities, public health, sanitation, water supply, vaccination and family planning.

(iv) A Co-operation and Social Welfare Committee for performing functions pertaining to co-operative movement, village and cottage industries, small saving schemes, social welfare, prohibition and removal of untouchability.

(v) An Executive Committee for performing functions pertaining to finance and such other functions and duties of the panchayat (including supervision over other committees) as are not assigned to any other committee.

(2) (i) The Executive Committee shall consist of not less than five and not more than eight members as may be determined by the panchayat. The Chairman of the panchayat and the Chairmen of other committees shall be *ex-officio* members of the Executive Committee. The remaining members of the committee shall be elected by the panchayat from amongst its members :

Provided that where the Chairman of the Panchayat is also a Chairman of one or more of the committees, other than the Executive Committee, then a member elected by each such committee from amongst its members shall be an *ex-officio* member of the Executive Committee.

(ii) Each of the other committees mentioned in sub-section (1) shall consist of not less than five members as may be determined by the panchayat. The members shall be elected by the panchayat from amongst its members.

(3) (i) The Chairman of the panchayat shall be *ex-officio* chairman of the Executive Committee.

(ii) In the case of other committees, the members of each committee shall elect from amongst themselves the Chairman thereof :

Provided that—

(a) Where the Chairman and Vice-Chairman both are members of such committee, the Chairman and

(b) Where only one of them is a member, he shall be *ex-officio* Chairman of such committee.

(4) A member once elected to a committee shall be eligible for re-election.

(5) A member may resign from membership of a committee by tendering his resignation to the panchayat.

(6) Any vacancy occurring in the constitution of a committee shall be filled by election under sub-section (2).

(7) The Committee so constituted shall in the performance of their functions exercise such powers and discharge such duties of the panchayat as may be assigned to them by the panchayat.

(8) The panchayat may at any time withdraw from any committee the powers, functions and duties assigned to it and assign the same to any other committee.

(9) In addition to aforesaid committees, a nagar panchayat may constitute one or more committees consisting of such members of the panchayat and other residents of the nagar as the panchayat may determine or appoint any of its members, to execute any work or scheme decided upon by the panchayat or to inquire into and report to the panchayat on matters which the panchayat may refer to such committee or member. The panchayat may regulate the procedure of any such committee.

83. (1) There shall be held at least two meetings of the gram sabha every year on such date, at such time and place, as may be prescribed :

Provided that the Sarpanch may, at any time on his own motion, and shall, if required by the taluka panchayat or district panchayat, call a meeting of the gram sabha.

(2) Any officer authorised in this behalf by the taluka panchayat or district panchayat by general or special order shall have the right to speak in, and otherwise to take part in, the proceedings of a meeting of the gram sabha, but shall not be entitled to vote.

(3) Unless otherwise provided in this Act, the Sarpanch, and in the absence of the Sarpanch, the Upa-Sarpanch shall preside over every meeting of the gram sabha. In the absence of the Sarpanch and Upa-Sarpanch, the members of the gram sabha shall elect one of the members of the panchayat present to preside.

(4) If any dispute arises as to whether a person is entitled to attend a meeting of a gram sabha, such dispute shall be decided by the person presiding, regard being had to the entry in the list of voters for the whole of the gram or ward thereof, as the case may be, and his decision shall be final.

84. (1) The first meeting of the gram sabha in every year shall be held within two months from the commencement of that year, and the gram panchayat shall place before such meeting—

Panchayat to place before gram sabha statement of accounts etc. and duties of gram sabha.

(i) the annual statement of accounts ;

(ii) the report on the administration in the preceding financial year ;

(iii) the development and other programme of work proposed for the current financial year ;

(iv) the last audit note and replies (if any) made thereto ;

(v) any other matter which the taluka panchayat and district panchayat requires to be placed before such meeting.

(2) It shall be open to the gram sabha to discuss any or all of the matters placed before it under sub-section (1) and the panchayat shall consider suggestions, if any, made by the gram sabha.

(3) A gram sabha shall carry out any other functions as may be prescribed.

85. Save as provided in this Act, the time and place of a meeting of a panchayat or a committee thereof, the quorum for such meeting, the procedure for calling such meeting and the procedure at such meeting shall be such as may be prescribed.

Procedure in respect of meetings.

86. All questions before a meeting of a panchayat or committee thereof or of a gram sabha shall be decided by a majority of votes of the members present and unless otherwise provided in this Act, the presiding officer of the meeting shall have a second or casting vote in all cases of equality of votes.

Questions to be decided by majority of votes.

87. No resolution of a panchayat shall be modified, amended, varied or cancelled by a panchayat within a period of three months from the date of the passing thereof, except by a resolution supported by two-thirds of the whole number of members of such panchayat.

Modification or cancellation of resolutions.

(U) *Administrative powers and duties.*

88. Subject to the provisions of this Act it shall be the duty of each panchayat to make in the area within its jurisdiction, and so far as the fund at its disposal will allow, reasonable provision in regard to all or any of the matters specified in Schedule I.

Administrative powers of panchayat.

89. (1) A panchayat may with the previous sanction of the district panchayat incur expenditure on educational or medical relief outside its jurisdiction if its finances permit.

Other functions of panchayat.

(2) A panchayat may also make provision, for carrying out in the areas, within the limits of its jurisdiction any other work or measure which is likely to promote the health, safety, education, comfort, convenience, or social or economic, or cultural well-being of the inhabitants of the area, including secondary education.

(3) A panchayat may, by resolution passed at its meeting and supported by two-thirds of the whole number of members make provision for any public reception, ceremony or entertainment in the area within its jurisdiction or may make contribution towards an annual gathering or such other gathering of panchayats in the district or the State or towards the fund of any institution which is established with the object of promoting the spirit of community, self-help and mutual aid among village folk and suggesting ways and means for the efficient administration of panchayats and which is recognised by the State Government :

Provided that except with the previous sanction of the taluka panchayat, the panchayat shall not incur expenditure exceeding twenty-five rupees on any such reception, ceremony, entertainment or gathering.

(4) If in respect of any land it comes to the notice of a panchayat that on account of the neglect of the occupant or superior holder thereof or dispute between him and his tenant, the cultivation of the land has seriously suffered, the panchayat may bring such fact to the notice of the competent authority.

(5) A panchayat shall, in regard to the measures for the amelioration of the condition of Scheduled Castes and Scheduled Tribes and other backward classes, and, in particular, in the removal of untouchability, carry out the directions or orders given or issued in this regard from time to time by the State Government or the competent authority.

(6) A panchayat shall perform such other duties and functions as are entrusted to it by or under any other law for the time being in force.

(7) It shall be lawful for a panchayat to render financial or other assistance to any person for carrying on in the gram or as the case may be, nagar any activity which is related to any of the matters specified in Schedule I.

Power to compromise. 90. (1) A gram panchayat or, as the case may be, a nagar panchayat may compromise in respect of any suit instituted by or against it, or in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient :

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compromising any claim or demand arising out of such contract.

(2) The panchayat may make compensation out of its fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it and its officers and servants under this Act.

Local inquiry and reports by Gram Panchayats 91. It shall be the duty of every gram panchayat to enquire and report in any of the following cases :—

(a) any case where a magistrate has directed that a previous local investigation be made by a gram panchayat under section 202 of the Code of Criminal Procedure, 1898, and the words "such other person" in sub-section (1) of the said section shall be deemed to include a gram panchayat, v of 1898.

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1898.

(b) any case in which a magistrate making an inquiry under section 488 of the Code of Criminal Procedure, 1898, may require from the gram panchayat in whose jurisdiction either the wife or child for whose maintenance the application is made or the husband or parents respectively of such wife or child resides, report as to the amount of maintenance which, having regard to the circumstances of the parties, should be payable and such report shall be evidence in such inquiry :

Provided that no member of the gram panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence, but the magistrate may, in his discretion, call for a further report.

92. In the case of any institution managed by a taluka panchayat or district panchayat, or of any work to be done out of the fund of a taluka panchayat or district panchayat, the taluka panchayat or, as the case may be, the district panchayat may, if the gram or nagar panchayat so agrees entrust to the gram or nagar panchayat, as the case may be, the management of such institutions or the execution of such work :

Power of gram or nagar panchayat to manage institutions or execute work transferred to it by taluka or district panchayat.

Provided that in every such case, the funds necessary for such management or execution shall be placed at the disposal of the panchayat by the taluka panchayat or as the case may be, the district panchayat.

93. (1) No person shall erect or re-erect or commence to erect or re-erect within the limits of the gram or nagar as the case may be, any building without the previous permission of the panchayat.

Control on erection of buildings.

(2) Permission shall be presumed to have been granted if the panchayat fails to communicate its sanction or refusal in respect thereof within one month from the date of receipt of the application for the permission ; in case of refusal, the panchayat shall communicate to the applicant the reasons thereof ; and an appeal shall lie against any such order of refusal to the President of the taluka panchayat.

(3) No person, who becomes entitled under sub-section (1) or (2) to proceed with any intended work of erection or re-erection, shall commence such work after the expiry of one year from the date on which he became entitled to proceed therewith, unless he shall have again become so entitled by a fresh compliance with the provisions of sub-section (1) or (2) as the case may be.

(4) Whoever erects or re-erects or commences to erect or re-erect any building without such permission or in any manner contrary to the provisions of sub-section (1) or any by-law in force, or any conditions imposed by the panchayat shall, on conviction be punished with fine, which may extend to fifty rupees and in the case of a continuing contravention, he shall be liable to an additional fine which may extend to five rupees for each day during which such contravention continues after conviction for the first such contravention.

(5) Without prejudice to the penalty prescribed in sub-section (4), the panchayat may —

(a) direct that the erection or re-erection be stopped;—

(b) by written notice require such erection or re-erection to be altered or demolished, as it may deem necessary,

and, if the requirement under clause (b) is not complied with within the time fixed in the notice, the panchayat may cause the alteration or demolition to be carried out by its officers and all the expenses incurred by the panchayat therefor shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX:

Provided that when a notice for bringing any action against any direction for the alteration or demolition of any erection or re-erection issued under this sub-section has been given under sub-section (2) of section 320, alteration or demolition shall not be caused to be carried out until the expiry of the period of such notice and a further period of seven days.

(6) Nothing contained in thi^s section shall apply to any building which is used or required for public service or for any public purpose, and if the property of the State or Central Government or any local authority, or is to be erected or re-erected by the State or Central Government or the local authority; but reasonable notice of the proposed construction shall be caused to be given to the panchayat, and the objections or suggestions of the panchayat, if any, shall be considered.

Explanation. — The expression “erect” or “re-erect” with reference to a building in this section includes —

(a) any material alteration, or enlargement of or in any building;

(b) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation;

(c) such alteration of a building as would effect a change in the drainage or sanitary arrangement or materially affect its security;

(d) the addition of any rooms, buildings, outhouses, or other structures to any building;

(e) the conversion by any structural alteration into a place of religious worship or into a sacred building of any place or building, not originally meant or constructed for such purpose;

(f) roofing or covering an open space between walls and buildings as regards the structure which is formed by roofing or covering such space;

(g) conversion into a stall, shop, warehouse, or godown of any building not originally constructed for use as such or *vice versa*;

(h) construction in a wall adjoining any street or land not vested in the owner of the wall, of a door opening on such street or land.

94. (1) Whoever, within the limits of the gram or nagar as the case may be —

(a) builds or sets up any wall, or any fence, rail post, stall verandah, platform, plinth, step or structure or thing or any other encroachment, or obstruction, or

Obstruction and encroachments upon public streets and open sites.

(b) deposits, or causes to be placed or deposited, any box, bale, package or merchandise, or any other thing, or

(c) without written permission given to the owner or occupier of a building by a panchayat, puts up, so as to project from an upper storey thereof, any verandah, balcony, room or other structure or thing,

in or over any public street or place, or in or upon any open drain, gutter, sewer or aqueduct in such street or place, or contravenes any conditions subject to which any permission as aforesaid is given or the provisions of any bye-law made in relation to any such projections or cultivates or makes any unauthorised use of any grazing land, not being private property, shall on conviction, be punished with fine, which may extend to fifty rupees, and with further fine which may extend to five rupees for each day on which such obstruction, deposit, projection, cultivation or unauthorised use continues after the date of first conviction for such offence.

(2) The panchayat may remove any such obstruction or encroachment and remove any crop unauthorisedly cultivated, on grazing land or any other land not being private property, and may remove any unauthorised obstruction or encroachment of the like nature in any open site not being private property, whether such site is vested in the panchayat or not :

Provided that if the site be vested in the State Government, the permission of the Collector or any officer authorised by him in this behalf, shall have first been obtained ; the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX :

Provided further that when before the removal of any such encroachment or projection a notice for bringing action in that behalf has been given under sub-section (2) of section 320, no action for the removal of the encroachment or projection shall be taken until the expiry of the period of such notice and a further period of seven days.

(3) The power under sub-section (2) may be exercised in respect of any obstruction, encroachment or projection referred to therein whether or not such obstruction, encroachment or projection has been made before or after the gram or nagar is declared as such under the Act or before or after the property is vested in the panchayat.

(4) Whoever not being duly authorised in that behalf removes earth, sand or other material from, or makes any encroachment in or upon any open site which is not private property, shall, on conviction, be punished with fine which may extend to fifty rupees, and, in the case of an encroachment, with further fine which may extend to five rupees for every day on which the encroachment continues after the date of first conviction.

(5) Nothing contained in this section shall prevent the panchayat from allowing any temporary occupation of, or erection in, any public street on occasions of festivals and ceremonies, of the piling of fuel in by-lanes and sites for not more than seven days, and in such manner as not to inconvenience the public or any individual or from allowing any temporary erection on, or putting projection over, or temporary occupation of, any such public street or place, for any other purpose in accordance with the bye-laws made under this Act.

(6) If the panchayat finds it difficult to remove any obstruction or encroachment or any crop unauthorisedly cultivated on grazing land as referred to in sub-section (2), the taluka panchayat or such officer of the taluka panchayat as the taluka panchayat may authorise in this behalf shall exercise the powers under sub-section (2) and take action to remove the obstruction, encroachment or as the case may be, the crop.

(7) The taluka panchayat may, take action referred to in sub-section (6) *suo motu* or whenever it is reported to it that though the panchayat was moved to take action under sub-section (2) it has not taken any action for three months :

Provided that before taking action *suo motu* it shall direct the panchayat to take action and if the panchayat fails to do so within a specified time, the taluka panchayat may thereafter take action.

Numbering of premises. 95. (1) The panchayat may, from time to time by written notice, require the owner of any premises or part thereof, either to put up, by means of a metal plate a number or sub-number on such premises, or part thereof in such position and manner as may be specified in such notice, or to signify in writing his desire that such work shall be executed under the orders of the panchayat.

(2) Any person who destroys, pulls down or defaces any such number or sub-number or puts any number or sub-number different from that put up by order of the panchayat and any owner of any premises or part thereof, who does not at his own expense keep such number or sub-number in good order after it has been put up thereon, shall, on conviction, be punished with fine which may extend to twenty rupees.

(3) Where a number or sub-number is put up on any premises or part thereof under the orders of the panchayat in accordance with sub-section (1), the expenses of such work shall be payable by the owner of such premises or part thereof, as the case may be.

(4) In this section, "premises" means a house, outhouse, stable, shed, hut or other structure whether of masonry, bricks, wood, mud, metal or any other material whatsoever whether used as a human dwelling or otherwise.

(D) Property and Fund.

Government may vest certain lands in panchayats. 96. (1) For the purpose of this Act, the State Government may subject to such conditions and restrictions as it may think fit to impose, vest in a panchayat open sites, waste, vacant or grazing lands or public roads, streets, bridges, ditches, dikes and fences, wells, river-beds, tanks, streams, lakes, nallas, canals, water-courses, trees or any other property in the gram or nagar, as the case may be, vesting in the Government.

(2) Subject to any conditions and restrictions imposed by the State Government under sub-section (1), and with the previous sanction of the Collector, a panchayat may discontinue or stop up any such public road or street vested in it by the State Government, but which is no longer required as public road or street and may lease or sell any such land theretofore used for the purposes of such public road or street :

Provided that one month before it is decided to stop up or discontinue such public road or street, the Sarpanch or Chairman as the case may be, shall, by notice signed by him and affixed in the part of the public road or street which is proposed to discontinue or stop up, and published in such other manner as is prescribed, inform the residents of the gram or nagar as the case may be, of the said proposal and consider any objections in writing made thereto ; the notice shall indicate the alternative route, if any, which it is proposed to provide or which may already be in existence.

(3) Whenever any public road or street or any part thereof has been so discontinued or stopped up, reasonable compensation shall be paid to every person who was entitled to use such road or street or part thereof, otherwise than as a mere member of the public, as a means of access to or from his property and has suffered damage from such discontinuance or stopping up, and the provisions in the Bombay Highways Act, 1955 in relation to the assessment, apportionment, and payment of compensation shall, *mutatis mutandis*, apply thereto as they apply in relation to the closure of a highway under section 52 of that Act.

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1955

(4) Where any open site or waste, vacant or grazing land vesting in Government has been vested by Government in a panchayat whether before or after the commencement of this Act, then it shall be lawful for the State Government to resume at any time such site or land, if it is required by it for any public purpose :

Provided that in case of any improvement of such site or land made by the panchayat or any other person, the panchayat or person, as the case may be, shall be entitled to compensation equal to the value of such improvement and such value shall be determined in accordance with the provisions of the Land Acquisition Act, 1894.

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of
1908.

97. (1) A taluka panchayat or the district panchayat may from time to time direct that any property vesting in it shall vest in a gram panchayat or nagar panchayat and thereupon notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908, such property shall vest in the gram panchayat or nagar panchayat, as the case may be.

Other pro-
perty of
gram or
Nagar
Panchayat.

(2) Every work constructed by a panchayat out of its fund, or with Government assistance or people's participation shall vest in the panchayat.

98. (1) Subject to the provisions of sub-section (2), no lease, sale or other transfer of any immovable property vesting in, or acquired by, a panchayat shall be valid unless such lease, sale or other transfer has been made with the previous sanction of the competent authority.

Limitation
on power of
Panchayat
to transfer
immovable
property.

(2) In the case of a lease of immovable property other than the property vesting in the panchayat under section 96, no such previous sanction shall be necessary, if the period of lease does not exceed three years.

Gram Fund
and Nagar
Fund.

99. (1) There shall be —

(a) in each gram a fund to be called the gram fund, and
(b) in each nagar a fund to be called the nagar fund,
and in this section "relevant fund" means in the case of a gram panchayat the gram fund and in the case of a nagar panchayat the nagar fund.

(2) The following shall be paid into, and form part of the relevant fund, namely —

(a) the amount which may be allotted to the relevant fund by the State Government under the provisions of section 191 of the Bombay District Municipal Act, 1901 or under the said Act in its application to the Saurashtra area of the State of Gujarat ; ^{Bom. III of 1901.}

(b) the proceeds of any tax or fee imposed by or assigned to the panchayat under this Act ;

(c) all sums ordered to be paid as compensation realised under sections 234 and 235 ;

(d) all other sums ordered by a Court to be placed at the credit of the relevant fund ;

(e) the sale proceeds of all dust, dirt, dung, refuse, or carcasses of animals, except in so far as any person is entitled to the whole or a portion thereof ;

(f) sums contributed to the relevant fund by the State Government or the taluka panchayat or the district panchayat ;

(g) all sums received by way of loans from the State Government or the taluka panchayat or the district panchayat or out of the District Development Fund ;

(h) all sums received by way of gift or contributions by the panchayat ;

(i) the income or proceeds of any property vesting in the panchayat ;

(j) fees levied for the institution of suits and cases under section 244 ;

(k) the net proceeds (after deducting the expenses of assessment and collection) of the cess authorised by section 181 ;

(l) all sums, realised by way of rent or penalty otherwise than as the amount of any fine in a criminal case ;

(m) all sums realised as pound fees after deducting the expenses.

Application
of relevant
Fund.

100. (1) All property vested in a panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law, for the time being in force, shall be applied subject to the provisions and for the purposes of this Act and all such funds and sums shall be kept in such custody as may be prescribed.

(2) In the case of any loan taken by a panchayat, the payment of the principal or instalment thereof and the payment of interest thereon shall be a first charge on its fund.

Decision
of claims
to property
by or against
gram
or nagar
panchayat.

101. (1) In any revenue village to which a survey of lands being lands not ordinarily used for the purpose only of agriculture, has been or is extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on behalf of the panchayat or by any person against the panchayat, it shall be lawful for the Collector, after formal enquiry of which due notice has been given, to pass an order deciding the claim.

(2) Any suit instituted in any Civil Court after the expiration of one year from the date of the communication of any order passed by the Collector under sub-section (1), or if one or more appeals have been made against such order within the period of limitation, then, from the date of the communication of any order passed by the final appellate authority as determined according to section 204 of the Land Revenue Code, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order, provided that the plaintiff has received due notice of such order.

(3) (a) The powers conferred by this section on the Collector may be exercised also by an Assistant or Deputy Collector or by a Survey Officer or such other officer appointed under the said Code.

(b) The formal inquiry referred to in this section shall be conducted in accordance with the provisions relating to such enquiry under the said Code.

(c) A person shall be deemed to have had due notice of any inquiry or order under this section if notice thereof has been given in the prescribed manner.

102. (1) Subject to the provisions of this Act and the rules made thereunder- Secretary and servants of panchayats,
(a) there shall be a Secretary for every gram panchayat and nagar panchayat who shall be appointed in accordance with the rules ;

(b) a gram panchayat or as the case may be, nagar panchayat may appoint such servants as may be necessary for the discharge of its functions and duties under this Act ;

Provided that the State Government having regard to the population of a gram and income of the panchayat thereof may direct in respect of a group of gram panchayats that such group shall have one Secretary and thereupon there shall be one Secretary for that group.

(2) A Secretary of a gram panchayat or nagar panchayat shall subject to the control of the Sarpanch or Chairman, as the case may be —

(a) keep in his custody the records and registers of the panchayat,

(b) issue receipts under his signature for sums of money received by him on behalf of the panchayat,

(c) prepare all statements and reports required under this Act, and

(d) perform such other functions and duties under this Act as may be prescribed.

(E) Contribution to District Development Fund.

103. Every gram panchayat and every nagar panchayat shall contribute every year to the District Development Fund a sum equal to such percentage not exceeding ten per cent. of its income from such sources as may be prescribed. Contribution to District Development Fund.

(F) Budget Estimates.

Annual Budget Estimates.

104. (1) Every panchayat (whether a gram panchayat or nagar panchayat) shall have prepared annually on or before such date and in such form and manner as may be prescribed in this behalf a budget estimate of its income and expenditure for the next year and forward it to the taluka panchayat on or before such date as may be prescribed ;

Provided that the budget estimate shall be so prepared that at the end of the year the panchayat shall have at its credit a balance of not less than such minimum amount as may be prescribed in that behalf.

(2) The taluka panchayat shall scrutinise the budget estimate and refer it back to the panchayat within two months of its receipt with such observations and recommendations as it may make in respect of the budget estimate.

(3) The panchayat shall thereupon approve the budget estimate with such modifications as it may think fit having regard to the observations and recommendations made by the taluka panchayat under sub-section (2).

Revised or supplementary budget and re-appropriation of funds.

105. (1) A gram panchayat or as the case may be a nagar panchayat may at any time during the year for which any budget estimate has been approved cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary budget shall be considered and approved by the panchayat in the same manner as if it were an original annual budget estimate :

Provided that the taluka panchayat shall scrutinise the budget and refer it back to the panchayats within one month of its receipt.

(2) Reappropriation of fund in a budget estimate may be made from time to time subject to the same approval as is required for the budget estimates.

Except in emergency no sum to be expended unless it has been included in budget estimates.

106. (1) Save in the case of a pressing emergency, no sum shall be expended by or on behalf of a nagar or gram panchayat unless such sum is included in some budget estimate approved under section 104 or 105 and in force at the time of incurring the expenditure.

(2) If on a pressing emergency any sum is expended otherwise than in accordance with sub-section (1), the circumstances shall be forthwith communicated in writing to the President of the taluka panchayat with an explanation of the way in which it is proposed by the panchayat to cover such extra expenditure.

Accounts of income and expenditure.

107. Accounts of the income and expenditure of every panchayat shall be kept in such form and manner as may be prescribed and shall be balanced annually on the 1st day of every year.

Annual administration report.

108. (1) The Secretary of every panchayat shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat.

(2) The annual statement of the accounts together with the annual report shall be sent to the district panchayat through the taluka panchayat on or before such date and in such form as may be prescribed.

(G) *Audit of the accounts of gram panchayats
and nagar panchayats.*

Bom. XXV of 1930. **109.** (1) The audit of the accounts of a panchayat shall, until the provisions of the Bombay Local Fund Audit Act, 1930 or any other corresponding law are made applicable thereto, be carried out by the State Government in such manner as may be prescribed and a copy of the audit note shall be forwarded to the panchayat and the taluka panchayat within one month of the completion of the audit.

Audit of accounts of panchayat.

(2) On receipt of the audit note referred to in sub-section (1), the panchayat shall either remedy any defects or irregularities which may have been pointed out in the audit note and send to the taluka panchayat within three months an intimation of its having done so or shall, within the said period supply to the taluka panchayat any further explanation in regard to such defects or irregularities as it may wish to give.

(3) On receipt of such intimation or explanation, the taluka panchayat may, in respect of all or any of the matters discussed in the audit note,—

(a) accept the intimation or explanation given by the panchayat and recommend to the Collector to withdraw the objection,

(b) direct that the matter be investigated at the next audit or at any earlier date, or

(c) hold that the defects or irregularities pointed out in the audit note or any of them, have not been removed or remedied.

(4) The taluka panchayat shall send a report of its decision to the Collector within one month of the date of receipt by it of the intimation or explanation referred to in sub-section (2), or in the event of the panchayat failing to give such intimation or explanation on the expiry of the period of three months referred to in the said sub-section (2), and shall forward a copy of such report to the panchayat. If the taluka panchayat holds that any defects or irregularities have not been removed or remedied it shall state in the report whether in its opinion the defects or irregularities can be regularised and if so, by what method and if they do not admit of being regularised, whether they can be condoned, and if so, by what authority. The taluka panchayat shall also state whether the amounts to which the defects or irregularities relate should in its opinion be surcharged as hereinafter provided.

(5) The Collector may, after considering the report of the taluka panchayat and after making such further enquiry as he considers necessary, disallow any item which appears to him contrary to law and surcharge the same on the person making or authorizing the making of the illegal payment, and

(a) if the person on whom the surcharge is made be a member, proceed against him in the manner described in sub-sections (2) and (3) of section 178; and

(b) if the person on whom the surcharge is made is not a member, then after taking his explanation direct by order in writing that such person shall pay to the panchayat the amount surcharged, and if the amount be not so paid within one month, the Collector shall recover it as an arrear of land revenue and credit it to the gram or nagar fund.

(6) Any person aggrieved by any order of surcharge made by the Collector under this section may, within one month from the receipt by him of the decision of the Collector, apply to the District Court to modify or set aside such order and that Court after taking such evidence as it thinks necessary,

may confirm, modify or remit such surcharge and made such order as to costs as it thinks proper in the circumstances.

(7) The taluka panchayat may by order in writing direct that all or any of its functions under sub-sections (3) and (4) may also be performed by one of its committees.

PART II.

Provisions relating to Taluka Panchayats.

(A) Conduct of business.

Meetings
of taluka
panchayat.

110. The meeting of a taluka panchayat shall be held normally every three months :

Provided that the President for any specified reason may, and upon the written request of not less than one-third of the members shall call the meeting of the taluka panchayat at any other time.

Constitution
etc. of Com-
mittees to
be appointed
by taluka
panchayat.

111. (1) A taluka panchayat shall for the performance of its functions constitute the following committees, namely :—

(i) An Education Committee for performing the functions and duties specified in Part II of Schedule II and any other functions and duties pertaining to education, and other literary and cultural activities as the panchayat may assign to it.

(ii) A Production Committee for performing functions relating to agricultural production, animal husbandry, irrigation, electrical energy, soil conservation, contour bunding and soil reclamation.

(iii) A Public Works Committee for performing functions pertaining to communications, buildings, rural housing and relief against natural calamities.

(iv) A Health Committee for performing functions pertaining to public health, hospitals, health centres, sanitation water supply, vaccination and family planning.

(v) A Co-operation and Small Industries Committee for performing functions pertaining to the co-operative movement, village and cottage industries and small savings schemes.

(vi) A Social Welfare Committee for performing functions pertaining to Social Welfare (including welfare of the backward classes), prohibition and removal of untouchability.

(vii) An Executive Committee for performing functions pertaining to finance, homeguards and village defence and such other functions and duties of the panchayat (including supervision over other committees except the Education Committee) as are not assigned to any other committee.

(2) (i) The Education Committee shall consist of seven members out of which five shall be elected by the taluka panchayat from amongst its members and two shall be co-opted by the taluka panchayat from amongst persons having experience in the field of education and normally residing in the taluka.

(ii) The Executive Committee shall consist of not less than seven and not more than eleven members as may be determined by the taluka panchayat. The President and the Vice-President of the panchayat and the Chairman of all the Committees of the panchayat shall be *ex-officio* members of the Executive Committee. The remaining members of the committee shall be elected by the taluka panchayat from amongst its members :

Provided that where the President of the panchayat is also a Chairman of one or more of the committees, other than the Executive Committee, then a member elected by each such committee from amongst its members shall be an *ex-officio* member of the Executive Committee.

(iii) Each of the other committees mentioned in sub-section (1) shall consist of not more than seven members to be elected by the taluka panchayat from amongst its members. The number of members on each such committee shall be determined by the taluka panchayat.

(3) (i) The President of the taluka panchayat shall be *ex-officio* member and Chairman of the Executive Committee.

(ii) In the case of other committees, the members of each committee shall elect from amongst themselves the Chairman of the Committee :

Provided that ---

(a) where the President and Vice-President both are members of any Committee, the President and

(b) where only one of them is a member, he shall be the *ex-officio* Chairman of such committee.

(4) The persons co-opted to the Education Committee shall be deemed to be members thereof for all purposes but they shall not be deemed to be members of the taluka panchayat.

(5) A member once elected to a Committee shall be eligible for re-election.

(6) (i) The term of the Education Committee shall be co-extensive with the term of the panchayat.

(ii) Other committees shall be reconstituted in accordance with this section every year during the term of the panchayat.

(7) A member may resign from membership of a committee by tendering his resignation to the panchayat.

(8) Any vacancy of an elected member occurring in the constitution of a committee shall be filled in by election under sub-section (2).

112. (1) The Education Committee shall in performing its functions exercise the powers of the panchayat.

(2) Other committees constituted under section 111 shall in the performance of their functions exercise such powers and discharge such duties of the taluka panchayat as may be assigned to them by the panchayat.

(3) A taluka panchayat may at any time withdraw from any committee other than the Education Committee any of the powers, functions and duties assigned to it and assign the same to any other committee.

113. A taluka panchayat may appoint any of its members or a committee of members to inquire into and report on any matter referred to them. The taluka panchayat may regulate the procedure of any such committee.

Powers of Committees and power of panchayat to withdraw such powers etc.

Appointment of a member or committee to inquire into and report on any matter.

Procedure in respect of meetings.

114. Save as provided in this Act, the time and place of a meeting of a taluka panchayat or committee thereof, the quorum for such meeting, the procedure for calling such meeting and the procedure at such meeting shall be such as may be prescribed.

Questions to be decided by majority of votes.

115. All questions before a meeting of a taluka panchayat or committee thereof shall be decided by a majority of votes of the members present and unless otherwise provided in this Act, the presiding officer of the meeting shall have a second or casting vote in all cases of equality of votes.

Modification or cancellation of resolutions.

116. No resolution of a taluka panchayat shall be modified, amended, varied or cancelled by a panchayat within a period of three months from the date of the passing thereof, except by a resolution supported by two-thirds of the total number of members of such panchayat.

(B) *Administrative powers and duties*

Administrative powers of panchayats.

117. Subject to the provisions of this Act, it shall be the duty of each taluka panchayat to make in the area within the jurisdiction and so far as the fund at its disposal will allow reasonable provision in regard to all or any of the matters specified in Schedule II.

Other functions of panchayats.

118. (1) A taluka panchayat may, with the previous sanction of the district panchayat, incur expenditure on educational or medical relief outside its jurisdiction, if its finances permit.

(2) A taluka panchayat may, subject to rules, grant loans to panchayat subordinate to it, for the purposes of this Act.

(3) A taluka panchayat may also make provision for carrying out within the taluka any other work, measure, scheme or project which is likely to promote the health, safety, education, comfort, convenience, or social or economic, or cultural well-being of the inhabitants of the taluka or part thereof including secondary education.

(4) A taluka panchayat may, by resolution passed at its meeting and supported by two-thirds of the whole number of members, make provision for any public reception, ceremony or entertainment within the taluka or may make contribution towards an annual gathering or such other gathering of panchayats in the district or the State or towards the fund of any institution which is established with the object of promoting the spirit of community, self help and mutual aid among village folk and suggesting ways and means for the efficient administration of panchayats and which is recognised by the State Government.

Provided that except with the previous sanction of the district panchayat, the panchayat shall not incur expenditure exceeding fifty rupees on any such reception, ceremony, entertainment or gathering.

(5) If in respect of any land it comes to the notice of a taluka panchayat that, on account of the neglect of the occupant or superior holder thereof or dispute between him and his tenant, the cultivation of the land has seriously suffered, the panchayat may bring such fact to the notice of the competent authority.

(6) A taluka panchayat shall, in regard to the measures of the amelioration of the condition of Scheduled Castes and Scheduled Tribes and other backward classes, and, in particular, in the removal of untouchability, carry out the directions or orders given or issued in this regard from time to time by the State Government or the competent authority.

(7) A taluka panchayat shall perform such other duties and functions as are entrusted to it by or under any other law for the time being in force.

(8) It shall be lawful for a taluka panchayat to render financial or other assistance to any person for carrying on in the taluka any activity which is related to any of the matters specified in Schedule II.

(9) (a) A taluka panchayat may compromise in respect of any suit instituted by or against it, or in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient :

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compromising any claim or demand arising out of such contract.

(b) The panchayat may make compensation out of its fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it and its officers and servants under this Act.

(C) *Property and Fund.*

119. (1) In addition to the movable or immovable property acquired by a taluka panchayat, the following shall vest in the taluka panchayat, namely :—

Property
taluka
panchayat

(a) every road, building or other work constructed by a taluka panchayat out of the taluka fund with or without the Government assistance or people's participation ;

(b) any land or property vesting in the State Government when transferred to a taluka panchayat by the State Government for local public purposes ;

(c) any land or property which vesting in any other panchayat when vested in the taluka panchayat by that panchayat for the purposes of this Act :

Provided that any land or property transferred to a taluka panchayat under clause (b) shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the panchayat but shall vest in it, subject to the terms and conditions of the transfer and in the circumstances specified in such terms or conditions, the land or property with all things, if any, attached thereto including all fixtures and structures thereon shall revert in the State Government and it shall be lawful for the State Government to resume possession thereof.

(2) Notwithstanding that any immovable property vests in a taluka panchayat, no lease, sale or other transfer thereof shall be valid unless it has been made with the previous sanction of the competent authority :

Provided that in the case of a lease of immovable property other than the property referred to in clause (b) of sub-section (1) no such previous sanction shall be necessary if the period of lease does not exceed three years.

120. (1) There shall be in each taluka a fund which shall be called a taluka fund.

(2) The following shall be paid into and form part of, the taluka fund, namely :—

(a) the proceeds of any tax or fee imposed by or assigned to the panchayat under this Act ;

(b) the sale proceeds of all dust, dirt, dung, refuse, or carcasses of animals, except in so far as any person is entitled to the whole or a portion thereof ;

(c) sums contributed to the taluka fund by the State Government or the district panchayat ;

(d) all sums received by way of loans from the State Government or the district panchayat or otherwise ;

(e) all sums received by way of gift or contributions by the taluka panchayat ;

(f) the income or proceeds of any property vesting in the taluka panchayat ;

(g) the net proceeds (after deducting the expenses of assessment and collections) of the stamp duty authorised by section 184 ;

(h) all sums realised by way of rent or penalty otherwise than as the amount of any fine in a criminal case.

121. (1) All property vested in a taluka panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law, for the time being in force, shall be applied subject to the provisions and for the purposes of this Act and all such sums and funds shall be kept in such custody as may be prescribed.

(2) In the case of any loan taken by a panchayat, the payment of the principal or instalment thereof and the payment of the interest thereon shall be a first charge on its fund.

(D) *Officers and Servants.*

122. Subject to the provisions of this Act and the rules made there under—

(1) there shall be a Secretary for every taluka panchayat,

(2) the Taluka Development Officer who shall be an officer belonging to the State service and posted under the panchayat, shall be the *ex-officio* Secretary of the panchayat.

(3) a taluka panchayat may appoint such other officers and servants as may be necessary for the discharge of its functions and duties under this Act.

123. (1) Save as otherwise expressly provided by or under this Act, the executive power of a taluka panchayat for the purpose of carrying out the provisions of this Act, shall vest in the Taluka Development Officer who shall, subject to the orders, if any, of the President or of the taluka panchayat, as the case may be —

(a) perform all the powers specifically imposed or conferred upon him by or under this Act, or under any law for the time being in force ; and

(b) lay down the duties of all officers and servants of the taluka panchayat,

(2) Subject to the provisions of this Act and the rules made thereunder the Taluka Development Officer —

(a) shall be entitled to —

(i) attend the meetings of the taluka panchayat, or any of its committees;

(ii) call for any information, return, statement, account or report from any officer or servant of, or holding office under, the taluka panchayat;

(iii) grant leave of absence, for a period not exceeding two months, to such class of officers as may be prescribed by rules;

(iv) call for an explanation from any officer or servant of, or holding office under, the taluka panchayat.

(b) shall, subject to the control of the taluka panchayat discharge duties and perform functions, in respect of matters which by or under this Act are not expressly imposed or conferred on any committee, presiding officer or any officer of the taluka panchayat;

(c) shall appoint such class of officers and servants as may be prescribed;

(d) shall supervise and control the execution of all activities of the taluka panchayat;

(e) shall take necessary measures for the speedy execution of all work and development schemes of the taluka panchayat;

(f) shall have custody of all papers and documents connected with the proceedings of meetings of the taluka panchayat and of its committees;

(g) shall assess and give his opinion confidentially every year on the work of the officers holding office under the taluka panchayat; forward them to such authorities as may be prescribed by the State Government and lay down the procedure for writing such reports about the work of officers and servants under the taluka panchayat;

(h) shall draw and disburse money out of the Fund;

(i) shall exercise supervision and control over the acts of officers and servants holding office under the taluka panchayat in matters of executive administration and those relating to accounts and records of the taluka panchayat; and

(j) shall exercise such other powers and perform such other functions as may be prescribed by the State Government.

(3) Subject to the other provisions of this Act, the Taluka Development Officer shall be under the general control of the taluka panchayat.

(E) *Budget Estimate.*

124. (1) Every taluka panchayat shall have prepared annually on or before such date and in such form and manner as may be prescribed in this behalf a budget estimate of its income and expenditure for the next year and forward it to the district panchayat on or before such date as may be prescribed :

Annual
Budget
Estimate.

Provided that the budget estimate shall be so prepared that at the end of the year the panchayat shall have at its credit a balance of not less than such minimum amount as may be prescribed in that behalf.

(2) The district panchayat shall scrutinise the budget estimate and refer it back to the panchayat within two months of its receipt with such observations and recommendations as it may make in respect of the budget estimate.

(3) The taluka panchayat shall thereupon approve the budget estimate with such modifications as it may think fit having regard to the observations and recommendations made by the panchayat under sub-section (2).

125. (1) A taluka panchayat may, at any time during the year for which any budget estimate has been approved cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary budget shall be considered and approved by the panchayat in the same manner as if it were an original annual budget estimate :

Provided that the district panchayat shall scrutinise the budget and refer it back to the panchayats within one month of its receipt.

(2) Reappropriation of fund in the budget estimate may be made from time to time subject to the same approval as is required for the budget estimates.

126. (1) Save in the case of a pressing emergency, no sum shall be expended by or on behalf of a taluka panchayat unless such sum is included in some budget estimate approved under section 124 or 125 and in force at the time of incurring the expenditure.

(2) If on a pressing emergency any sum is expended otherwise than in accordance with sub-section (1), the circumstances shall be forthwith communicated in writing by the President of the panchayat to the competent authority with an explanation of the way in which it is proposed by the panchayat to cover such extra expenditure.

127. Accounts of the income and expenditure of every panchayat shall be kept in such form and manner as may be prescribed and shall be balanced annually on the 1st day of every year.

128. (1) The Secretary of every panchayat shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat.

(2) The annual statement of the accounts together with the annual report shall be sent to the competent authority through the district panchayat on or before such date and in such form as may be prescribed.

(F) *Audit of the Accounts of panchayats.*

129. The Bombay Local Fund Audit Act, 1930, or any other corresponding law for the time being extending to any area shall apply to the auditing of the accounts of taluka panchayats.

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PART III

PROVISIONS RELATING TO DISTRICT PANCHAYAT.

(A) *Conduct of business.*

130. The meeting of a district panchayat shall be held normally every three months :

Meetings
of district
panchayats.

Provided that the President of the panchayat may, for any specified reason, and shall, upon the written request of not less than one-third of the members, call the meeting of the district panchayat at any other time.

131. (1) A District Panchayat shall for the performance of its functions constitute the following Committees, namely:—

Constitution
etc., of Com-
mittees to be
appointed by
district pan-
chayat.

(i) An Education Committee for performing the functions and duties specified in Part II of Schedule II and any other functions and duties pertaining to education, and other literary and cultural activities as the panchayat may assign to it.

(ii) A Production Committee for performing functions relating to agricultural production, animal husbandry, irrigation, electrical energy, soil conservation, contour bunding and soil reclamation.

(iii) A Public Works Committee for performing functions pertaining to communications, buildings, rural housing and relief against natural calamities.

(iv) A Health Committee for performing functions pertaining to public health, hospitals, health centres, sanitation, water supply, vaccination and family planning.

(v) A Co-operation and Small Industries Committee for performing functions pertaining to the co-operative movement, village and cottage industries and small savings schemes.

(vi) A Social Welfare Committee for performing functions pertaining to Social Welfare (including welfare of the Backward Classes), prohibition and removal of untouchability.

(vii) An Executive Committee for performing functions pertaining to finance, homeguards and village defence and such other functions and duties of the panchayat (including supervision over other committees except the Education Committee) as are not assigned to any other committee.

(2) (i) The Education Committee shall consist of the two-co-opted members of the district panchayat and five other members elected by the district panchayat from amongst its members.

(ii) The Executive Committee shall consist of not less than seven and not more than eleven members as may be determined by the district panchayat. The President and the Vice-President of the panchayat and the Chairmen of all the other committees of the panchayat shall be *ex-officio* members of the Executive Committee. The remaining members of the Committee shall be elected by the district panchayat from amongst its members :

Provided that where the Chairman of the panchayat is also a Chairman of one or more of the committees, other than the Executive Committee, then a member elected by each such committee from amongst its members shall be an *ex-officio* member of the Executive Committee.

(iii) Each of the other committees mentioned in sub-section (1) shall consist of not more than seven members to be elected by the district panchayat from amongst its members. The number of members on each committee shall be determined by the district panchayat.

(3) (i) The President of the district panchayat shall be *ex-officio* chairman of the Executive Committee.

(ii) In the case of other committees, the members of each committee shall elect from amongst themselves the chairman of the Committee :
Provided that —

(a) where the President and the Vice-President both are members of any Committee, the President and

(b) where only one of them is a member, he shall be the *ex-officio* Chairman of such Committee.

(4) A member once elected to a committee shall be eligible for re-election.

(5) (i) The term of the Education Committee shall be co-extensive with the term of the panchayat.

(ii) Other Committees shall be reconstituted in accordance with this section every year during the term of the panchayat.

(6) A member may resign from membership of a Committee by tendering his resignation to the panchayat.

(7) Any vacancy of an elected member occurring in the constitution of a committee shall be filled in by election under sub-section (2).

(8) The Education Committee shall in performing its functions exercise the powers of the panchayat.

(9) Other committees constituted under this section shall in the performance of their functions exercise such powers and discharge such duties of the district panchayat as may be assigned to them by the panchayat.

(10) A district panchayat may at any time withdraw from any committee other than the Education Committee any of the powers, functions and duties assigned to it and assign the same to any other Committee.

132. (1) The Chairman of the Education Committee of a District Panchayat shall unless he is an *ex-officio* Chairman thereof under sub-section (3) of section 131 be entitled,— Honorarium etc. to Chairman of Education Committee.

(a) to an honorarium of Rs. 200 per month,

(b) without payment of rent, to use of a residence in the headquarters of the panchayat throughout his term of office and for a period of fifteen days thereafter or in lieu of such residence a house allowance at such rate as the State Government may, by general or special order determine,

(c) to travelling allowances while touring on public business at such rates and on such conditions as may be prescribed.

(2) No charge shall fall on the Chairman personally in respect of the maintenance of any residence provided under sub-clause (b) of sub-section (1).

133. A district panchayat may appoint any of its members or a committee of members to execute any work or scheme or to inquire into and report on any matter referred to it. The district panchayat may regulate the procedure of any such committee. Appointment of a member or committee to inquire into and report on any matter.

134. Save as provided in this Act, the time and place of a meeting of a district panchayat or committee thereof, the quorum for such meeting, the procedure for calling such meeting and the procedure at such meeting shall be such as may be prescribed. Procedure in respect of meetings.

135. All questions before a meeting of a district panchayat or committee thereof shall be decided by a majority of votes of the members present and unless otherwise provided in this Act, the presiding officer of the meeting shall have a second or casting vote in all cases of equality of votes. Questions to be decided by majority of votes.

136. No resolution of a district panchayat shall be modified, amended, varied or cancelled by a panchayat within a period of three months from the date of the passing thereof, except by a resolution supported by two-thirds of the total number of members of such panchayat. Modification or cancellation of resolutions.

(B) *Administrative powers and duties.*

137. Subject to the provisions of this Act, it shall be the duty of each district panchayat to make in the area within the jurisdiction and so far as the fund at its disposal will allow, reasonable provision in regard to all or any of the matters specified in Schedule III. Administrative powers of panchayats

138. (1) A district panchayat may, with the previous sanction of the State Government incur expenditure on educational or medical relief outside its jurisdiction, if its finances permit.

(2) A district panchayat may also make provisions for carrying out within the district any other work or measure which is likely to promote the health, safety, education, comfort, convenience, or social or economic, or cultural well-being of the inhabitants of the district.

(3) A district panchayat may, by resolution passed at its meeting and supported by two-thirds of the whole number of members, make provision for any public reception, ceremony or entertainment within the district or may make contribution towards an annual gathering or such other gathering of panchayats in the district or the State or towards the fund of any institution which is established with the object of promoting the spirit of community, self-help and mutual aid among village folk and suggesting ways and means for the efficient administration of panchayats and which is recognised by the State Government.

(4) A district panchayat may, subject to rules grant a loan out of its fund to a panchayat subordinate to it, for the purposes of this Act.

(5) A district panchayat shall in regard to the measures for the amelioration of the condition of Scheduled Castes and Scheduled Tribes and other backward classes, and, in particular, in the removal of untouchability, carry out the directions or orders given or issued in this regard from time to time by the State Government or the competent authority.

(6) A district panchayat shall perform such other duties and functions as are entrusted to it by or under any other law for the time being in force.

(7) It shall be lawful for the district panchayat to render financial or other assistance to any person for carrying on in the district any activity which is related to any of the matters specified in Schedule III.

(8) (a) A district panchayat may compromise in respect of any suit instituted by or against it, or in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient :

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compromising any claim or demand arising out of such contract.

(b) The panchayat may make compensation out of its fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it and its officers and servants under this Act.

(C) *Property and fund.*

Property of
district
panchayats.

139. (1) In addition to the movable or immovable property acquired by a district panchayat, the following shall vest in the district panchayat, namely :—

(a) every road, building or other work constructed by a district panchayat out of the district fund with or without the Government assistance or people's participation;

(b) any land or property vesting in the State Government when transferred to a district panchayat by the State Government for local public purposes;

(c) any land or other property vesting in any other panchayat, when vested in the district panchayat by that panchayat for the purposes of this Act ;

Provided that any land or property transferred to a district panchayat under sub-section (2) shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the panchayat but shall vest in it subject to the terms and conditions of the transfer and in the circumstances specified in such terms or conditions, the land or property with all things, if any, attached thereto including all fixtures and structures thereon shall revert in the State Government and it shall be lawful for the State Government to resume possession thereof.

(2) Notwithstanding that any immoveable property vests in a district panchayat, no lease, sale or other transfer thereof shall be valid unless it has been made with the previous sanction of the competent authority :

Provided that in the case of a lease of immovable property other than the property referred to in clause (b) of sub-section (1), no such previous sanction shall be necessary, if the period of lease does not exceed three years.

140. (1) There shall be in each district a fund which shall be called a ^{District} district fund. _{Fund.}

(2) The following shall be paid into and form part of the district fund, namely :—

(a) the proceeds of any tax or fee imposed under this Act;

(b) the sale proceeds of all dust, dirt, dung, refuse, or carcasses of animals, except in so far as any person is entitled to the whole or a portion thereof;

(c) sums contributed to the district fund by the State Government;

(d) all sums received by way of loans from the State Government or otherwise;

(e) all sums received by way of gift or contributions by the district panchayat;

(f) the income or proceeds of any property vesting in the district panchayat;

(g) the net proceeds (after deducting the expenses of assessment and collections) of the cess authorised by section 169;

(h) all sums realised by way of rent or penalty otherwise than as the amount of any fine in a criminal case.

141. (1) All property vested in a district panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law for the time being in force, shall be applied subject to the provisions and for the purposes, of this Act and all such sums and funds shall be kept in such custody as may be prescribed. Application
of District
Fund.

(2) In the case of any loan taken by a panchayat, the payment of the principal or instalment thereof and the payment of interest thereon shall be a first charge on its fund.

(D) Officers and servants.

Secretary and officers and servants of a district panchayat. 142. Subject to the provisions of this Act and the rules made thereunder—

(1) there shall be a secretary for every district panchayat ;

(2) (a) a District Development Officer posted under the panchayat, shall be *ex-officio* secretary of the panchayat ;

(b) except in the case of the district of Dangs, the post of the District Development Officer shall be borne on the cadre of the Indian Administrative Service (Senior time scale) and shall be filled according to the rules applicable to the posts of that cadre ;

(3) a district panchayat may appoint such officers and servants as may be necessary for the discharge of its functions and duties under this Act.

Powers and functions of District Development Officer. 143. (1) Save as otherwise expressly provided by or under this Act, the executive power of a district panchayat for the purpose of carrying out the provisions of this Act, shall vest in the District Development Officer who shall subject to the orders, if any, of the President or of the district panchayat, as the case may be —

(a) perform all the powers specifically imposed or conferred upon him by or under this Act, or under any law for the time being in force ; and

(b) lay down the duties of all officers and servants of the district panchayat.

(2) Subject to the provisions of this Act and the rules made thereunder the District Development Officer —

(a) shall be entitled to —

(i) attend the meetings of the district panchayat, or any of its committees ;

(ii) call for any information, return, statement, account or report from any officer or servant of, or holding office under, the district panchayat ;

(iii) grant leave of absence, for a period not exceeding two months to such class of officers as may be prescribed by rules ;

(iv) call for an explanation from any officer or servant of, or holding office under, the district panchayat ;

(b) shall, subject to the control of the district panchayat discharge duties and perform functions, in respect of matters which by or under this Act are not expressly imposed or conferred on any committee, presiding officer or any officer of the district panchayat ;

(c) shall appoint such class of officers and servants as may be prescribed ;

(d) shall supervise and control the execution of all activities of the district panchayat ;

(e) shall take necessary measures for the speedy execution of all works and development schemes of the district panchayat ;

(f) shall have custody of all papers and documents connected with the proceedings of meetings of the district panchayat and of its committees ;

(g) shall assess and give his opinion confidentially every year on the work of the officers holding office under the district panchayat ; forward them to such authorities as may be prescribed by the State Government and lay down the procedure for writing such reports about the work of officers and servants under the district panchayat ;

(h) shall draw and disburse money out of the fund ;

(i) shall exercise supervision and control over the acts of officers and servants holding office under the district panchayat in matters of executive administration and those relating to accounts and records of the district panchayat ; and

(j) shall exercise such other powers and perform such other functions as may be prescribed by the State Government.

(3) Subject to the other provisions of this Act, the District Development Officer shall be under the general control of the district panchayat.

(E) *Budget estimates.*

144. (1) Every district panchayat shall have prepared annually on or before such date, and in such form and manner as may be prescribed in this behalf a budget estimate of its income and expenditure for the next year:

Budget estimate of district panchayat and re-appropriation of funds.

Provided that the budget estimate shall be so prepared that at the end of the year the panchayat shall have at its credit a balance of not less than such minimum amount as may be prescribed in that behalf.

(2) The district panchayat shall as soon as may be after the said date consider the budget estimate so prepared and approve the same with or without modification as it shall think fit.

(3) The district panchayat may, if necessary, at any time during the year for which a budget estimate has been approved, cause a revised or supplementary budget estimate to be prepared and shall consider and approve the same in the same manner as if it were an original annual budget estimate.

(4) Re-appropriation of funds in a budget estimate may be made from time to time subject to the same approval as is required for the budget estimate.

145. A copy of every budget estimate and a statement of every re-appropriation as finally approved under section 144 shall be forwarded by the President of the district panchayat without delay to the competent authority ; a copy of the annual budget estimate shall be so forwarded not later than the 18th February.

Copy of budget estimate to be forwarded to competent authority.

146. (1) Save in the case of pressing emergency, no sum shall be expended by, or on behalf of any district panchayat unless such sum is included in some budget estimate approved under section 144 and in force at the time of incurring the expenditure.

Except on pressing emergency no sum to be expended unless it has been included in budget estimate.

(2) If on a pressing emergency any sum is expended otherwise than in accordance with sub-section (1) the circumstances shall forthwith be communicated in writing by the President of the district panchayat to the competent authority with an explanation of the way in which it is proposed by the district panchayat to cover such extra expenditure.

147. (1) Accounts of the income and expenditure of every district panchayat shall be kept in such form and manner as may be prescribed and shall be balanced annually on the 1st day of every year.

Accounts and their audit.

Bom. XXV of 1930. (2) The Bombay Local Fund Audit Act, 1930 or any other corresponding law for the time being extending to any area shall apply to the auditing of the accounts of the district panchayats.

148. (1) The Secretary of the district panchayat shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat.

Annual reports.

(2) The annual statement of the accounts together with the annual report shall be sent to the competent authority before such date and in such form as may be prescribed.

CHAPTER VI

PROVISIONS AS TO TRANSFER OF CERTAIN FUNCTIONS
UNDER ANY ENACTMENT TO PANCHAYATS.

(A) *Transfer of functions relating to recovery of land revenue and cesses under the Land Revenue Code and the law relating to collection of cesses.*

149. The State Government shall, notwithstanding anything contained in the Land Revenue Code, or any law relating to the collection of any cess, for the time being in force in the State, by notification in the *Official Gazette*, entrust to every gram panchayat and every nagar panchayat any or all of the functions and duties of a village accountant or patel or other similar functions of any other person, by whatever name called, in relation to the collection of land revenue (including cesses) and dues recoverable as arrears of land revenue, which is levied and assessed by or under the Land Revenue Code, or law relating to the collection of any cess for the time being in force in the State, and all other functions and duties of a village accountant under that Code.

150. The panchayat so entrusted under section 149 shall be responsible for the recovery and collection of the land revenue (including cesses) and other dues of the gram or, as the case may be, nagar in accordance with the provisions of the Land Revenue Code and the rules, instructions and orders made or issued thereunder and the law relating to the collection of such cesses.

151. Where a panchayat has been entrusted with the functions and duties relating to the collection of land revenue (including cesses) and other dues under section 149, the State Government shall by notification in the *Official Gazette*, confer on such panchayat, subject to such conditions as may be specified in the notification all or any of the powers of the Collector, for the realisation of land revenue and other dues recoverable as arrears of land revenue under the Land Revenue Code, and for the collection of cesses under the law relating thereto, and it shall be competent for the panchayat so empowered to exercise all or any of the powers so conferred in this behalf.

152. In the exercise of the powers conferred upon, and the discharge of the functions entrusted to a panchayat under this Chapter, the Taluka Development Officer and other officers superior to them shall, notwithstanding anything contained in the Land Revenue Code, be deemed to be revenue officers and have and exercise as far as may be, the like authority and control over the panchayats as the Mamlatdars and other revenue officers superior to them have and exercise under the Land Revenue Code or law relating to the collection of such cesses over the village accountant or patel or other functionary.

153. Notwithstanding anything contained in the provisions hereinbefore the right of the State Government to collect land revenue and any cesses, shall remain unaffected, and if in the opinion of the State Government a panchayat exceeds or abuses its powers under this Chapter or fails to exercise the same, or is incompetent to perform, or makes persistent default in the performance of, the duties imposed or persistently disobeys any of the orders of the Collector with regard to the exercise of any of the said powers, the State Government may, after consultation with the district panchayat

and after giving the panchayat an opportunity to render an explanation, by order in the *Official Gazette* withdraw all the powers conferred on the panchayat under this Chapter and direct its revenue officers to recover the land revenue or as the case may be, the cesses.

154. On the withdrawal under section 153 of the powers conferred on a panchayat, the Collector shall appoint an officer to take charge of the accounts, records and other papers and articles in connection with the recovery of land revenue, or collection of cesses, in the gram or, as the case may be, nagar.

Collector to appoint officer on suspension of powers of panchayat.

(B) *Transfer of the functions of the District School Boards to panchayats.*

Bom. LXI of 1947. Sau. XXX-III of 1956. 155. (1) Notwithstanding anything contained in the Bombay Primary Education Act, 1947 and the Saurashtra Primary Education Act, 1956 or any other corresponding law for the time being in force, on and with effect from such date as the State Government may, by notification in the *Official Gazette* appoint (hereinafter referred to in this Chapter as "the said date") every District school board constituted under the Bombay Primary Education Act, 1947 or, as the case may be, the Saurashtra Primary Education Act, 1956 (hereinafter referred to in this Chapter as "the relevant Act") functioning immediately before the said date (hereinafter referred to in this Chapter as "the existing school board") shall stand dissolved and on such dissolution, the following consequences shall ensue, that is to say—

Dissolution of district school boards and transfer of their functions to Taluka panchayats and District panchayats.

(a) the chairman, vice-chairman and other members of the existing school board shall be deemed to have vacated their office ;

(b) the powers exercised and the functions and duties performed by the existing school board in the local area for which it was functioning immediately before the said date shall be exercised and performed by the taluka panchayats and the district panchayat functioning in that local area in accordance with the order made by the State Government under subsection (2) (hereinafter referred to in this section as "the said order") ;

(c) all primary schools with their lands, buildings, records and equipment and other properties, movable and immovable vesting in, held by or under the control of the existing school board immediately before the said date shall vest in, be held by or be under the control of the taluka panchayats and the district panchayat in accordance with the distribution made in that behalf under the said order ;

(d) the assets, rights and liabilities of the existing school board shall stand transferred to the taluka panchayats and the district panchayat in accordance with the distribution thereof made under the said order ;

(e) the employees of the existing school board shall stand transferred to the taluka panchayats and the district panchayat in accordance with the distribution made in that behalf and on such terms and conditions as may be provided, in the said order :

Provided that the terms and conditions of service of any such employee shall not be less favourable than those applicable to him while in service of the existing school board :

Provided further that nothing in this clause shall entitle any employee to claim the same cadre or designation on such transfer.

(2) For giving effect to the provisions of sub-section (1), the State Government, having regard to the Panchayat Functions List, shall, by an order published in the *Official Gazette* provide for —

(a) the distribution of powers, functions and duties of the existing school board under the relevant Act and of the assets, rights, liabilities of the existing school board, and of the properties vested in, held by or under the control of the existing school board and for the transfer of the employees of the existing school board, among the taluka panchayats and the district panchayat;

(b) the saving of anything done or any action taken by the existing school board before the date and the continuance and disposal of pending proceedings;

(c) all incidental, consequential and supplementary matters as may be necessary to give effect to the provisions of sub-section (1) and for the proper and just distribution of assets, rights and liabilities between taluka panchayats and the district panchayat; and

(d) the adaptations and modifications of the relevant Act, or of any other law whether by way of repeal or amendment as may be necessary to give effect to the provisions of sub-section (1).

(C) *Delegation of the functions under the Bombay Co-operative Societies Act, 1925 or any other corresponding enactment in force in the State.*

Delegation of powers of Registrar of Co-operative societies to panchayats.

156. (1) Notwithstanding anything contained in the Bombay Co-operative Societies Act, 1925 or any other corresponding enactment for the time being in force in the State of Gujarat, the State Government, having regard to the Panchayat Functions List, may subject to such conditions as it may think fit to impose, by an order published in the *Official Gazette*, delegate to a district panchayat and the taluka panchayats subordinate to it, such powers, functions and duties of the Registrar or any other authority under the said Act or enactment as may be specified in the order.

Bom. VII of 1925

(2) In particular, such order may provide for the delegation of powers relating to —

(a) the registration of co-operative societies;

(b) the approval of amendment to the by-laws of co-operative societies;

(c) appeals arising out of non-admission of members in a co-operative society;

(d) maintenance of register of co-operative societies;

(e) change in the name or classification of a co-operative society;

(f) permission to co-operative societies to enter into partnership;

(g) the calling of, or extending the period for the calling of, annual general meetings of co-operative societies;

(h) the calling of a special general meeting of a co-operative society;

(i) the disposal of surplus assets of co-operative societies in the event of their winding up;

(j) direction for giving possession of books and papers of the co-operative societies to the successor chairman thereof.

157. (1) Notwithstanding anything contained in any law for the time being in force, the State Government may, subject to such conditions as it may think fit to impose, transfer by an order published in the *Official Gazette* to a district panchayat any such functions, and duties relating to any matter as are performed by the State Government or any officer of Government under any enactment which the State Legislature is competent to enact, or otherwise in the executive power of the State, and appear to relate to matters arising within a district and to be of an administrative character and shall on such transfer, allot to the district panchayat such fund and personnel as may be necessary to enable the district panchayat to discharge the functions and duties so transferred.

(2) Without prejudice to the generality of the provisions of sub-section (1) the State Government may transfer to the district panchayats such functions and duties as are performed by the following departments of the State, namely :—

- (1) Agriculture ;
- (2) Animal husbandry ;
- (3) Public Health and Medical relief ;
- (4) Public Works Department activities in the district ;
- (5) Social Welfare ;
- (6) Land Department ;
- (7) Prohibition Department so far as prohibition propaganda is concerned ;
- (8) Co-operative Department ;
- (9) Cottage Industries and Small-scale Industries ;
- (10) District Statistical Office.

(3) On the transfer of any functions and duties under sub-sections (1) and (2) the district panchayat shall, if the State Government so directs and with the previous approval of the State Government, may delegate to any panchayat subordinate to it any of the functions, powers and duties so transferred and allot to such panchayat such fund and staff as may be necessary to enable the panchayat to discharge the functions and duties so delegated.

(4) Where any functions, and duties conferred by or under any enactment are so transferred or delegated, that enactment shall have effect as if this section had been incorporated in that enactment.

(5) The matters in respect of which the functions and duties are transferred or delegated under this section shall be deemed to be included in the Panchayat Functions List.

158. (1) Any functions and duties relating to any of the matters specified in the Panchayat Functions List performed before the commencement of this Act by the State Government through its officers within a gram, nagar, taluka or district shall, subject to such exceptions as the State Government may by order in writing specify, be transferred to the district panchayat together with the funds provided, and the staff employed, therefor.

(2) On such transfer, the district panchayat may, with the previous approval of the State Government, delegate to any panchayat subordinate to it any of the functions and duties so transferred.

Transfer of functions of State Government to panchayats performed before the commencement of this Act.

CHAPTER VII.

CATTLE POUNDS.

159. In any local area which is declared or deemed to be a gram or nagar under this Act, the provisions of the Cattle Trespass Act, 1871, or any law corresponding to that Act in force in any part of the State shall cease to apply in relation to such local area : I of 1671.

Provided that—

(a) nothing in this section shall affect the liability of any person to any penalty under any law so ceasing to be in force ;

(b) any appointment, notification, order, rule made or issued under any such law in respect of any cattle pounds within the limits of such gram or nagar shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under this Act and continue in force until superseded by any notification, order or rule made under this Act ;

(c) any cattle pound in the local area established under any law so ceasing to be in force shall be deemed to be vested in the gram panchayat or nagar panchayat within whose limits it is situate and shall be maintained and managed by the panchayat in accordance with the provisions of this Act.

160. (1) Notwithstanding anything contained in any law for the time being in force, every gram panchayat, or as the case may be, nagar panchayat within the limits of its jurisdiction shall from time to time, appoint such places as it thinks fit to be public pounds, and may appoint to be keepers of such pounds such persons as may be approved by the District Magistrate. The duties of pound keepers shall be such as may be prescribed.

(2) Every pound keeper so appointed shall, in the performance of his duties, be subject to the direction and control of the panchayat by which he is appointed.

161. (1) Whoever, within the limits of a gram or nagar, allows any cattle which are his property or in his charge to stray in any street or to trespass upon any private or public property shall, on conviction, be punished—

(i) for the first offence, with imprisonment for a term which may extend to one month or with fine which may extend to three hundred rupees or with both ;

(ii) for a second or subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

(2) The Magistrate trying the offence under sub-section (1), may order,—

(a) that the accused shall pay such compensation, not exceeding two hundred and fifty rupees as the Magistrate considers reasonable, to any person for any damage proved to have been caused to his property or to the produce of land, by the cattle under the control of the accused, trespassing on his land ; and also,

Cattle
Trespass
Act to
cease to
apply.

Power to
establish
cattle
pounds
and
appoint
pound
keepers.

Penalty
for allow-
ing cattle
to stray in
street or to
trespass
upon pri-
vate or
public
property.

(b) that the cattle in respect of which the accused is convicted shall be forfeited to the State Government.

(3) Any compensation awarded under sub-section (2) may be recovered as if it were a fine imposed under this section.

(4) An offence under this section shall be cognisable.

(5) Nothing contained in sub-section (1) shall render any person liable to any punishment provided in that sub-section, if in the opinion of the Court, the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

162. (1) It shall be the duty of every Police Officer and a Watch and Ward appointed by the panchayat, and it shall be lawful for any other person, to seize and take to any such public pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property within the limits of the gram or nagar, as the case may be.

Impounding
cattle.

(2) Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, and whoever rescues the same after seizure, either from a pound or from any person taking or about to take them to a pound, shall, on conviction, be punished with imprisonment for a term not exceeding six months or with fine not exceeding five hundred rupees, or with both.

163. (1) If the owner of cattle which are impounded under section 162 or his agent appears and claims the cattle, the pound-keeper shall deliver them to him on payment of the pound-fees and expenses chargeable in respect of such cattle under section 165 and on depositing the amount of security, if any, prescribed under section 167.

Delivery
of cattle
claimed
and conse-
quences of
failure to
pay pound
fees and
expenses,
etc.

(2) If the owner or his agent appears but refuses to pay the fees and expenses as required under sub-section (1) on the ground that the seizure was illegal and that the owner is about to make a complaint under section 166, then upon the deposit of the fees and expenses incurred in respect of the cattle, the cattle shall be delivered to him.

(3) If on any complaint referred to in sub-section (2), the seizure is declared to be lawful or if the owner or his agent fails to make such complaint within a period of four weeks from the date of delivery of the cattle to him and the provisions of section 167 are applicable, the pound-keeper shall require the owner or his agent to make a declaration and to deposit the amount of security as required by that section. If the owner or his agent fails to make such declaration or to deposit such amount, the cattle delivered to him under sub-section (2) shall be seized again for the purposes of sub-section (4).

(4) If the owner or his agent appears and refuses or omits to pay the pound fees and expenses under sub-section (1) or to deposit the pound fees and expenses under sub-section (2) or to deposit the amount of security and to make a declaration as required by sub-section (3), the cattle or as many of them as may be necessary shall be sold by public auction by such officer at such place and time and subject to such conditions as are referred to in section 164. The amount of pound fees leviable and the expenses of feeding and watering together with the expenses of sale, if any, and the amount of security, if any, as prescribed under section 167 shall be deducted from the proceeds of the sale.

Sale of
cattle not
claimed.

164. (1) If within seven days after any cattle have been impounded, no person appearing to be the owner of such cattle offers to pay the pound-fee and expenses chargeable under section 165 such cattle shall be forthwith sold by auction in the prescribed manner and the surplus remaining after deducting the fee and expenses aforesaid from the proceeds of the sale, shall be paid to any person who, within fifteen days after the sale, proves to the satisfaction of such officer as the panchayat authorises in this behalf that he was the owner of such cattle and shall in any other case, form part of the gram fund or, as the case may be, nagar fund.

(2) No Police Officer, or officer, member or servant of the panchayat including the pound-keeper shall, directly or indirectly, purchase any cattle at a sale under sub-section (1).

Pound-fees
and expenses
chargeable to be
fixed.

165. (1) The pound-fee chargeable shall be such as the State Government may from time to time by notification in the *Official Gazette* specify for each kind of cattle.

(2) The expenses chargeable shall be at such rates for each day during any part of which any cattle is impounded, as shall from time to time be fixed by the panchayat with the previous approval of the District panchayat.

Complaints
of illegal
seizure or
detention.

166. (1) Any person whose cattle have been seized under this Act or having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the first class.

(2) The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. If the Magistrate on examining the complainant or his agent sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

(3) If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant for the loss caused by the seizure or detention reasonable compensation not exceeding one hundred rupees to be paid by the person who made the seizure or detained the cattle, together with all fees paid and expenses incurred by the complainant in procuring the release of the cattle, and, if the cattle have not been released the Magistrate shall besides awarding such compensation order their release, and direct that the fees and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

(4) The compensation, fees, and expenses mentioned in this section may be recovered as if they were fines imposed by the Magistrate.

Security
in respect
of impounded
cattle.

167. (1) In any gram or nagar to which the State Government may, by notification in the *Official Gazette*, apply this section, every pound-keeper shall, before releasing any impounded cattle, require the owner of the impounded cattle or his agent to make, in the prescribed form a declaration regarding the ownership of such cattle and to deposit by way of security such sum as may be prescribed. Progressively increasing scales may be prescribed in respect of cattle belonging to or kept by the same person according to

the number of cattle impounded at a time and the number of times the cattle are impounded and different scales may be prescribed for different grams and nagars.

(2) If any cattle belonging to such owner are impounded within a period of six months from the date on which the security is deposited, and if the seizure is not adjudged illegal, the amount of deposit or a part thereof, as may be directed by the State Government by rules made in this behalf, shall stand forfeited to the State Government. If cattle are not impounded as aforesaid, the amount of security deposit shall, on an application made by or on behalf of the depositor be refunded to him on the expiry of that period.

(3) On every occasion on which the release of the cattle impounded under this Act is claimed, the owner of the cattle shall deposit a fresh security.

168. (1) If in any local area to which the State Government may, by notification in the *Official Gazette*, apply this section, a Mamlatdar or Mahalkari is satisfied — Removal
of cattle
to speci-
fied places.

(i) that the grazing land set apart for the use of cattle of one or more villages in the taluka, or mahal under his jurisdiction is insufficient for the cattle belonging to the permanent residents of such village or villages ;

(ii) that the crops or grass standing on any agricultural land or grazing land so set apart are likely to be damaged by cattle belonging to persons who are not residents of such village or villages and who own more than twenty head of cattle, he may —

(a) in any case referred to in clause (i) direct any such resident owner, by special or general order, to remove or cause to be removed all or any dry or useless cattle belonging to him to such place or places within the State and within such period as may be specified in the order, and

(b) in any case referred to in clause (ii) direct any such non-resident owner, by special or general order, to remove or cause to be removed all or any of his cattle to such place or places within the State and within such period as may be specified in the order.

(2) If the owner of the cattle fails to remove the cattle as directed under sub-section (1), the Mamlatdar or Mahalkari, as the case may be, may direct a police officer not below the rank of a head-constable to remove or cause to be removed such cattle to the place or places specified in the order.

(3) If the Mamlatdar or Mahalkari is satisfied that the order issued by him under sub-section (1) is contravened by any owner or keeper of cattle, he may impose a fine not exceeding one thousand rupees. Any fine so imposed may, on failure of such owner or keeper to pay the same within the specified time, be recovered by sale of all or any of the cattle ordered to be removed under sub-section (1).

CHAPTER VIII.

TAXATION.

PART I.

Taxation by the State Government

levy of twenty naye paise cess on every rupee of land revenue.

16). (1) The State Government shall levy, on the conditions and in the manner hereinafter described, a cess at the rate of twenty naye paise on every rupee of —

(a) every sum payable to the State Government as ordinary land revenue except sums payable on account of any of the charges mentioned in sub-section (2) and except sums payable on account of any charge which may be notified by the State Government in this behalf; and

(b) every sum which would have been assessable on any land as land revenue had there been no alienation of the land revenue :

Provided that no cess shall be levied under this section on sums less than twenty-five naye paise.

(2) The following sums shall not be taken into account for the purposes of sub-section (1), namely—

(i) penalties and fines, including any charge imposed under section 148 of the Land Revenue Code, as penalty or interest in case of default, but not including any fine levied under section 65 of the said Code on grant of permission to use land for a purpose unconnected with agriculture ;

(ii) occasional fixed payments, in commutation of all claims of the State Government in respect of succession to or transfer of inams, payable on each succession or transfer of inams ;

(iii) land revenue on service inam land, recovered from inferior village servants for periods of unauthorised absence from service ; and all other such charges of assessment on inams and watans for broken periods and past years ;

(iv) fees for grazing when charged per head of cattle.

rules for assessment.

170. In the assessment of the said cess on villages alienated as defined in the Land Revenue Code, —

(a) if the village has been surveyed and assessed in the manner laid down in the said Code and the rules made thereunder, the cess shall be fixed on the total amount of assessment of the village as fixed under the said Code or the rules made thereunder ;

(b) if the village has come under summary settlement under the Exemptions from Land Revenue (No. 1) Act, 1863, or the Exemptions from Land Revenue (No. 2) Act, 1863, and clause (a) of this section does not apply, the cess shall be fixed on the total annual assessment as settled for the purpose of summary settlement ; and

Bom. II of 1863.
Bom VII of 1863.

(c) in villages to which neither of clauses (a) or (b) of this section applies, the cess shall be fixed on the old or kammal rate recorded in the books of the Collector ; and if no such rate is recorded, or if the rate so recorded is objected to by the holder or proprietor of the alienated village, the cess may be fixed as agreed upon by the Collector in agreement with the district panchayat which shall pass a special resolution to that effect and such holder or proprietor, or, failing agreement, by a rough survey and assessment to be made by the State Government, the expense of such rough survey being borne half by the district panchayat and half by the holder or proprietor of such village.

Bom. 171. The State Government may levy a cess not exceeding twenty naye Levy of
 VII paise on every rupee of water-rate leviable under the provisions of the Bom- cess on
 of bay Irrigation Act, 1879. water rate.

172. The cess described in section 169 shall be levied, so far as may be, Manner of
 in the same manner, and under the same provisions of law, as the land levying
 revenue : cess des-
cribed in
section 169.

Bom. Provided that, in the case of any land in the possession of a tenant, if Manner of
 LXV. such tenant is liable to pay the cess in respect of such land under the provi- levying
 II of sions of the Bombay Tenancy and Agricultural Lands Act, 1948, or the cess des-
 1948. Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch cribed in
 Bom. Area.) Act, 1958, such tenant shall be primarily liable for the payment of section 171.
 XCIX. cess in respect of such land. Assistance
 of to superior holders.
 1958.

Bom. 173. The cess described in section 171 shall be levied, so far as may be, Manner of
 VII in the same manner, and under the same provisions of law, as water-rates levying
 of payable to the State Government under the Bombay Irrigation Act, 1879. cess des-
 1879. cribed in
section 171.

174. The provisions of law relating to the assistance to be given to superior Assistance
 holders and owners of water-courses for the recovery of their dues from their to superior
 tenants and occupants under them, or from persons authorised to use their holders.
 water-courses, shall be applicable to all superior holders, whether of alienated Collection
 or unalienated land, and to all owners of water-courses in respect of the and credit
 recovery of the said cesses from their tenants, occupants or persons authorised of local
 to use their water courses, and shall be applicable also to occupants of land cess on
 under the Land Revenue Code for the recovery of the said cesses from their water rates.
 tenants or joint occupants.

175. The local cess leviable on water rate under section 171 in respect Collection
 of lands shall be paid by the State Government to the taluka panchayat and credit
 within the jurisdiction of which the lands are situated, after deducting of local
 such portion thereof as cost of collection, as the State Government may cess on
 prescribe by rules. water rates.

176. The local cess leviable on lands under section 169, shall be paid by Collection
 the State Government to the district panchayat within the jurisdiction of and credit
 which lands are situated, after deducting such portion thereof as cost of local
 of collection, as the State Government may prescribe by rules. cess of
land
revenue.

Suspension and remission of local cess. **177.** The State Government may, on the application of the district panchayat to which the cess is payable, suspend or remit the collection of cess or any portion thereof in any year in any area, subject to the jurisdiction of such district panchayat.

PART II.

Taxation by Gram panchayats and Nagar panchayats.

Levy of taxes and fees by gram panchayats and nagar panchayats. **178.** (1) It shall be competent to a gram panchayat and a nagar panchayat to levy all or any of the following taxes and fees at such rates as may be decided by it (but subject to the minimum and maximum rates which may be fixed by the State Government) and in such manner and subject to such exemptions as may be prescribed, namely:—

(i) a tax on buildings (whether subject to payment of agricultural assesment or not) and lands (which are not subject to payment of agricultural assesment), within the limits of the gram or, as the case may be, nagar ;

(ii) octroi ;

(iii) a pilgrim tax ;

(iv) a tax on fairs, festivals and other entertainments ;

(v) a tax on bicycles and on vehicles drawn by animals ;

(vi) subject to the provisions of article 276 of the Constitution, a tax on the following professions, trades, callings or employments, that is to say,—

(a) shop-keeping and hotel-keeping ;

(b) any trade or calling (other than agriculture) which is carried on with the help of machinery run by steam, oil or electric power or by manual labour ;

(c) the profession or calling of brokers in cattle markets ;

(vii) a general sanitary cess for the construction or maintenance, or the construction and maintenance, of public latrines and for the removal and disposal of refuse ;

(viii) a general water rate which may be imposed in the form of a rate assessed on buildings and lands or in any other form as may be best adopted to the circumstances of any class of cases ;

(ix) any other prescribed tax (not being a toll on motor vehicles or trailers, save as provided by section 20 of the Bombay Motor Vehicles Tax Act, 1958) which the State Legislature has, under the Constitution, powers to impose in the State ;

(x) a fee on markets and weekly bazars ;

(xi) a fee on cart-stands and tonga-stands ;

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LXV
of
1958.

(xiv) a special water rate for water supplied by the panchayat through pipes, which may be imposed in any form including that of charges for such water supplied, fixed in such mode or modes as shall be best adopted in the circumstances of any class of cases ;

(xiii) a fee for the supply of water from wells and tanks vesting in it, for purposes other than domestic use and for cattle ;

(xiv) a fee for temporary erection on, or putting up projections over, or temporary occupation of, any public street or place ;

(xv) a special sanitary cess upon private latrines, premises or compounds cleaned by the panchayat agency ;

(xvi) a fee for cleansing a cess pool constructed on land whether belonging to a panchayat or not ;

(xvii) a fee for grazing cattle on grazing lands vesting in a panchayat.

(2) The duties and obligations of persons liable to any tax or fee under sub-section (1) shall be such as may be prescribed.

(3) The tax on buildings or lands referred to in clause (i) of sub-section (1) shall be leviable from the owners or occupiers thereof :

Provided that when an owner of a building or land has left the gram or nagar or cannot otherwise be found, any person to whom such building or land has been transferred shall be liable for the tax leviable from the owner.

(4) The State Government may, by notification in the *Official Gazette*, direct that the tax upon buildings or lands referred to in clause (i) of sub-section (1) shall not be levied, or shall be levied on such reduced scale, on all buildings and lands or on any class of buildings or lands situated in an area predominantly populated by members of Scheduled Castes or Scheduled Tribes.

(5) Notwithstanding anything contained in sub-section (1), where a tax on professions, trades or callings and employments has been imposed by any district panchayat under the provisions of this Act in the area within the limits of a gram panchayat or nagar panchayat, it shall not be lawful for that panchayat so long as the tax is being so imposed to levy any such tax within such limit.

(6) Any person aggrieved by the assessment, levy or imposition of any tax or fee may appeal to the district panchayat within the prescribed period.

(7) In deciding an appeal under sub-section (6), the District Panchayat shall follow such procedure as may be prescribed.

(8) The State Government may suspend the levy or imposition of any tax or fee and may at any time rescind such suspension.

Lump-sum
contribution
by
factories
in lieu of
taxes
levied by
panchayat

179. (1) Subject to any rules that may be made under this Act, and regard being had to the fact that a factory itself provides in the factory area all or any of the amenities which such panchayat provides, a gram panchayat or as the case may be, nagar panchayat may arrive at an agreement with any factory with the sanction of the State Government to receive a lump sum contribution in lieu of all or any of the taxes levied by the panchayat.

(2) Where no such agreement as is referred to in sub-section (1) can be reached, the matter may be referred to the State Government in the manner prescribed and the State Government may after giving to the panchayat and the factory concerned an opportunity of being heard decide the amount of such contribution. The decision of the State Government shall be binding on the panchayat and the factory concerned.

Levying
of fees on
markets,
etc.

180. It shall be lawful for a gram panchayat or as the case may be, a nagar panchayat to lease by public auction or private contract the collecting of any fees levied by it on markets and weekly bazars :

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

Levy and
collection
upto twenty
five
naye paise
a cess on
every rupee
of land
revenue.

181. (1) A gram panchayat or as the case may be, nagar panchayat may, by resolution passed at its meeting, apply to levy a cess at the rate not exceeding twenty-five naye paise, according to its needs and capacity, on every rupee of every sum payable to the State Government as land revenue, and on which a cess is leviable under clauses (a) and (b) of sub-section (1) of section 169 and thereupon the State Government shall (in addition to any cess leviable under section 169) levy and collect such cess in the area within the jurisdiction of such panchayat.

(2) Where a gram panchayat or nagar panchayat undertakes for the benefit of the community any special work or project so as to complete it within a specified period and for that purpose an additional provision of funds is necessary, the panchayat may, by resolution passed at its meeting and with the previous permission of the district panchayat, apply to the State Government to increase the rate of cess levied in accordance with sub-section (1) to such extent and for such period as may be specified in the resolution :

Provided that such increase shall not exceed one hundred naye paise on every rupee of every sum payable to the State Government as ordinary land revenue.

(3) On receipt of an application under sub-section (1) or (2) the State Government shall levy the cess or increase the rate thereof as proposed by the panchayat and sub-section (1) shall have effect accordingly.

(4) The net proceeds (after deducting the expenses of assessment and collection) of any cess levied and collected in accordance with sub-section (1) shall form part of and be paid into the gram fund or as the case may be nagar fund.

(5) The State Government may, at the request of the panchayat to which the cess referred to in sub-section (1) is payable suspend the collection of the cess or any portion thereof in any year.

182. (1) If the income of a gram panchayat or nagar panchayat falls below what in the opinion of the taluka panchayat is necessary for the proper discharge of the duties specified in Schedule I the taluka panchayat may after having given such panchayat an opportunity of being heard, require it to take steps within six months, to increase its income to such extent as the taluka panchayat considers necessary. If the gram panchayat or as the case may be nagar panchayat fails to take adequate steps to increase its income to the required extent, the taluka panchayat may require it to levy any of the taxes or fees specified in section 178 or increase the rate at which any of such taxes and fees is levied and it shall be the duty of the panchayat to comply with the requirement :

Power of taluka panchayat to increase taxation of panchayat.

Provided that the taluka panchayat shall not compel the panchayat to levy any tax or fee or increase the rate thereof beyond the maximum rate prescribed in this behalf.

(2) The panchayat in respect of which an order under sub-section (1) is made by the taluka panchayat may within the prescribed period prefer an appeal to the district panchayat, which may pass such order on the appeal as it may think just and proper. The district panchayat may stay the execution of the order until the appeal is decided.

PART III.

Taxation by taluka panchayats.

183. (1) Subject to any general or special orders which the State Government may make in this behalf, every taluka panchayat may after observing the preliminary procedure required by section 189 impose an education cess and any of the taxes and fees which are leviable by a gram or nagar panchayat under section 178 :

Taxes and fees which may be imposed by taluka panchayat and mode of collection thereof.

Provided that the rate of tax or fee leviable by a taluka panchayat in respect of any matter within the limits of any gram or nagar shall not exceed 15 per cent. of the rate of the tax or fee actually levied by the gram panchayat or nagar panchayat in respect of the same matter, and where no such tax or fee has been levied by the gram panchayat or nagar panchayat, shall not exceed 15 per cent. of the prescribed maximum rate of tax or fee in respect of the same matter.

Provided further that,—

(i) no tax imposed as aforesaid, other than a special sanitary cess or a water rate, shall without the express consent of the Government concerned be leviable in respect of any building or part of any building or any vehicle, animal or other property, belonging to the Government or the taluka panchayat or district panchayat and used solely for public purposes, and not used or intended to be used for purposes of profit and no toll shall be leviable for passage of troops, the conveyance of Government stores or of any other Government property, the passage of Military or Police Officers on duty, or the passage or conveyance of any person or property in the custody of such officers ; and

(ii) no tax on property shall be imposed in respect of any land on which local cess is being collected.

(2) (a) Where in the exercise of the powers under sub-section (1) a taluka panchayat imposes a tax or fee in any area within the jurisdiction of a gram panchayat or nagar panchayat, such tax or fee shall be collected by the gram or nagar panchayat concerned from those persons who are liable to pay the same under the rules made by the taluka panchayat in accordance with the provisions of section 192 as if it were a tax or fee imposed by the gram or nagar panchayat concerned under the provisions of this Act and shall be paid to the taluka panchayat at such time and in such manner as the taluka panchayat may specify.

(b) Such percentage not exceeding 50 per cent. of the gross collection of such tax or fee in any financial year as the State Government may by general or special order determine shall not form part of the taluka fund but shall be assigned to the gram panchayat or, as the case may be, nagar panchayat in such manner as the taluka panchayat may determine.

(c) If any panchayat makes any default in the payment of any sum due in respect of a tax or fee within the time specified under clause (a), the provisions of section 188 shall *mutatis mutandis* apply to such default and the taluka panchayat shall exercise the same powers as are exercisable by a district panchayat under that section.

184. (1) A taluka panchayat may, by resolution passed at its meeting, apply to the State Government, for increasing the rate of stamp duty leviable under the Bombay Stamp Act, 1958 on instruments of sale, mortgage, lease or any other kind of transfer of immovable property situated within the limits of the taluka, to such extent as not to exceed 15 per cent. of the rate of duty so leviable and specified in the resolution. Bom. LX of 1958.

(2) Notwithstanding anything contained in the Bombay Stamp Act, 1958 on receipt of an application under sub-section (1) the State Government shall by notification published in the *Official Gazette*, direct that the rate of stamp duty on the class of instruments specified in the notification and affecting the immovable property situated within the taluka shall be in- Bom. LX of 1958.

creased to the extent specified in the notification with effect from the date specified in the notification and thereupon, the rate of stamp duty shall stand increased accordingly.

Bom. LX of 1958. (3) For the purpose of this section, section 28 of the Bombay Stamp Act, 1958, shall be read as if it specifically required the particulars therein referred to to be set forth separately in respect of —

(a) property situated in the jurisdiction of any taluka panchayat ; and

(b) property not situated in the jurisdiction of any taluka panchayat.

(4) The increase in stamp duty in respect of any class of instruments under this section shall be in addition to any increase made therein in respect of the same class of instruments for a district panchayat under section 186.

(5) The State Government shall, every year after due appropriation made by law in this behalf, pay to the taluka panchayat from the Consolidated Fund of the State, a grant-in-aid approximately equal to the extra duty realised under sub-section (1) in respect of properties situated within the jurisdiction of the taluka panchayat.

PART IV.

Taxation by District Panchayats.

185. Subject to any general or special orders which the State Government may make in this behalf, every district panchayat may, after observing the preliminary procedure required by section 189 impose any of the taxes and fees which are leviable by a gram panchayat under section 178 : Taxes which may be imposed by a district panchayat.

Provided that the rate of tax or fee leviable by a district panchayat in respect of any matter within the limits of any gram or nagar shall not exceed 10 per cent. of the rate of the tax or fee actually levied by the gram panchayat or nagar panchayat in respect of the same matter, and where no such tax or fee has been levied by the gram panchayat or nagar panchayat, shall not exceed 10 per cent. of the prescribed maximum rate of tax or fee in respect of the same matter :

Provided further that —

(i) no tax imposed as aforesaid other than a special sanitary cess or a water rate, shall without the express consent of the Government concerned be leviable in respect of any building or part of any building or any vehicle, animal or other property, belonging to the Government or to the taluka panchayat or district panchayat and used solely for public purposes, and not used or intended to be used for purposes of profit and no toll shall be leviable for passage of troops, the conveyance of Government stores or of any other Government property, the passage of Military or Police Officers on duty, or the passage or conveyance of any person or property in the custody of such officers ; and

(ii) no tax on property shall be imposed in respect of any land on which local cess is being collected.

Increase of stamp duty for a district panchayat. **186.** (1) A district panchayat may, by resolution passed at its meeting, apply to the State Government, for increasing the rate of stamp duty leviable under the Bombay Stamp Act, 1958 on instruments of sale, mortgage lease or any other kind of transfer of immoveable property situated within the limits of the district, to such extent as not to exceed 10 per cent. of the rate of duty so leviable and specified in the resolution. Bom. LX of 1958.

(2) Notwithstanding anything contained in the Bombay Stamp Act, 1958 on receipt of an application under sub-section (1), the State Government shall by notification published in the *Official Gazette*, direct that the rate of stamp duty on the class of instruments specified in the notification and affecting the immoveable property situated within the district shall be increased to the extent specified in the notification with effect from the date specified in the notification and thereupon, the rate of stamp duty shall stand increased accordingly. Bom. LX of 1958.

(3) For the purpose of this section, section 28 of the Bombay Stamp Act, 1958, shall be read as if it specifically required the particulars therein referred to be set forth separately in respect of — Bom. LX of 1958.

(a) property situated in the jurisdiction of any district panchayat; and

(b) property not situated in the jurisdiction of any district panchayat.

(4) The increase in stamp duty in respect of any class of instruments under this section shall be in addition to any increase made therein in respect of the same class of instruments for a taluka panchayat under section 184.

(5) The State Government shall, every year after the due appropriation made by law in this behalf, pay to the district panchayat from the Consolidated Fund of the State, a grant-in-aid approximately equal to the extra duty realised under sub-section (1) in respect of properties situated within the jurisdiction of the district panchayat.

Tax on professions etc., levied by district panchayat to be collected by gram or nagar panchayat. **187.** Where in exercise of the powers given by this Act, a district panchayat imposes a tax on professions, trades, callings and employments, or any other tax or fee then notwithstanding anything in this Act or any other law for the time being in force, in any area within the jurisdiction of a gram panchayat or nagar panchayat—

(a) such tax or fee shall be collected by the gram or nagar panchayat concerned from those persons who are liable to pay the tax or fee under the rules made by a district panchayat and who reside, or carry on any trade or exercise any profession or follow a calling, within such area, in accordance with the provisions of section 192, as if it were a tax or fee imposed by the gram panchayat or, as the case may be, nagar panchayat under the provisions of this Act, and shall be paid to the district panchayat at such time and in such manner as the district panchayat may specify;

(b) such percentage, not exceeding fifty per cent. of the gross collection of such tax or fee in any financial year, as the State Government may by

general or special order determine shall not form part of the district fund, but shall be assigned to the gram panchayat or as the case may be, nagar panchayat in such manner as the district panchayat may determine.

188. (1) If any panchayat makes default in the payment of any sum due in respect of a tax on professions, trades, callings and employments or any other tax or fee within the time specified by the district panchayat under clause (a) of section 187, the district panchayat may, notwithstanding any law relating to the funds vesting in such panchayat or any other law for the time being in force, direct any bank in which any moneys of the panchayat are deposited or the person in charge of the Government treasury or of any place of security in which the moneys of the panchayat are deposited to pay such sum from such moneys as may be standing to the credit of the panchayat in such bank or as may be in the hands of such person or as may from time to time be received from or on behalf of the panchayat by way of deposit by such bank or person and such bank or person shall be bound to obey such order.

Default in payment by panchayat.

(2) Every payment made pursuant to an order under sub-section (1) shall be a sufficient discharge to such bank or person from all liability to the panchayat in respect of any sum so paid by it or him out of the moneys of the panchayat so deposited with such bank or person.

PART V

Procedure for levying tax or fee by Taluka Panchayats and District Panchayats.

189. (1) A taluka panchayat or, as the case may be, a district panchayat shall, before imposing a tax or fee, by resolution passed at a meeting of the panchayat—

Procedure of district panchayat preliminary to imposing tax.

- (a) select a tax or fee which may be imposed ; and
- (b) approve rules describing the tax or fee selected ; and
- (c) shall in such resolution and in such rules specify —

(i) the class or classes of persons or of property, or of both, which the panchayat desires to make liable, any exemptions which it desires to give (including the circumstances or principles on which exemptions can be given) and the duties and obligations of persons liable to pay any such tax or fee ;

(ii) the amount for which, or the rate at which, it is desired to make such classes liable ; and

(iii) all other matters which the State Government may require to be so specified.

(2) When such a resolution has been passed, the panchayat shall publish the rules with a notice in the prescribed form and manner.

(3) Any inhabitant of the taluka or as the case may be, district objecting to the imposition of the said tax or fee, or to the amount or rate proposed, or to the class of persons or property to be made liable therefor, or to any exemptions proposed, may, within one month from the publication of the said notice, send his objections in writing to the taluka panchayat or district panchayat as the case may be and the panchayat shall take all such

objections into consideration, or shall authorize a committee of its members to consider and report on them.

(4) The panchayat shall take the proposals and all objections received thereto or the report of the committee, if any, into consideration at a meeting and sanction the rules with or without modifications.

Procedure for abolishing or varying a tax. 190. (1) The panchayat may, at a special meeting, pass a resolution to propose the abolition of any tax or fee already imposed or a variation in the amount or rate thereof.

(2) Any such proposal shall be dealt with according to the procedure laid down in section 189 for the imposition of a new tax or fee; and the notification of the abolition or variation of a tax or fee under this section in the *Official Gazette* shall be conclusive proof that such abolition or variation has been made in accordance with the provisions of this Act.

(3) Nothing in this section shall affect the power of a panchayat to propose an increase in the rate of cess on land revenue or in the rate of stamp duty under the provisions of sections 181, 184 or 186.

Publication of sanctioned rules with notice. 191. All rules sanctioned under section 189 shall be published in the prescribed manner by the taluka panchayat in the taluka and by the district panchayat in the district for which they are made, and the tax as described in the rules so published shall, from the date specified in the notice under that section in (such date not being less than one month from the publication of such notice), be imposed accordingly :

Provided that,—

(a) a tax leviable by the year —

(i) shall not come into force except on one of the following dates, that is to say, the first day of April, the first day of July, the first day of October or the first day of January, in any year, and

(ii) if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing ;

(b) on or before the day on which a notice is issued, the panchayat shall publish such further detailed rules as may be required, prescribing the mode of levying and recovering the tax therein specified, and the dates on which the tax or the instalments (if any), thereof, shall be payable ; and

(c) if the levy of a tax, or of a special portion of tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except as regards any unpaid arrears which have become due during the period.

CHAPTER IX.

Recovery of taxes, fees, cesses and other dues.

192. (1) When any tax or fee or any other sum has become due, a panchayat shall with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the amount due from him, specifying the date on or before which the amount shall be paid. Recovery
of taxes
and other
dues.

(2) If any person fails to pay any tax or fee or any other sum due from him to a panchayat under this Act or the rules on or before the specified date of payment, the panchayat shall cause a writ of demand in the prescribed form to be served on the defaulter.

(3) The presentation of every bill under sub-section (1) and the service of every writ of demand under sub-section (2) shall be effected by an officer or servant of the panchayat in this behalf—

(a) by giving or tendering the bill or writ to the person to whom it is addressed ; or

(b) if such person is not found, by leaving the bill or writ at his last known place of abode, if within the area of jurisdiction of the panchayat, or by giving or tendering the bill or writ to some adult male member or servant of his family ; or

(c) if such person does not reside within the area of jurisdiction of the panchayat and his address elsewhere is known to the officer directing the issue of the bill or writ then by forwarding the bill or writ to such person by registered post, under cover bearing the said address ; or

(d) if none of the means aforesaid be available, then by causing the bill or writ to be affixed on some conspicuous part of the building or land, if any, to which the bill or writ relates in the presence of at least two panchas.

(4) If the sum for which a writ of demand has been served is not paid within thirty days from the date of such service, the panchayat may levy such sum by distraint and sale of the movable property of the defaulter in the prescribed manner.

(5) Fees for —

(a) every writ of demand issued under sub-section (2)

(b) every distress made under sub-section (4)

(c) the costs of maintaining any livestock seized under sub-section (4) shall be chargeable at such rates as may be prescribed.

(6) Notwithstanding anything contained in the foregoing sub-sections, any tax or fee payable on demand in accordance with the rules shall be recoverable in such manner as may be prescribed.

(7) If a panchayat is unable to recover a tax or fee or other sum due to it as aforesaid, it shall be recoverable as an arrear of land revenue:

Provided that no such tax, fee or sum shall be recovered as an arrear of land revenue after the expiry of three years from the date when it becomes recoverable under this Act.

(8) If a panchayat fails to recover any tax, fee or any sum due to it, or neglects to take action under sub-sections (2) and (3) of section 279 or sub-sections (2) and (4) of this section, the competent authority may apply to the Collector to recover the same as an arrear of land revenue.

(9) On receipt of such application the Collector shall, after holding such enquiry as he thinks fit, proceed to recover the sum as an arrear of land revenue unless such sum is, under section 193 directed to be written off.

District Development Officer's power to direct irrecoverable sums to be written off.

193. The District Development Officer may direct any sum certified by a Nyaya Panchayat and recoverable under sections 276, 277 and 279 and any sum certified by a panchayat as recoverable as an arrear of land revenue to be written off, if in his opinion the sums are irrecoverable :

Provided that no sum exceeding five hundred rupees shall be written off except with the previous sanction of the State Government.

CHAPTER X.

FINANCIAL ASSISTANCE TO PANCHAYATS.

Provision by the State Government for making grants to panchayats.

194. The State Government shall in each year after due appropriation made by the State Legislature by law in this behalf make provision for making grants to the panchayats in accordance with this Chapter.

Extent of grants out of the average of three years collection of land revenue.

195. (1) For the purposes of section 194, the State Government shall in each year determine a sum which shall be equal to the average of the land revenue collected or recovered during the three preceding revenue years in the State.

(2) Out of the sum determined under sub-section (1) an amount equal to —

(a) such percentage of the sum as may be prescribed shall be set apart for meeting the expenditure on the salaries of the secretaries of gram panchayats and of the village accountants (talatis) in the State and on their training ;

(b) five per cent. of the sum shall be paid into the State Equalisation Fund established under section 196 :

Provided that in the case of a gram or nagar panchayat of a Devasthan gram or nagar the land revenue in respect of which is wholly or partially alienated in favour of the Devasthan, the gram panchayat or as the case may be, nagar panchayat shall be paid in each year out of the State Equalisation Fund a sum on the same basis as is applicable to other grams and nagars under sub-section (3).

(3) Out of the balance remaining after making the provisions in accordance with sub-section (2) —

(i) an amount equal to —

(a) 50 per cent. of the balance shall be distributed among the gram panchayats and nagar panchayats,

(b) 25 per cent. of the balance shall be distributed among the taluka panchayats, and

(c) 10 per cent. of the balance shall be distributed among the district panchayats,

in proportion to the average collection and recovery of land revenue from the respective gram, nagar, taluka or as the case may be district panchayat in the three revenue years immediately preceding ;

(ii) an amount equal to —

(a) 7½ per cent. of the balance shall be paid into the District Equalisation Fund established under section 197,

(b) 7½ per cent. of the balance shall be paid into the District Gram Encouragement Fund established under section 198.

196. (1) There shall be established by the State Government a fund to be called the State Equalisation Fund, which shall consist of the payments made into it under clause (b) of sub-section (2) of section 195 and which shall be utilised for making special grants to backward districts so as to minimise the social and economic inequalities between the districts of the State.

State
Equalisa-
tion Fund.

(2) The fund established under sub-section (1) shall be non-lapsable.

(3) Special grants out of the said fund to district panchayats shall be made in accordance with the rules made in that behalf.

197. (1) In each district, there shall be established by the district panchayat a fund to be called the District Equalisation Fund, consisting of the payments made into it under sub-clause (a) of clause (ii) of sub-section (3) of section 195 which shall be utilised by the district panchayat for making special grants to the backward panchayats subordinate to it so as to minimise the social and economic inequalities between the panchayats in the district.

District
Equalisa-
tion Fund.

(2) The fund established under sub-section (1) shall be non-lapsable and shall be invested in the prescribed manner.

(3) Special grants out of the said fund shall be made in accordance with the rules made in that behalf.

198. (1) In each district, there shall be established by the district panchayat a fund to be called the District Gram Encouragement Fund which shall consist of the payments made into it under sub-clause (b) of clause (ii) of sub-section (3) of section 195 and which shall be utilised by the district panchayat for making incentive grants to gram panchayats to encourage them to raise their income by levying taxes and fees leviable by them under this Act.

District
Gram
Encourage-
ment Fund.

(2) The fund established under sub-section (1) shall be non-lapsable and shall be invested in the prescribed manner.

(3) Incentive grants out of the said fund shall be made in accordance with the rules made in that behalf.

199. (1) In each district, there shall be established a fund to be called the District Development Fund which shall consist of the contributions made by the gram panchayats and nagar panchayats under section 103.

District
Deve-
lopment
Fund.

(2) The fund shall vest in the district panchayat and shall be invested in the prescribed manner.

(3) The fund shall be utilised for granting loans to gram panchayats and nagar panchayats in accordance with the rules and for payment of interest on contributions made by the said panchayats.

(4) The State Government shall make rules prescribing the purposes for which loans may be granted, the terms and conditions (including the rate of interest and of penal interest) on which such loans may be made, the period therefor and all matters incidental to the grant of loans.

200. The State Government shall after due appropriation made by the State Legislature by law in this behalf, pay to every district panchayat an amount equal to two per cent. of the forest revenue collected in the revenue year immediately preceding within the limits of the district.

Grant of a
portion of
forest
revenue to
district
panchayats.

201. Where any gram is situate in a forest area and is not assessed under the Land Revenue Code then the State Government shall, in lieu of a grant of land revenue under section 195, pay to the gram panchayat of the gram, in each year such amount out of the forest revenue of the gram collected in the revenue year immediately preceding, as it may fix but the amount so fixed shall not be —

Grant
from Forest
revenue to
certain
gram pan-
chayats.

(1) less than Rs. 500 and

(2) more than an amount calculated on the basis of the population of the gram at such *per capita* rate as is equal to the *per capita* rate arrived at in respect of grants made under section 195.

Power of Government to make additional grants to panchayats.

202. Notwithstanding anything contained in the foregoing provisions of this Chapter, the State Government may, after due appropriation made by the State Legislature by law in this behalf, make additional grant or grants in any year for augmenting the finances of any panchayat for any of the purposes of this Act.

CHAPTER XI

Provisions relating to services.

Panchayat Service to be regulated by rules.

203. (1) For the purpose of bringing about uniform scales of pay and uniform conditions of service for persons employed in the discharge of functions and duties of panchayats, there shall be constituted a Panchayat Service in connection with the affairs of panchayats. Such service shall be distinct from the State service.

(2) The Panchayat Service shall consist of such classes, cadres and posts and the initial strength of officers and servants in each such class and cadre shall be such, as the State Government may by order from time to time determine :

Provided that nothing in this sub-section shall prevent a district panchayat from altering, with the previous approval of the State Government, any class, cadre or number of posts so determined by the State Government.

(3) Subject to the provisions of this Act, the State Government may make rules regulating the mode of recruitment either by holding examinations or otherwise and conditions of service of persons appointed to the panchayat service and the powers of panchayats in respect of appointments, transfers and promotions of officers and servants in the Panchayat Service and disciplinary action against any such officers or servants.

(4) Rules made under sub-section (3) shall in particular contain —

(a) a provision entitling servants of such cadres in the Panchayat Service to promotion to such cadres in the State Service as may be prescribed,

(b) a provision specifying the classes of posts, recruitment to which shall be made through the District Panchayat Service Selection Committee and the classes of posts, recruitment to which shall be made by the Gujarat Panchayat Service Selection Board, and

(c) a provision regarding the percentage of vacancies to be reserved for the members of Scheduled Castes, Scheduled Tribes and other backward classes in the Panchayat Service.

Expenditure towards pay, allowances, etc. of officers and servants in Panchayat Service to be met by panchayats.

204. Subject to the rules, which the State Government may make in this behalf, the expenditure towards the pay and allowances of and other benefits available to, an officer or servant of the Panchayat Service serving for the time being under any panchayat shall be met by that panchayat from its own fund.

205. Subject to any rules made under section 203, appointments to the posts in the Panchayat Service shall be made —

(i) by direct recruitment,

Mode of appointment.

(ii) by promotion or

(iii) by transfer of a member of the State Service to the Panchayat Service.

206. (1) The State Government shall by a general or special order allocate to the Panchayat Service —

Allocation of officers and servants to Panchayat Service.

(i) such number of officers and servants out of the staff transferred to a panchayat under sections 155, 157 and 325 as it may deem fit,

(ii) all officers and servants in the service of district local boards and district school boards immediately before their dissolution under this Act and transferred to the corresponding district panchayats under sections 158 and 326,

(iii) such other officers and servants employed in the State service as may be necessary to enable the panchayats to discharge efficiently their functions and duties under this Act.

(2) The officers and servants allocated to the Panchayat Service under sub-section (1) shall be taken over by such panchayats in such cadre and on such tenure, remuneration and other conditions of service as the State Government may by general or special order determine :

Provided that the conditions of service of any such officer or servant shall not be less favourable than those applicable to him immediately before such allocation :

Provided further that nothing in the aforesaid proviso shall entitle an officer or servant to claim the same cadre and designation which he had before allocation.

207. (1) For the purpose of enabling the panchayats to discharge their functions and duties under this Act, it shall be lawful for the State Government to direct by a general or special order that such number of officers of the Indian Administrative Service and of class I and class II services of the States shall be posted under such panchayat and for such period and subject to such conditions as may be specified in the order and accordingly the officers specified in the order shall be posted under such panchayat.

Posting under panchayats of officers and servants in State service.

(2) The pay and allowances of an officer posted in accordance with sub-section (1) shall, during the period of posting, be paid by the panchayat from its fund.

208. Any panchayat, may subject to the rules made in this behalf, obtain the services of any officer of Government on loan.

Loan of services of Government officers to panchayats.

XIV of 1947. 209. Notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law for the time being in force, the allocation of any officer or servant to the Panchayat Service under section 206 shall not entitle such officer or servant to any compensation under that Act or law ; and no claim for any such compensation shall be entertained by any Court Tribunal or Authority.

No compensation payable for transfer of service.

Gujarat Panchayat Service Selection Board, its constitution and functions.

210. (1) There shall be established a Gujarat Panchayat Service Selection Board consisting of three members including the Chairman.

(2) At least one of the members of the Board shall be a person who is a member of the State Service or has retired from such service.

(3) Subject to sub-sections (1) and (2), the State Government shall appoint as members of the Board such persons as it may think fit and out of the persons so appointed appoint one person as the Chairman of the Board.

(4) The conditions of service (including pay and allowances) of the members of the Board shall be such as the State Government may by order determine.

(5) It shall be the duty of the Board to select candidates for recruitment to such posts in the panchayat service, and to advise the panchayat in such matters as may be prescribed by rules.

(6) The Board shall perform such other functions as provided by or under this Act.

District Panchayat Service Selection Committee and District Primary Education Staff Selection Committee.

211. (1) There shall be a District Panchayat Service Selection Committee in each district for selecting candidates for recruitment to such posts of the Panchayat Service and to advise the panchayats in such matters and to perform such other functions as may be prescribed.

(2) A District Panchayat Service Selection Committee shall consist of —

(a) one member of the Gujarat Panchayat Service Selection Board to be nominated by the Chairman of that Board,

(b) the President of the District Panchayat of the district, and

(c) such officer of the panchayat service or State service as the State Government may nominate.

(3) (a) In addition to the District Panchayat Service Selection Committee, the State Government may appoint in each district a District Primary Education Staff Selection Committee for the recruitment of primary teachers and such other staff in connection with primary education as may be prescribed.

(b) The constitution, powers and duties of such a committee shall be such as may be prescribed.

CHAPTER XI

CONSTITUTION OF CONCILIATION PANCHAS AND NYAYA PANCHAYATS AND THEIR FUNCTIONS AND POWERS.

Constitution of Nyaya Panchayats.

212. (1) A Nyaya Panchayat for a group of grams (hereinafter referred to as "Gram Nyaya Panchayat") shall consist of as many members as there are gram panchayats in the group and each gram panchayat shall elect one member to the Nyaya Panchayat in accordance with section 214.

(2) A Nyaya Panchayat for a nagar (hereinafter referred to as a "Nagar Nyaya Panchayat") shall consist of five members to be elected by the nagar panchayat for the nagar in accordance with section 214.

Constitution of conciliation panch.

213. (1) A conciliation panch for a gram panchayat or, as the case may be, nagar panchayat shall consist of three members out of which—

(a) one shall be a standing member to be elected by the panchayat in accordance with section 214, and

(b) two members chosen by the parties in accordance with section 246.

(2) The standing member shall be the Chairman of the conciliation panch.

(3) The other two members shall act as members of the conciliation panch only in respect of the case in which they are chosen by the parties.

214. (1) Every gram panchayat shall, as soon as may be after the election of its Sarpanch and Upa-Sarpanch at its first meeting elect in the prescribed manner from amongst the members of gram sabha of the gram—

Election of members of Nyaya Panchayats and conciliation panchas.

(a) one person to be a member of the Gram Nyaya Panchayat, and

(b) one person to be standing member of the conciliation panch of the gram :

Provided that if for any reason the gram panchayat does not elect or fails to elect any person required to hold office under clause (a) or (b), the district panchayat shall appoint from amongst persons qualified to be elected a person to hold that office and the person so appointed shall be deemed to be duly elected to that office :

Provided that the Sarpanch and Upa-Sarpanch shall not be eligible for being so elected.

(2) Every nagar panchayat which is entitled to have a Nyaya Panchayat shall as soon as may be, after the election of its Chairman and Vice-Chairman at its first meeting elect in the prescribed manner from amongst the voters of the nagar—

(a) five persons, to be members of the Nagar Nyaya Panchayat, and

(b) one person to be a standing member of the conciliation panch of the nagar :

Provided that the Chairman and the Vice-Chairman of the panchayat shall not be eligible for being so elected :

Provided further that if for any reason the nagar panchayat does not elect or fails to elect the required number of persons willing to take office the district panchayat shall appoint from persons qualified to be elected such persons as are required to make up the required number and the persons so appointed shall be deemed to be duly elected for the purposes of this section.

(3) No member of the gram sabha or, as the case may be, of the voters of nagar who is not able to read and write in Gujarati or is not qualified for being elected or being continued as a member of the panchayat shall be eligible for being elected as a member of Nyaya Panchayat or as a standing member of a conciliation panch.

215. (1) A member of a Nyaya Panchayat who absents himself for two consecutive months from the meetings of the Nyaya Panchayat without the permission of the competent authority shall cease to be a member of the Nyaya Panchayat and his office shall become vacant.

Member to vacate if absents without leave.

(2) Any dispute as to vacancy under sub-section (1), shall be referred for decision to the competent authority whose decision shall be final.

216. (1) A person holding office as a member of a Nyaya Panchayat or as a standing member of a conciliation panch may resign from his office by tendering his resignation in writing to the Sarpanch or as the case may be, Chairman of the panchayat which elected him.

Resignation of member of Nyaya Panchayat and conciliation panch.

(2) Such resignation shall take effect from the date on which it is accepted by the panchayat or on the expiry of thirty days from the date of tendering the resignation, whichever is earlier.

217. A Nyaya Panchayat shall elect from amongst its members one member as its Chairman who shall perform such functions as provided by or under this Act.

Powers of
Nyaya
Panchayat.

218. (1) The Nyaya Panchayat constituted as aforesaid, may exercise all or any of the powers mentioned in sub-sections (1) and (2) of section 227 and section 229, as the State Government may by general or special order specify in this behalf.

(2) The State Government may at any time, by notification in the *Official Gazette*, direct that such Nyaya Panchayat shall exercise all or any of the judicial powers mentioned in sub-section (3) of section 227 and section 233.

(3) If in the opinion of the State Government a Nyaya Panchayat has been incompetent in the exercise, or has been guilty of the abuse of its powers, the Government may at any time by notification in the *Official Gazette* withdraw all or any of the powers vested in, or conferred on such Nyaya Panchayat.

(4) The State Government shall, under due appropriation made by the the State Legislature by law in this behalf, provide the funds required to meet the expenses of Nyaya Panchayats in exercising their powers and discharging their functions under this Act, and the amount so provided shall be kept in such custody and the accounts thereof shall be maintained in such manner as may be prescribed. The State Government shall prescribe by rules the expenses which may be incurred by Nyaya Panchayats.

Term of
office of
members of
Nyaya
Panchayats.

219. (1) Save as otherwise provided by this Act, the term of office of a member of the Nyaya Panchayat shall expire with the term of the panchayat which elected him.

(2) If any vacancy arises in the office of any of the members of such Nyaya Panchayat it shall be filled by election as provided in section 212, and the members so elected shall hold office so long only as the member in whose place he has been elected would have held office if the vacancy had not occurred.

Rules re-
garding
conduct of
business
of Nyaya
Panchayat.

220. Save as provided in this Act, the State Government may make rules to regulate—

- (a) the conduct and distribution of business in and practice before a Nyaya Panchayat;
- (b) the times and places at which the Nyaya Panchayat shall sit;
- (c) any other matter which in the opinion of the State Government is necessary for the proper and efficient conduct of proceedings before a Nyaya Panchayat.

Place of
sittings of
Nyaya
Panchayats.

221. (1) A Gram Nyaya Panchayat shall sit, for the hearing of a suit or trial of a case, in the gram where such suit or case has been instituted.

(2) A Nagar Nyaya Panchayat shall sit for the hearing of the suit or trial of a case at a place within the nagar.

222. A Nyaya Panchayat shall be presided over by Chairman.

Chairman of
Nyaya
Panchayat.

223. The Secretary of the panchayat of the gram where the sitting of the Nyaya Panchayat is held shall act as the judicial clerk of the Nyaya Panchayat for the purpose of recording its proceedings and decisions, and performing such other duties as may be prescribed.

Judicial
clerk of
Nyaya
Panchayat.

224. (1) If in the opinion of the State Government a member of a Nyaya Panchayat has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or refuses to perform, or has been incapable of performing any of the duties as a member of the Nyaya Panchayat, the State Government may remove such member after giving him an opportunity of being heard, and after such inquiry as the State Government deems necessary.

Removal
of member
from Nyaya
Panchayat.

(2) If any inquiry is held under sub-section (1), the State Government may suspend such member from being on the Nyaya Panchayat for such period as it thinks fit.

(3) On the removal of a member of the Nyaya Panchayat under sub-section (1) he shall cease to be a member of the panchayat if he be such member, and his office shall become vacant; and he shall be disqualified for being chosen as a member of the panchayat and also of the Nyaya Panchayat for a period of four years from the date of his removal or for such lesser period as the State Government may allow in any particular case.

225. (1) If any member of a Nyaya Panchayat is absent from any hearing, the remaining members may notwithstanding anything contained in this Act try the case, suit or proceeding, provided that at least three members are present.

Absence of
member of
Nyaya
Panchayat
at hearings.

(2) No trial as aforesaid shall be invalid by reason merely that all the members were not present at any hearing, or that some of the members were not present at all the hearings of such trial.

226. (i) Every suit or case of the nature specified in sub-sections (1) and (2) of section 227 or in section 229, pending in any court and cognizable by a Nyaya Panchayat under section 218,

Saving of
pending
proceedings.

(ii) every suit of the nature specified in sub-section (3) of section 227 pending in any court and cognizable by a Nyaya Panchayat in pursuance of a notification issued under that sub-section, and

(iii) all proceedings arising from, and incidental to, any such suit or case, shall be tried, heard and determined by a court or any other court having jurisdiction to try, hear and determine the same, as if this Act has not been passed.

227. (1) Save as otherwise provided in section 228, and subject to the provisions of sub-section (3) of section 218 a Nyaya Panchayat constituted under this Act shall take cognizance of and try all or any of the following suits, namely :—

Suits
triable by
Nyaya
Panchayats.

(a) suits for money due on contracts, not affecting any interest in immovable property,

- (b) suits for the recovery of movable property or for the value thereof,
- (c) suits for compensation for the wrongful taking and injuring movable property,

where the amount or value of the claim does not exceed one hundred rupees.

(2) With the written consent of both the parties recorded in the presence of the Nyaya Panchayat, suits of the nature described in sub-section (1) but the value of which does not exceed two hundred and fifty rupees, shall be triable by such Nyaya Panchayat.

(3) The State Government may, by notification in the *Official Gazette*, direct that any Nyaya Panchayat may try any suit of the nature described in sub-section (1), up to such value exceeding one hundred rupees as may be specified in the notification, but not exceeding two hundred and fifty rupees

228. No suit shall be brought before any Nyaya Panchayat—

(1) on a balance of partnership account ;

(2) for a share or part of a share under any intestacy, or for a legacy or part of legacy under a will ;

(3) by or against the Government or any local authority or an officer or servant of the Government or a member, officer or servant of a local authority in his official capacity, or by or against any member of that Nyaya Panchayat ;

(4) by or against a minor or a person of unsound mind or against any soldier, sailor or airman actually serving under the Government in such capacity ; and

(5) on account of any dispute or matter in respect of which any suit or application would be cognizable—

(a) by a revenue court ; or

(b) before a tribunal or authority appointed under—

(i) the Bombay Tenancy and Agricultural Lands Act, 1948, or Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 ;

(ii) the Saurashtra Gharkhed Tenancy Settlement and Agricultural Lands Ordinance, 1949 ;

(iii) the Saurashtra Prohibition of Leases of Agricultural Lands Act, 1953.

Bom.
LXV.
II of
1948.

Bom.
XCIX
of
1958.

Sau.
Ord.
No.
LVI
of
1949.

Sau.
Act
No.
XXIII
of
1953.

229. A Nyaya anchayat shall take cognizance of and try all or any of the following offences including the abetment thereof, or attempt to commit any such offences, subject to the provisions of sub-section (3) of section 218,—

(a) Under the Indian Penal Code—

XLV
of
1860.

Suits not
triable by
Nyaya Pan-
chayats.

Offences
cognizable
by Nyaya
Panchayats.

	Section
Negligently doing any act known to be likely to spread the infection of any diseases dangerous to life	269
Fouling the water of a public spring or reservoir ..	277
Causing danger, obstruction or injury to any person in any public way	283
Voluntarily causing hurt	323
Assault or use of criminal force otherwise than on grave and sudden provocation	352
Assault or use of criminal force on grave and sudden provocation	358
Theft, where the value of the property stolen does not exceed Rs. 20	379
Mischief when the loss or damage caused does not exceed Rs. 20 in value	426
Criminal trespass	447
House trespass	448
Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	461
Intentional insult with intent to provoke a breach of the peace	504
Criminal intimidation	506
Misconduct in public by a drunken person	510

(b) Under the Prevention of Cruelty to Animals Act, 1890, in its application to the Bombay area, Saurashtra area and Kutch area of the 1890. State—

	Section
Practising phooka	4
Killing animals with unnecessary cruelty	5
Being in possession of the skin of a goat killed with unnecessary cruelty	5A
Employing animals unfit for labour	6
Baiting or inciting animals to fight	6C
Permitting diseased animals to go at large or to die in public places.	7

(c) Under the Bombay District Vaccination Act, 1892, and that Act in its application to the Saurashtra and Kutch areas of the State of Gujarat—

	Section
Inoculating, entering a vaccination area after inoculation, and bringing person inoculated into such area	22
Disobedience of order of the Magistrate for the vaccination of any unprotected child under 14 years	23
Not producing child for being vaccinated	24
Neglecting to take child to be vaccinated	25

	Section	Bom. LXI of 1947.
(d) (1) Under the Bombay Primary Education Act, 1947—		
Failure to cause child to attend approved school	35	
Employing child liable for compulsory education	36	
(2) Under the Saurashtra Primary Education Act, 1956—		
Failure to cause a child to attend approved school	29	Sau. Act XXX. III of 1956.
Employing child liable for compulsory education	30	
(e) Under this Act—		
(i) erecting or re-erecting etc. any building without permission	93	
(ii) obstructions and encroachments upon public streets, grazing lands and open sites.	94	
(iii) destruction or defacement of any number or sub-number of premises or part thereof.	95	
(iv) contravention of a rule	323	
(v) contravention of a by-law	324	

(f) Such compoundable offence under any law for the time being in force as the State Government may specify in this behalf by a notification published in the *Official Gazette* :

Provided that no offence of theft shall be cognizable by any Nyaya Panchayat unless an accused person has been either apprehended or recognised and named.

230. No Nyaya Panchayat shall take cognizance of any offence of theft punishable under section 379 of the Indian Penal Code in which the accused— **XIV of 1860.**

(a) has been previously convicted of an offence punishable under Chapter XIV or Chapter XVII of the Indian Penal Code, with imprisonment of either description for a term of three years or upwards; **XIV of 1860.**

(b) has been previously fined for theft by any Nyaya Panchayat;

(c) has been bound over to be of good behaviour in proceedings instituted under section 109, or section 110 of the Code of Criminal Procedure, 1898. **V of 1898.**

231. No Nyaya Panchayat shall take cognizance of any offence specified in section 229 in which either the complainant or the accused is a member of the Nyaya Panchayat or a public servant serving in the district in which gram or nagar for which the panchayat is established is situated :

Provided, however, that a Nyaya Panchayat shall not be debarred from taking cognizance of an offence punishable under section 35 or 36 of the Bombay Primary Education Act, 1947, or section 29 or 30 of the Saurashtra Primary Education Act, 1956, or under section 93, 94 or 95 of this Act, or for a contravention of a rule made under clause (c) of sub-section (2) of section 323 or of a bye-law under sub-section (4) of section 324 thereof, notwithstanding that the complainant in the case is a public servant. **Bom. LXI of 1947. Sau. Act XXX. III of 1956.**

232. (1) The following are the maximum penalties which may be inflicted by a Nyaya Panchayat for the offences mentioned in section 229—

for an offence —

Bom.
LXI
1947.
Sau.
Act
XXX.
III of
1956.

(i) under section 35 of the Bombay Primary Education Act, 1947, and section 29 of the Saurashtra Primary Education Act, 1956, fine not exceeding two rupees and in case of the failure to compel the child to attend an approved school continue after conviction, with fine of fifty naye paise for every day on which the failure continues or is repeated ; and

Bom.
LXI
of
1947.
Sau.
Act
XXX.
III of
1956.

(ii) under section 36 of the Bombay Primary Education Act, 1947, and section 30 of the Saurashtra Primary Education Act, 1956, fine not exceeding twenty-five rupees ;

(iii) under the provisions of any other Act mentioned in section 229 of this Act, fine not exceeding twenty rupees ;

(iv) under a rule made under section 323 or by-law made under sub-section (4) of section 324 of this Act, fine not exceeding fifty rupees and in addition not exceeding five rupees per day for a continuing contravention as provided in that sub-section.

(2) No sentence of imprisonment, whether substantive or in default of fine shall be inflicted by a Nyaya Panchayat.

233. Notwithstanding anything in section 232 the State Government may empower, by notification in the *Official Gazette*, a Nyaya Panchayat to inflict a maximum penalty of fine not exceeding one hundred rupees for any of the offences mentioned in section 229 except the following :—

Bom.
LXI
of
1947.
Sau.
Act
XXX.
III of
1956.

(1) section 35 or 36 of the Bombay Primary Education Act, 1947 or section 29 or 30 of the Saurashtra Primary Education Act, 1956 ;

Power of
State
Governmen
to empow
er parti
cular Nya
Panchayat
to inflict
enhanced
penalties.

(2) an offence under section 23 or 25 of the Bombay District Vaccination Act, 1892, or of that Act in its application to the Saurashtra or Kutch area of the State of Gujarat ; ^{Bom. I of 1892.}

(3) an offence under section 6C of the Prevention of Cruelty to Animals Act, 1896, in its application to the Bombay area, Saurashtra area and Kutch area of the State.

234. In inflicting any fine under section 232 or section 233 the Nyaya Panchayat may direct that the whole or any portion of the fine recovered shall be applied—

(a) towards defraying the expenses properly incurred in the case by the complainant, or

(b) in giving compensation to a person for any material loss or damage caused to him by reason of the commission of the offence.

235. If a Nyaya Panchayat is satisfied after inquiry, that a case brought before it is false, frivolous or vexatious, such Nyaya Panchayat may order the complainant to pay the accused such compensation, not exceeding five rupees, as it thinks fit.

236. Instead of passing any sentence, a Nyaya Panchayat may, after due admonition, discharge a youthful offender who, in the opinion of such Nyaya Panchayat, is at the time of conviction of the offence, under the age of sixteen years.

237. (1) No member of a Nyaya Panchayat who is a party to, or has any interest in, any suit or case shall sit on the Nyaya Panchayat while it is trying such suit or case.

(2) Any dispute as to whether a member of a Nyaya Panchayat is a party to, or interested in, a suit or case shall, on a written application of a party to such suit or case, be referred to the Collector or such officer as he may authorise in this behalf for decision. The decision of the Collector or such officer shall be final.

238. (1) No Nyaya Panchayat shall try any suit or issue in respect of any matter which is pending for decision or has been heard and decided by a court of competent jurisdiction in a previously instituted suit between the same parties or those under whom they claim.

(2) Where an accused person has been tried for any offence and duly convicted or acquitted, a Nyaya Panchayat shall not take cognizance of such offence or, on the same facts, of any other offence of which the accused might have been charged or convicted.

239. Every suit instituted before a Nyaya Panchayat shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute, but he may relinquish any portion of his claim to bring the suit within the jurisdiction of the Nyaya Panchayat.

Suits to include whole claims.

If a plaintiff intentionally omits to sue in respect of, or relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

V of 1898. 240. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every case instituted under this Act shall be instituted before the member of the Nyaya Panchayat of the gram or nagar in which the offence is committed, and if he be absent then before the Sarpanch or as the case may be Chairman of the panchayat, and in his absence before the Up-Sarpanch or as the case may be the Vice-Chairman thereof.

Institution of suits and cases.

V of 1908 (2) Notwithstanding anything contained in the Code of Civil Procedure, 1908, every suit instituted under this Act shall be instituted before the member of the Nyaya Panchayat of the gram or nagar in which the defendant, or any of the defendants where there are more than one, ordinarily resides or carries on business at the time of the institution of the suit, irrespective of the place where the cause of action arose and in the absence of such member, shall be instituted before the Sarpanch or as the case may be, Chairman of the panchayat, and in his absence before the Up-Sarpanch or as the case may be Vice-Chairman thereof.

241. Any Magistrate upon receiving a complaint of facts constituting an offence cognizable by a Nyaya Panchayat shall return the complaint for presentation to the Nyaya Panchayat having jurisdiction to try the same.

Return of complaints.

242. Notwithstanding anything contained in any law for the time being in force, no court shall entertain any suit specified in section 227 or take cognizance of any offence specified in section 229 unless and until the District or the Sessions Court, as the case may be, has passed an order in writing under section 270 or 282.

Bar of jurisdiction of courts in suits and cases.

243. Where, for any reason, three or more vacancies occur in the Nyaya Panchayat, the Nyaya Panchayat shall hear and dispose of all suits, cases and proceedings pending before it anew as if such suits, cases and proceedings were instituted after the new members had taken their office as members of such Nyaya Panchayat.

Pending cases before Nyaya Panchayat when three or more vacancies occur.

CHAPTER XIII

Procedure of Nyaya Panchayats in suits and cases and procedure in conciliation proceedings.

(A) Institution of Suits and Cases.

244. Any person intending to institute a suit or case under this Act before a Nyaya Panchayat shall make an application in writing to the person before whom a suit or case can be instituted under section 240, and shall at the same time pay the prescribed fees:

Provided that an officer authorised under any law mentioned in clause (d) of section 229, who intends to institute a case of the nature specified in that clause may send such application by registered post.

245. One or more registers of all suits and of all cases instituted under section 244 shall be maintained by the Nyaya Panchayat in the manner prescribed.

(B) Conciliation Proceedings.

246. (1) On the institution of a suit or case under section 244, the administrative panch shall refer it to the Chairman of the conciliation panch.

(2) On receipt of a reference under sub-section (1), the Chairman shall fix a date, time and place for conciliation in the matter, give intimation thereof, to the person instituting the suit or case and call upon the opposite party to the suit or case to suggest the name of a person to act as a member of the conciliation panch in the case and to appear before him on the date so fixed.

(3) If any party does not suggest the name of any person to act as a member of the conciliation panch on or before the date fixed under sub-section (2) it shall be presumed that he does not wish to have the dispute settled by conciliation and that there has been a failure in effecting a compromise.

247. (1) It shall be the duty of each party to the suit or case to appear before the Chairman of the conciliation panch at the time, date and place fixed by the Chairman.

(2) If any party fails without sufficient cause to comply with the requirements of sub-section (1), he shall be liable to a fine up to five rupees and for each subsequent default in complying with such requirements he shall be liable to a fine up to ten rupees.

(3) Any fine levied under sub-section (2) shall form part of the gram fund or as the case may be, the nagar fund.

248. (1) If the opposite party suggests the name and address of a person to act as member of the conciliation panch, then the Chairman, the person suggested by the person instituting the suit or case and the person suggested by the opposite party shall constitute the conciliation panch. Constitution of conciliation panch.

(2) The secretary of the gram panchayat or as the case may be, nagar panchayat shall act as the clerk of the conciliation panch for the purpose of recording its proceedings and performing such other duties as may be prescribed.

249. The conciliation proceedings before a conciliation panch shall be oral, and as far as possible, continuous and shall be concluded within a period of thirty days from the date of reference under section 246: Proceedings to be oral.

Provided that the Chairman of the Nyaya Panchayat may extend the period up to sixty days in the aggregate.

250. (1) The conciliation panch shall hear the witness produced by the parties or witnesses who appear voluntarily. Procedure of conciliation proceedings.

(2) Statements made or evidence tendered by witnesses in the conciliation proceedings shall not be recorded in writing.

(3) The conciliation panch shall have no power to administer oaths to parties and witnesses.

(4) If the conciliation panch does not succeed in effecting a compromise between the parties, the fact shall be recorded in the record of the conciliation proceedings.

(5) If the conciliation panch succeeds in effecting a compromise between parties, the compromise shall be reduced into writing and brought on record.

(6) The record of the conciliation proceedings shall contain the following particulars, namely :—

(i) place of the proceedings and the date or dates on which they were held,

(ii) names of the parties and of their representatives, if any, appearing before the conciliation panch,

(iii) brief statement of the claims of each party,

(iv) whether compromise has been effected and if so the terms thereof.

(7) The record of the conciliation proceedings shall be read out to the parties and the fact that the same has been so read out to the parties and admitted by the parties as correct shall be endorsed on the record.

(8) The parties and all the members of the conciliation panch shall sign the record of the conciliation proceedings and if any of them is illiterate, he shall affix his thumb impression thereon.

Papers to be forwarded to Nyaya Panchayat. 251. (1) The Chairman of the conciliation panch shall thereupon forward the suit or case together with the record of the conciliation proceedings to the Chairman of the Nyaya Panchayat.

(2) In the event of a failure in effecting a compromise, the Chairman of the conciliation panch shall issue a certificate to that effect to the person instituting the suit or case.

Final order to be framed by Nyaya Panchayat. 252. Where a compromise is effected under section 250, the Nyaya Panchayat shall pass a decree in accordance with the compromise or as the case may be, pass an order permitting the case to be compounded.

Conciliation proceedings to be confidential. 253. No member of the conciliation panch shall disclose to any person, court or authority anything which may have come to his knowledge in the course of the conciliation proceedings nor shall he be compelled by any court or authority to answer any question relating to such proceedings.

Plaintiff or complainant to attend next sitting of Nyaya Panchayat. 254. Every suit or case instituted in accordance with the provisions of section 244 shall on the production of a certificate under section 251 be brought before the Nyaya Panchayat at its sitting in the gram or nagar concerned and the plaintiff or complainant, as the case may be, shall as soon as may be, be informed of the time and place fixed for such sitting and directed to attend at that time and place.

Summons to be issued to defendant or accused. 255. The Nyaya Panchayat may cause a written summons in the prescribed form to be served on the defendant or accused, as the case may be, requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall, at the same time, direct the plaintiff or complainant to attend and produce his evidence at such time and place:

Provided that the Nyaya Panchayat may, for reasons to be recorded, after considering the application and examining the plaintiff or complainant, refuse to issue a summons and may dismiss the suit or complaint.

Summons by whom served. 256. Such summons shall ordinarily be caused to be served by the patel or village headman. Where there are two patels in a village, one of whom is a revenue patel and the other a police patel, the summons shall ordinarily be served by the revenue patel if it relates to a suit, and by the police patel if it relates to a case :

Provided, however, that a Nyaya Panchayat may cause the summons to be served through any other person.

257. The summons shall be in duplicate, signed by a member of the Nyaya Panchayat and shall, as far as possible, be served personally on the defendant or accused, as the case may be, whose signature or thumb impression shall be taken in token of service. If the defendant or accused cannot be found and the Nyaya Panchayat is satisfied that he is evading service or if he refuses to take the summons, the Nyaya Panchayat may order service to be made on an adult male member of his family residing with him or by affixing a copy thereof upon some conspicuous part of the house in which he ordinarily resides.

Mode of
service of
summons.

258. If a defendant or accused is at the time of the issue of the summons outside the jurisdiction of the Nyaya Panchayat, the summons may be forwarded by the Nyaya Panchayat to the Collector or to any Officer not below the rank of a Mamlatdar, or Mahalkari, who may be authorised by the Collector in this behalf, and the Collector or such officer shall cause the summons to be served as if it were summons from his own court.

Mode of
service
outside
gram or
nagar.

259. (1) Women, who according to the customs and manners of the country, ought not to be compelled to appear in public, shall be exempted from personal appearance before a Nyaya Panchayat in any suit or case.

Exemption
of certain
persons
from
appearance
in suit.

1908. (2) Persons exempted from personal appearance in any court under section 133 of the Code of Civil Procedure, 1908, shall also be exempted from personal appearance before a Nyaya Panchayat in a suit.

260. (1) A Nyaya Panchayat may, if it considers the evidence of, or the production of a document by, any person necessary in a suit or case, issue a summons to such person to compel him to attend or to produce or cause the production of such document, and such person shall be bound to comply with the directions contained in the summons. Such summons shall be in the form and served in the manner as hereinbefore provided.

Issue of
summons
to witnesses

(2) A Nyaya Panchayat may refuse to summon a witness or to enforce a summons already issued against a witness where, in its opinion, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which in the circumstances would be unreasonable.

(3) No Nyaya Panchayat shall enforce the attendance of any person living outside the limits of the gram or nagar where the sitting of the Nyaya panchayat is held to give evidence, or to produce a document, unless such sum of money is deposited with the Nyaya Panchayat as appears to the Nyaya Panchayat to be sufficient to defray his reasonable expenses.

(4) If after the service of summons upon him, a witness fails to appear either in person or by a representative, or to produce any document, the Nyaya panchayat may apply to the relevant Judge mentioned in sub-section (1) of section 24 having jurisdiction in the area if the summons was issued in a suit or to the Magistrate having jurisdiction in the area, if the summons was issued in a case, and such Judge or Magistrate, as the case may be, shall compel the attendance of any such witness in person or by his representative or the production of the document by him before the Nyaya Panchayat, as if such Judge or Magistrate were a Court trying the suit or the case, unless such Judge or Magistrate considers that the attendance of any such witness, or the production of the document by him, is not necessary for the proper adjudication of the suit or case.

(5) No Nyaya Panchayat shall compel any person to give evidence or to disclose any communication or to produce any document which such person cannot be permitted to give or compelled to disclose or produce or is forbidden so to do, under the provisions of the Indian Evidence Act, 1872, or by or under any other law for the time being in force. ^{1 of 1872.}

leaders,
be. exclu-
ed from
pppearance.

261. (1) Any party to any suit or case before a Nyaya Panchayat may be permitted on reasonable cause being shown to the satisfaction of the Nyaya Panchayat to employ his relative, servant or dependant, who is not, or has not previously been a lawyer to appear either conjunctly with or in lieu of such party :

Provided that where any such relative is related to the party as father, husband, wife, son or unmarried daughter of the party, the party may be permitted to employ such relative notwithstanding that he is, or has previously been a lawyer and in such a case the opposite party shall be permitted to appear through a lawyer.

(2) Save as provided in sub-section (1), no lawyer shall be permitted to appear on behalf of any party to any suit or case before a Nyaya Panchayat.

(3) When a relative, servant or dependant appears in lieu of a party, he shall be furnished by such party with a written authority defining the extent to which he is empowered to act.

Explanation.—For the purposes of this section “lawyer” means a pleader or vakil or an advocate or attorney of a High Court.

Decision of
uits or cases
n facts
scertained.

262. (1) It shall be the duty of a Nyaya Panchayat to ascertain the facts of a suit or case before it after holding an enquiry in accordance with the provisions of this Act and the rules thereunder.

(2) Nothing in any enactment relating to evidence or procedure shall in any way affect the powers of a Nyaya Panchayat to hold such enquiry.

(3) After holding such enquiry, a Nyaya Panchayat may pass such decree or order, with or without prescribed fees subject to the provisions of this Act, as may in its opinion seem just and equitable. Such decree or order shall state the finding and brief statement of the reasons therefor.

(4) A Nyaya Panchayat may, in passing such decree or order, award costs of the suit and the costs of the suit shall include the amount of fees paid for the institution of the suit.

263. The decision of a Nyaya Panchayat shall be in accordance with the opinion of the members of the Nyaya Panchayat present at the sitting, or of the majority of such members. If the members are equally divided, the Chairman shall have and exercise a second or casting vote. Decision of Nyaya Panchayat.

264. The Nyaya Panchayat may, from time to time, adjourn the hearing of any suit or case, provided that such adjournment is, in its opinion, unavoidable or necessary to a just and equitable decision of the suit or case. Adjournment.

265. (1) If the plaintiff or complainant fails to appear, after having been informed of the time and place fixed for the hearing, the Nyaya Panchayat may hear and decide the suit or case in his absence. Disposal of suits and cases in absence of party concerned.

(2) The Nyaya Panchayat may hear and decide a suit or case in the absence of the defendant or the accused, if a summons has been served upon him in the manner hereinbefore provided or if he has been informed of the time and place fixed for hearing :

Provided that no sentence shall be passed by a Nyaya Panchayat on any accused unless he has appeared, either in person or by a representative, before the Nyaya Panchayat and the substance of his statement has been recorded in the prescribed register.

(3) If, after the service of summons upon him, the accused fails to appear either in person or by a representative, the Nyaya Panchayat may apply to the Magistrate having jurisdiction in the area, and such Magistrate shall compel the accused to appear in person or by his representative before the Nyaya Panchayat, as if he were a court trying the case.

(4) Where an accused person has, under sub-section (3), been compelled to appear before the Nyaya Panchayat it shall forthwith take his statement and thereafter his attendance at the hearing of the case shall not be compulsory.

266. (1) Where it is proved to its satisfaction that a suit has been adjusted wholly or in part by oath or by any lawful agreement, compromise or satisfaction, the Nyaya Panchayat shall order such agreement, compromise or satisfaction to be recorded and shall pass a decree in accordance therewith so far as it relate to the suit. Compromise of suits and compounding of cases

(2) A Nyaya Panchayat may permit any case to be compounded.

(3) When a Nyaya Panchayat does not pass a decree in accordance with the agreement, compromise or satisfaction under sub-section (1) or does not permit a case to be compounded under sub-section (2), it shall record its reasons therefor in writing.

Death of parties.

267. When any party to a suit dies before a decree has been passed, the suit shall abate, but a fresh suit may be brought on the same cause of action and the period during which the suit was pending shall be excluded in computing the period of limitation for the fresh suit.

Nyaya Panchayat not to revise or alter its decision.

268. (1) Except as provided in sub-section (2), a Nyaya Panchayat shall not have power to cancel, revise or alter any decree or order passed by it.

(2) On an application made within one month from the date of the decree or order of a Nyaya Panchayat, the Nyaya Panchayat may, for reasons to be recorded in writing, restore any suit which has been dismissed for default or in which an *ex parte* decree or order has been passed against the defendant.

Interest and instalments.

269. In suits for money, a Nyaya Panchayat may, in its discretion, direct payment of interest on the sum decreed, at a rate not exceeding six per cent, per annum, from the date of the decree until the date of payment, and of any fees which may be prescribed.

When a Nyaya Panchayat decrees the payment of a sum of money in a suit it may direct that it be paid by instalments, without interest or with interest not exceeding the above rate.

Reference by Nyaya Panchayat to District Court or Sessions Court.

270. (1) When any Nyaya Panchayat is of opinion that any suit or case before it is of such nature, or of such difficulty or importance that it ought to be tried by a court, or that the accused in a case ought to receive a punishment different in kind from or more severe than, that which such Nyaya Panchayat is empowered to inflict it shall stay proceedings, and refer the suit to the District Court or the case to the Sessions Court for orders.

(2) If the District or Sessions Court, as the case may be, is of the opinion that the suit or case is of such nature, difficulty or importance that it ought not to be tried by the Nyaya Panchayat or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such Nyaya Panchayat is empowered to inflict, such court shall pass orders directing the plaintiff or complainant to the civil or criminal court, as the case may be, competent to take cognizance of such suit or case.

(3) If the District or Sessions Court, as the case may be, is of opinion that the suit or case is not of such nature, difficulty or importance that it ought to be tried by a court, or that the accused in a case ought not to receive a punishment different in kind from, or more severe than, that which such Nyaya Panchayat is empowered to inflict, such court shall return the suit or case to the Nyaya Panchayat which made the reference, for disposal.

No appeal against decree or order of Nyaya Panchayat but revision lies.

271. (1) No appeal shall lie against the decree or order passed by a Nyaya Panchayat in a suit or case.

(2) But on an application made by any of the parties, or of its own motion,—

- (a) a District Court in a suit, or
- (b) a Sessions Court in a case,

may call for and examine the record or proceedings of a Nyaya Panchayat for the purpose of satisfying itself as to the legality or propriety of any decree or order passed or as to the regularity of the proceedings held by such Nyaya Panchayat.

(3) If it appears to the District or Sessions Court, as the case may be, that the decree, order or proceedings so called for should be modified, cancelled or reversed it may pass such order as it thinks just.

(4) The period for filing an application by any of the parties under sub-section (2) shall be thirty days from the date of the decree or order and the provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the computation of the aforesaid period.

IX of
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272. Every order passed under section 270, 271, 282 or 283 by a District Court or by a Sessions Court shall be final, and shall not be subject to any appeal, revision or review.

Finality of
decree and
orders.

273. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Nyaya Panchayat during trial, the Nyaya Panchayat may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial and if the property is subject to speedy or natural decay, or if it is otherwise expedient so to do, it may after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Custody
and dis-
posal of
property
pending
trial.

274. (1) On the conclusion of a trial before it a Nyaya Panchayat may make such order as it thinks fit for the disposal by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise of any property or document produced before it or in its custody or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

Disposal of
property
regarding
which
offence
committed.

(2) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (3), be carried out for two months.

(3) Nothing in this section shall be deemed to prohibit a Nyaya Panchayat from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Nyaya Panchayat engaging to restore such property to it if the order made under this section is modified or set aside in revision.

Explanation.— In this section the term “property” includes in the case of property regarding which an offence appears to have been committed not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

CHAPTER XIV

EXECUTION OF DECREES AND ORDERS OF NYAYA PANCHAYATS.

**Satisfac-
tion or ad-
justment of
decree to be
recorded.** 275. If, on the application of a decree-holder or judgment-debtor, the Nyaya Panchayat, after enquiry finds that the decree has been satisfied or adjusted, wholly or in part, the Nyaya Panchayat shall record the fact in the prescribed register.

**Execution
through
Collector.** 276. (1) If, after a period of one month from the date of a decree, the decree remains unsatisfied or unadjusted, in whole or in part, the decree-holder may within one year of the date of the decree, apply to the Nyaya Panchayat for execution.

(2) On such application for execution, the Nyaya Panchayat shall certify to the Collector that the decree remains unsatisfied or unadjusted in whole or in part, and on receipt of such certification the Collector, provided that the Nyaya Panchayat has so certified to the Collector within one year from the date of the application for execution, shall—

(a) if the decree is for money, proceed to recover it as if it were an arrear of land revenue ;

(b) if the decree is for any specific movable property, cause the decree to be executed, as if it were a decree of a civil court, and in so acting he may exercise all the powers of civil court.

**Execution
of instal-
ment
decree
through
Collector.** 277. (1) If, after a period of one month from the date fixed for the payment of any instalment of a sum of money decreed by a Nyaya Panchayat under section 269 an instalment or any portion thereof remains unpaid, the decree-holder may, within one year of the date when it fell due, apply for execution to the Nyaya Panchayat.

(2) On such application for execution, the Nyaya Panchayat shall certify to the Collector that the instalment or a portion thereof still remains unpaid ; and on receipt of such certification the Collector, provided the Nyaya Panchayat has so certified to the Collector within one year from the date of the application for execution, shall proceed to recover the amount of the instalment so remaining unpaid as if it were an arrear of land revenue.

**Satisfac-
tion of
decree or
instalment
after certi-
ficates.** 278. If, after the issue of the certificate to the Collector under section 276 or 277 but before the decree has been executed through the Collector, the decree or the instalment is fully satisfied and satisfaction is recorded under section 275 the Nyaya Panchayat shall forthwith certify such satisfaction to the Collector who shall thereupon stay the execution proceedings. All sums of money realised by execution through the Collector shall, after satisfaction of the decree, be refunded to the judgment-debtor.

**Fine and
compen-
sation
when pay-
able and
mode of
recovery.** 279. (1) Every fine imposed and every sum ordered to be paid as a compensation under sections 232, 233, 234 and 235 by a Nyaya Panchayat shall be payable at once :

Provided that the Nyaya Panchayat may allow any person ordered by it to pay fine or compensation to pay the same within such time, not exceeding fifteen days, as it may think proper and on such terms as to security as seems to the Nyaya Panchayat necessary to impose.

(2) If the amount of fine or compensation remains unpaid for fifteen days from the date of the order, the Nyaya Panchayat shall recover the same by distraint and sale of the defaulter's movable property.

(3) If the amount of fine or compensation is not fully recovered, the Nyaya Panchayat shall certify accordingly to the Collector, and on receipt of such certification the Collector, provided the Nyaya Panchayat has so certified to the Collector within a period of one year from the date when the amount became recoverable by the Nyaya Panchayat under sub-section (2), shall proceed to recover it as if it were an arrear of land revenue and shall remit the amount so recovered to the Nyaya Panchayat.

280. As soon as the amount of fine or compensation referred to in section 279 is realised by the Nyaya Panchayat whether directly or through the Collector, the amount so realised shall be entered in the prescribed register. Fine or compensation when realised to be recorded.

281. Any money which has been ordered by the Nyaya Panchayat under section 232 or section 233 to be paid as expenses or compensation, shall be paid by it out of the amounts realised under sections 230 and 231. Payment of compensation out of village fund.

282. (1) The District Court in any suit and the Sessions Court in any case may, at any time, either on the application of an aggrieved party or otherwise or on a reference made by a Nyaya Panchayat under section 270, by order in writing quash any proceedings of a Nyaya Panchayat at any stage, or cancel any decree or order passed by a Nyaya Panchayat. District Court or Sessions Court may quash proceedings.

(2) When an order has been passed by the District Court under sub-section (1) in respect of any suit, the plaintiff may institute a fresh suit for the same relief in a Civil Court and the period from the date of the institution of the suit before the Nyaya Panchayat to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(3) Where an order has been passed by the Sessions Court under sub-section (1) in respect of any case, proceedings in respect of the same offence may be instituted in the court of a magistrate having jurisdiction.

283. (1) The District Court in any suit, and the Sessions Court in any case, may at any time on the application of an aggrieved party or otherwise by order in writing transfer any suit or case, as the case may be, to a civil or criminal court competent to try the same. Transfer of suit or case by District Court or Sessions Court.

(2) On the transfer of such suit or case, the court to which it is transferred shall hear such suit or case anew, as if such suit or case was instituted before it.

Procedure in proceedings before District Court and Sessions Court.

284. Subject to the provisions of this Act, in regard to all proceedings under this Act, District Court and Sessions Court shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to proceeding in connection with decrees or orders of courts subordinate to them in their ordinary jurisdiction.

Bar to arrest and imprisonment in execution of decree.

285. No person shall be arrested or imprisoned in execution of a decree under the provisions of this Act.

CHAPTER XV

CONTROL

Power of Government to prepare Statewide projects etc. not affected.

286. Nothing in this Act shall affect the power of the State Government to prepare for the whole State the Five-Year Plan or the project and programmes relating to the construction of roads, water supply, or any other matter or to undertake any project or programme concerning a district or more districts than one.

Panchayats to form part of Statewide panchayat organisation and to perform functions so as to carry out the State policy.

287. The gram panchayats, nagar panchayats, taluka panchayats and District panchayats, notwithstanding that they are separate bodies corporate having distinct territorial jurisdiction and distinct functions to perform —

(1) shall form part of the panchayat organisation set up for the purpose of securing a greater measure of participation by the people of the State in local and governmental functions ;

(2) shall perform the functions and duties assigned to them by or under this Act so as to conform to the State Five Year Plans and the National Five-Year Plans and to the State policy in general ;

(3) shall carry their administration faithfully and efficiently.

Power of Government to issue directions.

288. Where the functions and duties assigned to gram panchayats nagar panchayats, taluka panchayats and district panchayats under the Panchayat Functions List relate to the same subject, then in order that the functions and duties may not overlap or that the responsibility for performing any such function or duty is not shifted by one panchayat to another on account of any ambiguity or misunderstanding, the State Government may, from time to time, by an order in writing, issue to all, or any of the panchayats such directions as it may think necessary for avoiding any such overlapping of functions, or shifting of the responsibility and the panchayats shall be bound to exercise their powers, and perform their functions and duties in conformity with such directions.

Necessity of administrative sanction etc. to work or schemes, grant-in-aid and acquisition of property.

289. (1) Subject to the provisions of sub-section (2) no work or development scheme which a panchayat intends to undertake as part of its functions and duties under this Act shall be commenced unless a detailed estimate of the cost of such work or development scheme has been approved by the panchayat and the plan thereof is approved by the prescribed authority.

(2) No such work or development scheme shall be commenced and no grant-in-aid shall be made by a panchayat from its fund unless previous sanction has been accorded thereto by such authority as may be prescribed by rules in that behalf.

(3) The provisions of sub-section (2) shall *mutatis mutandis* apply to an acquisition of property by a panchayat.

290. (1) Save as otherwise provided in this Act, an appeal shall lie to the district panchayat against any order or decision of a gram panchayat or nagar panchayat affecting any individual or institution.

Appeals
against
order of
gram or
nagar
panchayat.

(2) Such appeal shall be made within a period of thirty days from the date of the order or decision.

(3) The district panchayat may pass such order on the appeal as it may deem just and proper and the order on appeal shall be final.

291. (1) The district panchayat shall have power —

Power to
call for
proceedings

(a) to call for any proceeding of any panchayat subordinate to it or an extract therefrom, any book or document in the possession of or under the control of any such subordinate panchayat and any return, statement, account or report which the district panchayat thinks fit to require such panchayat to furnish, and

(b) to require any such subordinate panchayat to take into consideration —

(i) any objection which appears to the district panchayat to exist to the doing of anything which is about to be done or is being done by such subordinate panchayat, or

(ii) any information which the district panchayat is able to furnish and which appears to the district panchayat to necessitate the doing of a certain thing by the subordinate panchayat.

and to make a written reply to the district panchayat within a reasonable time stating its reasons for not desisting from doing or for not doing such things.

(2) An officer authorised by the State Government in this behalf by a general or special order shall, in respect of a district panchayat, have the same powers as a district panchayat has under sub-section (1) in respect of a panchayat subordinate to it.

292. The district panchayat may authorise its President, Vice-President or Secretary to enter on and inspect, or cause to be entered on and inspected, at all reasonable times any immovable property occupied by any panchayat or any work in progress under its direction.

Powers of
entry.

293. (1) If, in the opinion of the district panchayat the number of persons maintained by a panchayat subordinate to it as officers or servants, or the remuneration given or proposed to be given by the panchayat to such persons is excessive, the panchayat shall, on being required by the district panchayat, reduce such number or remuneration.

Reduction
of establis
shment.

(2) The panchayat may appeal to the State Government or an officer authorised by it in that behalf against any requisition made under sub-section (1), and the decision of the State Government or the officer so authorised shall be final.

Suspension
of execution
of order.

294. (1) If, in the opinion of the Taluka Development Officer the execution of any order or resolution of a panchayat subordinate to the taluka panchayat or the doing of anything which is about to be done, or is being done by or on behalf of such panchayat, is unlawful, he may by order in writing suspend the execution or prohibit the doing thereof.

(2) When the Taluka Development Officer makes an order under sub-section (1), he shall forthwith send to the panchayat affected thereby a copy of the order, with a statement of the reasons therefor.

(3) The Taluka Development Officer shall forthwith submit to the District Development Officer a report of every case occurring under this section and the District Development Officer may revise or modify any order made therein and make in respect thereof any other order which the Taluka Development Officer could have made.

(4) The District Development Officer in respect of a taluka panchayat shall have the same powers as Taluka Development Officer has in respect of a gram or nagar panchayats under sub-sections (1), (2) and (3) subject to the modification that he shall submit a report under sub-section (3) to the State Government. The State Government may pass such order thereon as it may deem fit.

(5) An officer authorised by the State Government in this behalf by a general or special order, shall in respect of a district panchayat, have the same powers as the District Development Officer has in respect of a taluka panchayat under this section.

(6) If in the opinion of the Collector the execution of any order or resolution of any panchayat or the doing of anything which is about to be done or is being done by or on behalf of such panchayat, is causing or is likely to cause injury or annoyance to the public or to lead to a breach of peace, the Collector may by order in writing suspend the execution or prohibit the doing thereof and shall forthwith—

(a) send to the panchayat affected thereby a copy of the order, with a statement of the reasons therefor, and

(b) submit to the State Government a report thereof.

Execution
of work
in case of
emergency.

295. (1) In cases of emergency the Taluka Development Officer may provide for the execution of any work or the doing of any act which a panchayat subordinate to a taluka panchayat is empowered to execute or do, and the immediate execution or doing whereof is, in his opinion, necessary for the health or safety of the public and may direct that the expense of executing the work or doing the act shall be forthwith paid by the panchayat.

(2) If the expense is not so paid, the Taluka Development Officer may direct the officer in charge of the treasury in which the fund of the panchayat is kept to pay such expense or so much thereof as is possible, from the balance of such fund in his hands and the officer in charge of the treasury shall comply with such directions.

(3) The Taluka Development Officer shall forthwith report to the District Development Officer every case in which he exercises his powers under sub-section (1).

(4) The District Development Officer in respect of a taluka panchayat shall have the same powers as Taluka Development Officer has in respect of a gram or nagar panchayat under sub-sections (1), (2) and (3) subject to the modification that he shall submit a report under sub-section (3) to the State Government.

(5) An officer authorised by the State Government in this behalf by a general or special order, shall in respect of a district panchayat, have the same powers as the District Development Officer has in respect of a taluka panchayat under this section.

296. (1) If at any time, it appears to the district panchayat that any panchayat subordinate to it has made default in the performance of any duty imposed on it under this Act, it may order the duty to be performed within a specified period, and if the duty is not performed within the period specified, the district panchayat may appoint a person to perform it, and direct that the expense of performance shall be paid by the defaulting panchayat within such period as the district panchayat may fix.

Default in performance of duty.

(2) If the expense is not so paid, the district panchayat may direct the person in custody of the fund of the panchayat to pay such expenses, or so much thereof as is possible, from the balance of such fund in his hands, and such person shall pay such expense or part thereof accordingly.

(3) If at any time it appears to the State Government or any officer authorised by the State Government in this behalf, that a panchayat has made default in the performance of any duty and that the district panchayat has failed or neglected to take action under sub-section (1), the State Government or the officer authorised, as the case may be, may take such action as could have been taken by the district panchayat under sub-sections (1) and (2).

(4) The district panchayat or the officer authorised, as the case may be, shall forthwith report to the State Government every case occurring under this section and the State Government may revise or modify any order made therein, and make in respect thereof, any other order which the district panchayat could have made.

(5) An officer authorised in this behalf by the State Government by a general or special order shall, in respect of district panchayat, have the same powers as the district panchayat has in respect of the panchayat subordinate to it under this section.

297. (1) If, in the opinion of the State Government, a panchayat exceeds or abuses its powers or is incompetent to perform or makes persistent default in the performance of, the duties imposed on it or functions entrusted to it under any provision of this Act or by or under any other law for the time being in force, or fails to obey an order made under this Act by the panchayat superior thereto or by the State Government or any officer authorised by it, under this Act or persistently disobeys any of such orders the State Government may, after consultation with the district panchayat in the case of a panchayat subordinate to it and after giving the panchayat an opportunity of rendering an explanation, by order in the *Official Gazette*

Dissolution or supersession of panchayat for default.

(i) dissolve such panchayat, or

(ii) supersede such panchayat for the period specified in the order; such period may be longer than the term for which the members of the panchayat would

have held office under section 17 if the panchayat had not been superseded under this section.

(2) When a panchayat is dissolved or superseded, all members of the panchayat shall from the date specified in the order, vacate their office as such members.

(3) When the panchayat is dissolved or superseded it shall be reconstituted in the manner provided in this Act.

(4) If a panchayat is dissolved or superseded—

(a) all the powers and duties of the panchayat shall, during the period of dissolution or supersession, as the case may be, be exercised and performed by such person or persons as the State Government may, from time to time appoint in that behalf; and

(b) all property vested in the panchayat shall during the period of dissolution or supersession, as the case may be, vest in the State Government; and

(c) on the dissolution or, as the case may be, on the expiry of the period of supersession, the panchayat shall be reconstituted in the manner provided in this Act, and the persons vacating office shall be eligible for re-election.

298. (1) When during the term of any panchayat the limits of the area (whether a gram, nagar, taluka or district) for which it is established are altered, the State Government may, by order in writing, dissolve such panchayat and direct a panchayat—

dissolution
of recons-
titution of
panchayat
altera-
tion of
limits of
area of
gram, nagar

(i) to be reconstituted for the area for which the panchayat has been dissolved or

(ii) to be established for the area which has been newly formed as a gram, nagar, taluka or district, as the case may be.

The members of the panchayat which has been dissolved shall vacate their office from the date specified in the order.

(2) The panchayat reconstituted or established under the provisions of sub-section (1) shall consist of such members, either elected, or appointed in such manner as the State Government shall, by order in writing, direct.

(3) The Sarpanch and Upa-Sarpanch or the Chairman and Vice Chairman or, as the case may be, the President and Vice President of the panchayat so reconstituted or established shall be elected in the manner provided in this Act.

(4) The term of the panchayat so reconstituted or established shall be for such period, not exceeding one year, as the State Government shall, by order in writing, specify

(5) On the expiry of the term of the panchayat in accordance with the provisions of sub-section (4) the panchayat shall be constituted for the newly formed gram, nagar, taluka or, as the case may be, district in the manner provided by this Act.

299. (1) When a panchayat has been dissolved and reconstituted or established under section 298 then so much of its fund and other property vesting in the panchayat which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to, the reconstituted or established panchayat as the State Government may, by order in writing, direct.

Vesting of property etc. of panchayat which has been dissolved and reconstituted or established.

(2) The rights and liabilities of the panchayat which has been dissolved in respect of contracts, agreements and other matters or things arising in or relating to any part of the area subject to the authority of the reconstituted or established panchayat shall vest in such panchayat.

(3) Any notice, tax, fee, cess, order, licence, permission, rule or by-law issued, imposed, granted or made in respect of any part of the area subject to the authority of the reconstituted panchayat shall be deemed to have been issued, imposed, granted or made by or in respect of such panchayat unless and until it is superseded by any notice, tax, fee, cess, order, licence, permission, rule or by law made issued, imposed, granted or made by or in respect of such panchayat.

300. Where by a notification under section 9 any local area forming part of a gram or nagar is excluded from such gram or nagar and such area is not included in or declared to be gram or nagar so much of the gram fund or, as the case may be, nagar fund and other property vesting in the panchayat of the gram or nagar of which such area formed part, as the State Government by order in writing direct, shall vest in the State Government to be utilized for the benefit of the area as the State Government may think fit.

Effect of area being excluded from gram.

301. On any area ceasing to be a gram or nagar by virtue of any notification under section 9 —

Effect of area ceasing to be gram or nagar.

(a) the panchayat shall be dissolved and all members of the panchayat shall vacate office as from the date of the notification ;

(b) the unexpended balance of the fund of the panchayat and the property (including arrears of rates, taxes and fees) vesting in the panchayat shall vest in the State Government to be utilised for the benefit of the inhabitants of the areas as the State Government thinks fit.

(c) the Nyaya Panchayat if any constituted for the group in which the gram was included shall continue to function for the remaining grams of the group unless the number of the remaining grams is rendered less than three.

302. (1) When a panchayat is dissolved or superseded under sections 297 or 298, the member elected by such panchayat shall cease to be a member of the Nyaya Panchayat concerned, and the State Government shall appoint a person to the Nyaya Panchayat from amongst the members of the Gram Sabha of the gram or, as the case may be, qualified voters of the nagar.

Effect of dissolution or supersession of panchayat or of withdrawal of judicial powers of Nyaya Panchayat or Nyaya Panchayats and proceedings pending before them.

(2) Where all the judicial powers of a Nyaya Panchayat have been withdrawn under sub-section (3) of section 218, such Nyaya Panchayat shall be deemed to have been dissolved and all members of the Nyaya Panchayat shall vacate their office as from the date of the withdrawal of judicial powers.

(3) On the dissolution of a Nyaya Panchayat under sub-section (2) —

(i) the provisions of sub-sections (2) and (3) of section 282 shall be deemed to apply in respect of any suits or cases pending before the Nyaya Panchayat as if the District or Sessions Court, as the case may be, has

passed an order under sub-section (1) of section 282 quashing such suits or cases ; and

(ii) all pending proceedings and applications for the execution of decrees or orders in suits, and for the recovery of fines and compensation in cases shall be transferred to the Court of the Civil Judge of the lowest grade or the Court of the Magistrate, as the case may be, who would have had jurisdiction to try the suit or case if the Nyaya Panchayat had not been constituted and such Civil Court or the Court of Magistrate, as the case may be, shall deal with the proceedings or applications as if the suit or case out of which the proceedings or applications arose, had been heard and decided by such Civil Court or the Court of such Magistrate.

(4) If any local area is excluded from a gram or nagar and no panchayat is constituted for the area so excluded, the provisions of sub-section (2) shall, so far as may be, apply in respect of any suits, cases, proceedings or applications which may be pending before the Nyaya Panchayat in respect of the said area as if so far as such suits, proceedings and applications are concerned, the Nyaya Panchayat had been dissolved.

Powers and duties of panchayat or Nyaya Panchayat not validly constituted to be performed by person appointed by Government or by Court as the case may be.

303. (1) (a) Notwithstanding anything contained in this Act or the rules or by-laws made thereunder, if at any time it appears to the State Government that a panchayat has not been validly constituted under this Act, the State Government may, by notification in the *Official Gazette*, cause all or any of the powers and duties performed by such person or persons in such manner and for such period and subject to such conditions as it may think fit;

Provided that on the reconstitution of the panchayat under sub-section (2) such notification shall cease to have effect from the date, on which the first meeting of the panchayat so reconstituted is held under section 44, 55 or 67.

(b) On the issue of such notification the member of the Nyaya Panchayat elected by such panchayat shall cease to be a member of the Nyaya Panchayat having jurisdiction, and such Nyaya Panchayat shall cease to exercise any powers in respect of suits or cases instituted before such member, or the Sarpanch or the Upa Sarpanch of the gram or, as the case may be, the Chairman or Vice-Chairman of the nagar concerned and the provision of sub-section (3) of section 302 shall, so far as may be, apply in respect of such suits, cases, proceedings or applications which may be pending before such Nyaya Panchayat on the date of notification issued by the State Government under clause (a).

(2) On the issue of such notification all the members of the panchayat shall be deemed to have vacated their office as members and the panchayat shall be reconstituted before the expiry of the period specified in such notification in the manner provided in this Act.

(3) All the powers and duties of the Panchayat exercised and performed *bona fide* till the date of the notification referred to in sub-section (1) by the persons who constituted such panchayat or Nyaya Panchayat, as the case may be, shall be deemed to be and always to have been validly exercised

and performed by the said persons; and no acts done by the said persons shall be deemed to be invalid or be called in question on the ground merely that the persons were not members of a validly constituted panchayat or Nyaya Panchayat and the said persons shall be deemed to have been indemnified and discharged from liability in respect of such acts.

304. (1) The State Government may from time to time cause inquiry to be made by any of its officers in regard to any panchayat or matters concerning it or to any matters with respect to which the sanction, approval, consent or order of the State Government is required by this Act. Inquiry by officers of panchayat.

V of 1908. (2) The officer holding such inquiry shall have the powers of a Court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the inquiry.

(3) The State Government may make orders as to the cost of inquiries under sub-section (1) and as to the parties by whom and the funds out of which they shall be paid and any such order may, on the application of the State Government or of any persons named therein, be executed as if it were a decree of a civil court.

305. The State Government may call for and examine the record of proceedings of any panchayat or of any officer (except any proceedings of the Nyaya Panchayat or of the District or the Sessions Court in judicial proceedings in revision or reference from the proceedings of a Nyaya Panchayat) for the purpose of satisfying itself as to the legality or propriety of any order passed and may revise or modify the order as it shall deem just. State Government may call for proceedings.

CHAPTER XVI.

PROVISIONS FOR CONVERSION OF A MUNICIPALITY INTO A PANCHAYAT AND FOR AMALGAMATION AND DIVISION OF PANCHAYATS.

306. For the purposes of this Chapter, unless the context otherwise requires— Interpretation.

Bom. III of 1901. (a) "municipal district" means a municipal district within the meaning of the Bombay District Municipal Act, 1901 or that Act as adapted and applied to the Saurashtra area of the State of Gujarat;

(b) "municipal borough" means a municipal borough within the meaning of the Bombay Municipal Boroughs Act, 1925, as applied to the Kutch area of the State of Gujarat;

Bom. III of 1901. Bom. XVII of 1925. (c) "municipality" means a municipality constituted for a municipal district or municipal borough and includes a person or persons authorised to exercise the powers and perform the functions of a municipality under section 179 of the Bombay District Municipal Act, 1901 or that Act as adapted and applied to the Saurashtra area of the State of Gujarat or under section 216 of the Bombay Municipal Boroughs Act, 1925 as applied to the Kutch area of the State of Gujarat (the aforesaid Acts, being hereinafter in this Chapter referred to as "the municipal laws");

(d) "panchayat" means a person or persons appointed to exercise the powers and to perform the functions of a panchayat under section 297.

Effect of
conversion
of municipi-
pality into
panchayat.

307. When any local area within the limits of a municipal district or municipal borough is declared to be a gram or nagar under section 9, then with effect from the date on which such local area is so declared to be a gram or nagar (in this section referred to as "the said date"), the following consequences shall, notwithstanding anything in the relevant municipal law, ensue, that is to say—

- (a) the municipality of such local area shall cease to exist ;
- (b) there shall, notwithstanding anything contained in any law for the time being in force, be constituted for the gram or nagar, as the case may be, an interim gram panchayat or, as the case may be, interim nagar panchayat consisting of persons vacating office as councillors of the municipality or members of the committee thereof and the President and Vice-President of the Municipality shall respectively, be deemed to be the Sarpanch and Upa-Sarpanch or, as the case may be, Chairman or Vice-Chairman of the interim panchayat ;
- (c) the unexpended balance of the municipal fund and property including arrears of rates, taxes and fees, belonging to the municipality, and all rights and powers, which prior to such notification, vested in the municipality shall, subject to all charges and liabilities affecting the same, vest in the interim panchayat as the gram or nagar fund until the new panchayat is constituted in pursuance of the provisions of sub-section (1) of section 308 ;
- (d) any appointment, notification, notice, tax, fee, cess order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under any municipal law immediately before the said date in respect of such local area shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the gram or nagar until it is superseded or modified by any other appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under this Act ;
- (e) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated under any of the municipal laws immediately before the said date in respect of such local area shall be deemed to have been made or authenticated under this Act ;
- (f) all debts and obligations incurred and all contracts made by or on behalf of the municipality immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the interim panchayat in exercise of the powers conferred on it by or under this Act ;
- (g) all officers and servants in the employ of the municipality immediately before the said date shall be officers and servants of the interim panchayat under this Act and shall, until other provision is made in accordance with the provisions of this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date ;

Provided that it shall be competent to the interim panchayat subject however to the previous sanction of the State Government, to discontinue the services of any officer or servant who, in its opinion, is not necessary or suitable to the requirements of the service of the interim panchayat,

after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalided out of service as if the municipality in the employ of which he was, had not ceased to exist ;

(h) all proceedings pending at the said date before the municipality shall be deemed to be transferred to, and continued by, the interim panchayat ;

(i) all appeals pending at the said date before the municipality shall, so far as may be practicable, be disposed of as if such local area had been included in the gram or nagar when they were filed ;

(j) all prosecutions instituted by or on behalf of the municipality and all suits or other legal proceedings instituted by or against such municipality or any officer of such municipality pending at the said date shall be continued by or against the interim panchayat as if such local area had been included in the gram or nagar when such prosecutions, suits or proceedings were instituted.

308. (7) The District Development Officer shall, within a period not exceeding one year from the date on which the interim panchayat has been constituted take steps to hold election for a new gram panchayat or nagar panchayat, as the case may be.

Term of office of members of interim panchayat and their powers.

(2) The members of the interim panchayat shall hold office until the day immediately preceding the day of the first meeting of the new panchayat.

(3) Any vacancy in the office of the interim panchayat shall be filled as soon as conveniently may be, by appointment by the district panchayat.

(4) During the period for which the members of the interim panchayat are in office as provided in sub-section (2), no Nyaya Panchayat shall have jurisdiction over the gram or nagar.

(5) All arrears of rates, taxes and fees vesting in the interim panchayat shall be recoverable under the provisions of this Act as if the rates, taxes and fees were imposed and recoverable under this Act :

Provided that steps to recover arrears of rates, taxes and fees shall be taken within a period of three years from the date on which they vest in the interim panchayat.

(6) In other respects the provisions of this Act shall, *mutatis mutandis*, apply to the interim panchayat and its members.

(7) If any difficulty arises,

- (i) in the constitution of the interim panchayat which succeeds it, or
- (ii) in giving effect to the provisions of this section,

the State Government may by order, as occasion may require, do, notwithstanding anything contained in this Act or in any municipal law, anything which appears to it to be necessary to remove the difficulty.

Effect of amalgamation of grams. **309.** (1) When two or more grams cease to be grams and the local areas constituting such grams are amalgamated and declared to be one gram (hereinafter in this section referred to as "the amalgamated gram"), by virtue of a notification under section 9, with effect from the date on which such notification is issued (hereinafter in this section referred to as "the said date") the following consequences shall ensue, that is to say—

(a) the panchayats of such local areas shall cease to exist and all the members of such panchayats shall vacate office ;

(b) all powers and duties of such panchayats shall be exercised and performed by such person or persons (hereinafter referred to as the administrator or administrators) as the State Government appoints in this behalf ;

(c) the members elected by such panchayats shall cease to be the members of the Nyaya Panchayat or Nyaya Panchayats concerned and the State Government shall appoint a person to be a member of the Nyaya Panchayat of the groups in which the amalgamated gram has been included ;

(d) the Nyaya Panchayats affected by an amalgamation of grams under this section shall continue to function unless the number of the grams included in the group is rendered less than three ;

(e) the unexpended balance of the gram funds and all the properties including arrears of rates, taxes and fees belonging to such panchayats and all rights and powers which prior to the said date, vested in such panchayats shall, subject to all charges and liabilities affecting the same, vest as the gram fund,—

(i) in the administrator or administrators until the panchayat for the amalgamated gram is constituted and holds its first meeting under sub-section (1) of section 44, and

(ii) thereafter, in the amalgamated panchayat ;

(f) the unexpended balance of the gram funds and all the properties (including arrears of rates, taxes and fees) shall, until the amalgamated panchayat is constituted and holds its first meeting, be utilised for the benefit of the inhabitants of such local areas in such manner as the administrator or administrators may think fit ;

(g) any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted in respect of such local areas and in force on the said date shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the amalgamated gram until it is superseded or modified by any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under this Act ;

(h) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated by such panchayats immediately before the said date shall be deemed to have been made or authenticated in respect of the amalgamated gram under this Act ;

(i) all debts and obligations incurred and all contracts made by or on behalf of such panchayats immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the amalgamated panchayat in exercise of the powers conferred on it by this Act;

(j) all officers and servants in the employ of such panchayats immediately before the said date shall be officers and servants of the amalgamated panchayat and shall, until other provision is made in accordance with this Act, receive salaries and allowances, and be subject to the conditions of service to which they were entitled or subject on such date;

Provided that it shall be competent to the administrator or administrators or the amalgamated panchayat, subject however, to the previous sanction of the State Government, to discontinue the services of any officer or servants who, in his, their or its opinion, is not necessary or suitable to the requirements of the service of the amalgamated gram, after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued, shall be entitled to such leave, pension, provident fund and gratuity, as he would have been entitled to take or receive on being invalided out of service, as if the panchayat in the employ of which he was, had not ceased to exist;

(k) all proceedings pending at the said date before such panchayats shall be deemed to be transferred to, and continued by, the administrator or administrators or the amalgamated panchayat, as the case may be;

(l) all appeals pending before such panchayats at the said date shall so far as may be practicable, be disposed of by the administrator or administrators or the amalgamated panchayat, as the case may be

(m) all prosecutions instituted by or on behalf of such panchayat and all suits or other legal proceedings instituted by or against such panchayats, or any officer of such panchayats pending at the said date shall be continued by or against the amalgamated panchayat.

(2) Within one year of the said date a panchayat for the amalgamated gram, shall be constituted in accordance with the provisions of this Act.

310. (1) Where any local area comprised within the limits of a gram ceases to be a gram and is declared as constituting two or more new grams by virtue of a notification under section 9, with effect from the date on which such notification is issued (hereinafter in this section referred to as "the said date"), the following consequences shall ensue, that is to say,—

Effect of
division of
gram.

(a) the panchayat constituted in respect of such local area shall cease to exist and all the members of the panchayat shall vacate office;

(b) until panchayats are constituted for the new grams, the State Government shall appoint an administrator or administrators to exercise the powers and perform the functions of the panchayat for each of the new gram;

(c) the member elected by the panchayat on the Nyaya Panchayat concerned shall cease to be the member of the Nyaya Panchayat and the State Government shall appoint a person for each of the new grams so declared to be a member of the Nyaya Panchayat of the group in which such gram has been included;

(d) the Nyaya Panchayat affected by the division of a group of grams under this section shall continue to function unless the number of grams included in the group is rendered less than three;

(e) the unexpended balance of the gram fund and all the property (including arrears of rates, taxes and fees) belonging to such panchayat shall vest in the new panchayat in such proportion in such manner as the State Government may direct;

(f) the officers and servants of such panchayat shall be allocated by the State Government to the new panchayats in such manner as the State Government may direct;

(g) subject to clauses (a) to (f) the provisions of section 309 shall *mutatis mutandis* apply to the administrator or administrators of the new panchayats and their members.

(2) Within one year of the said date the panchayats for the new grams shall be constituted in accordance with the provisions of this Act.

(3) If any difficulty arises in giving effect to the provisions of section 309 or this section, the State Government may, by order, as the occasion may require, do anything which appears to it to be necessary to remove the difficulty.

CHAPTER XVII.

SPECIAL PROVISIONS FOR THE DISTRICT OF DANGS.

311. The provisions of this Act shall apply to the district of Dangs subject to the provisions of this Chapter.

Application of the Act to Dangs subject to this Chapter.

312. (1) For the purpose of constituting a district panchayat for the district of Dangs, the State Government shall divide the gram panchayat in that district into groups. The number of such groups shall not exceed ten and each group shall consist of not more than eight grams.

Grouping of gram panchayats and each gram to select one Sarpanch.

(2) The gram panchayats included in each group shall elect from amongst the Sarpanchas thereof one Sarpanch to be a member of the district panchayat.

313. (1) The district panchayat for the district of Dangs shall consist of the following members, namely:—

Constitution of district panchayat of Dangs.

(A) Elected members.

(i) Sarpanchas elected by all the groups of the gram panchayats under section 312;

(ii) Members elected by the qualified voters of the district of Dangs from amongst themselves :

Provided that the number of members to be so elected shall be equal to the number of Sarpanchas to be elected under sub-section (2) of section 312 and out of such number—

- (a) two seats shall be reserved for women and
- (b) two seats shall be reserved for Scheduled Castes.

(B) Co-opted members.

(iii) Two persons having practical experience in respect of matters pertaining to education and residing in the District.

(C) Associated members.

(iv) Member or members of the House of People elected from the areas within the jurisdiction of the district panchayat or part thereof.

(v) Members of the Council of State residing in the area within the jurisdiction of the district panchayat.

(vi) Members of the Gujarat Legislative Assembly of the State of Gujarat elected from the area within the jurisdiction of the district panchayat.

(vii) The Collector of the district.

(viii) The Mamlatdar in the district.

(2) The district panchayat shall have a President and a Vice-President elected by its elected and co-opted members from amongst themselves.

(3) Where the Sarpanch of gram panchayat is elected as the President of panchayat, he shall vacate his office of the Sarpanch of the Gram panchayat but shall continue to be a member of the district panchayat.

314. In the District of Dangs, notwithstanding anything contained in this Act, the district panchayat shall, in addition to its own powers, functions and duties as a district panchayat, shall exercise all the powers and perform all the functions and duties of a taluka panchayat under this Act.

District Panchayat to exercise powers of taluka panchayats in addition to its own powers.

CHAPTER XVIII.

Miscellaneous provisions.

315. (1) A panchayat may, from time to time, concur with any other panchayat or with any local body or with more than one such local body —

(a) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee ;

(b) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies ; and

(c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

(2) A panchayat may subject to the sanction of the State Government, from time to time, enter into an agreement with any other panchayat, local body or with a combination of any such bodies, for the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

(3) Where a panchayat has requested the concurrence of any other local body under the provisions of sub-section (1) or (2) in respect of any matter and such other local body has refused to concur, the State Government may pass such orders as it may deem fit requiring the concurrence of such other local body (not being a cantonment authority) in the matter aforesaid, and such other local body shall comply with such orders.

(4) If any difference of opinion arises between local bodies acting under this section, the decision thereon of the State Government, or of such officer as it appoints in this behalf, shall be final :

Provided that, where one of the local bodies is a cantonment authority, the decision of the State Government, or of the officer, shall be subject to the concurrence of the Central Government.

Constitution
of State
Council for
Panchayats,
its functions
etc.

316. (1) There shall be a State Council for panchayats consisting of the following members, namely :

(A) *Chairman.*

(i) Minister in charge of the Department dealing with the Panchayats Organization of the State.

(B) *Vice-Chairman*

(ii) The Deputy Minister, dealing with the Panchayats Organisation of the State shall be ex-officio Vice-Chairman. If there is no such Deputy Minister, the Vice-Chairman shall be elected by the Council from amongst its members;

(C) *Members.*

(iii) Presidents of the district panchayats.

(iv) Seven members to be nominated by the State Government from amongst persons taking interest in the development of panchayats. Out of these one shall be a woman and one shall be a person from Scheduled Castes and one shall be a person from amongst the Scheduled Tribes if none of the members falling under clause (iii) is a person belonging to a Scheduled Tribe;

(v) Three officers to be nominated by the State Government.

(vi) three members to be elected by the Members of the Gujarat Legislative Assembly from amongst themselves.

(2) Such officer as the State Government may appoint in this behalf shall act as a Secretary to the Council.

(3) The functions of the Council so constituted shall be as under :—

(a) to advise the State Government on all general questions pertaining to panchayats ;

(b) to advise the State Government in respect of a scheme for the training of Secretaries and other servants of panchayats ;

(c) to review the administration of panchayats and to suggest ways of co-ordinating the activities of panchayats in the State ;

(d) to suggest ways and means to remove the difficulties experienced by the panchayats in the State in their administration ;

(e) to make *suo motu* recommendations to the State Government in regard to any matter relating to the administration of the panchayats ;

(f) to report to the State Government on such matters as may be referred to it by the State Government for its opinion .

(4) The State Government by general or special order provide for —

(a) the calling of the meetings of the Council and the procedure of meetings ;

(b) duties of the Secretary for the Council ;

(c) sub-committees of the Council ;

(d) the term of office of nominated members of the Council, travelling allowance and daily allowance to the members of the Council and the rate thereof.

317. (1) Every member of a panchayat shall be personally liable for the loss, waste, or misapplication of any money or other property of panchayat to which he has been party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member. Liability of members for loss, waste or mis-application.

(2) If after giving the member concerned a reasonable opportunity for showing cause to the contrary, an officer authorised by the State Government is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross negligence on his part the officer so authorised, shall by an order in writing, direct such member to pay to the panchayat before a fixed date, the amount required to be reimbursed to it for such loss, waste or mis-application.

(3) If the amount is not so paid, it shall be recovered as an arrear of land revenue and credited to the fund of the relevant panchayat.

(4) Any person aggrieved by the decision or action of the officer so authorised may apply to the District court as provided in sub-section (6) of section 109, within the like time for redress of his grievance and that court may pass any order thereon which it can pass under this section.

318. (1) Where, on an application from panchayat, the officer authorised in this behalf by the State Government is of the opinion that any person, who in his capacity as a member, officer, servant, or secretary of a panchayat had, in his custody any record or money belonging to the panchayat is, after his removal or suspension from office, as the case may be, not likely to deliver such record or pay such money, the officer so authorised may, by a written order, require that the record or money so detained be delivered or paid to the panchayat forthwith. Power of authorised officer to recover record and money.

(2) If any such person as aforesaid shall not deliver the record or pay the money as directed, the officer so authorised may cause him to be apprehended and may send him with a warrant in such form as may be prescribed to be confined in a civil jail till he delivers up the record or pays the money :

Provided that no such person shall be so detained in confinement for a period longer than one calendar month.

(3) It shall be lawful for the officer so authorised —

(a) for recovering any such money to direct that such money be recovered as an arrear of land revenue and on such direction being given, such money shall be recoverable as an arrear of land-revenue from such person ;

(b) for recovering any such record to issue a search warrant and to exercise all such powers with respect thereto as may lawfully be exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1898.

V of
1898

(4) No action under sub-sections (1), (2) or (3) shall be taken unless reasonable opportunity has been given to the person concerned to show cause why such action should not be taken against him.

ability to
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authorised
occupation
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319. (1) Whoever not being duly authorised in that behalf occupies or is in possession of any property vesting in, or under the control of, a panchayat shall without prejudice to any other action which may be taken under this Act, be liable to pay to the panchayat a sum upto four times the amount of rent which would have been payable to the panchayat for the period of such occupation or possession, had the property been let by the panchayat.

(2) The sum so payable shall be determined by the panchayat in the prescribed manner and thereafter the sum shall become due to the panchayat and the provisions of Chapter IX shall *mutatis mutandis* apply to the recovery thereof.

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320. (1) No action shall be brought against any panchayat, conciliation panch or Nyaya Panchayat or any member, officer, servant or agent of a panchayat, conciliation panch or Nyaya Panchayat acting under its direction, in respect of anything in good faith done under this Act or any rule or by-law.

(2) No action shall be brought against any panchayat, conciliation panch or Nyaya Panchayat or any member, officer, servant or agent of such panchayat, conciliation panch, or Nyaya Panchayat acting under its direction for anything done or purporting to have been done by or under this Act, until the expiration of one month next after notice in writing has been left for delivered at the office of the panchayat, conciliation panch or Nyaya Panchayat and also at the residence of the member, officer, servant or agent thereof against whom the action is intended to be brought, the notice shall state the cause of action, the nature of the relief sought; the amount of compensation claimed and the name and place of abode of the person who intends to bring the action.

(3) Every such action shall be commenced within six months after the accrual of the cause of action, and not afterwards.

(4) If any panchayat, conciliation panch, Nyaya Panchayat or person to whom the notice under sub-section (2) is given shall, before an action is brought, tender sufficient amends to the plaintiff, and pay into Court the amount so tendered, the plaintiff shall not recover more than the amount so tendered; the plaintiff shall also pay all costs incurred by the defendant after such tender.

321. (1) The State Government may, by notification in the *Official Gazette*, authorise any officer of Government to exercise any of the powers exercisable by the State Government under this Act. *Official* Delegation of powers.

(2) Subject to the rules made in this behalf, the District Court may delegate to any Civil Court subordinate to it the powers exercisable by the District Court in regard to suits under this Act in respect of a Nyaya Panchayat in a gram or nagar within the jurisdiction of the said Civil Court.

(3) Subject to rules made in this behalf, the Sessions Court may delegate to a Magistrate of the First Class exercising appellate jurisdiction under section 407 of the Code of Criminal Procedure, 1898, the powers exercisable by it in regard to cases under this Act in respect of a Nyaya Panchayat in a gram or nagar within the said jurisdiction of the said Magistrate. V of 1898.

(4) Subject to the general or special orders which the State Government may issue from time to time —

- (i) a district panchayat may delegate to a District Development Officer,
 - (ii) a taluka panchayat may delegate to a Taluka Development Officer, and
 - (iii) a competent authority may delegate to any officer subordinate to it,
- any powers exercisable by it under this Act.

322. Every member of a panchayat, conciliation panch, Nyaya Panchayat and every officer and servant maintained by or employed under a panchayat, Conciliation panch or Nyaya Panchayat shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Members etc. of panchayats, nyaya panchayats and servants etc. to be public servants. XLV of 1860.

323. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act. *Official* Power of Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made —

- (a) for the whole or any part of the State of Gujarat and for all or any panchayat,
- (b) to provide for all matters expressly required or allowed by this Act to be prescribed by rules, and
- (c) to provide that a contravention of any rule prescribing the duties and obligations of any person liable to pay any tax or fee made under sub-section (2) of section 17 or sub-section (1) of section 189 shall be punishable with fine which may extend to fifty rupees and in the case of a continuing contravention with fine which may extend to five rupees for every day during which the contravention continues after conviction for the first contravention.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

(5) Any modifications so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

324. (1) A district panchayat may, with the previous sanction of the State Government make by-laws for a gram panchayat or nagar panchayat generally for the carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, the district panchayat may make by-laws—

(i) for the purification and protection from pollution of all sources of water used for drinking purposes and the regulation of water supply ;

(ii) for the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source, where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in or covering over of such tank, or well, or by any other method which may be considered advisable ;

(iii) for the prohibition of the deposit or storage of manure, refuse, or other offensive matter in a manner or in places prejudicial to the public health, comfort or convenience ;

(iv) for the regulation of offensive callings or trades ;

(v) for the disposal of corpses by burning or burial ;

(vi) for the excavation of earth and the filling up of excavations and depressions injurious to the health or offensive to the neighbourhood ;

(vii) for the removal of noxious vegetation ;

(viii) for the repair and removal of dangerous or ruinous buildings ;

(ix) for the prevention of the erection of buildings without adequate provisions for ventilation or the laying out and location of streets ;

(x) for the control of fairs and bazars, and the regulation of markets, slaughter houses and cart stands ;

(xi) for the inspection and destruction of unfit food and drink exposed for sale ;

(xii) for the general regulation of sanitation and conservancy and the disposal of carcasses of dead animals ;

(xiii) for the temporary erection on, or projection over, or temporary occupation of, any public street or place ;

(3) Any by-law made under this section may provide for the levy of fees in respect of any matter provided for in the by-law.

(4) Any by-law made under this section may provide that a contravention thereof shall be punishable—

(a) with a fine which may extend to fifty rupees ;

(b) in the case of a continuing contravention with a fine, which may extend to five rupees per day after conviction for the first contravention during the period within which such contravention continues.

325. (1) The Bombay Village Panchayats Act, 1958 is hereby repealed.

(2) Notwithstanding the repeal of the said Act —

(i) any local area declared to be a village immediately before the coming into force of this Act shall be deemed to be a gram under this Act;

(ii) the panchayats constituted under the said Act immediately before the said date (hereinafter called " the old village panchayats ") shall be deemed to be panchayats of the respective grams (hereinafter called " the new gram panchayats ") ;

(iii) the Sarpanch or Upa-Sarpanch and the members or panchas elected or appointed for the old village panchayats and holding office immediately before the said date shall respectively be deemed to be the Sarpanch, the Upa-Sarpanch, and the members of the new panchayats ;

(iv) the said Sarpanch, the Upa-Sarpanch and the members shall hold office as such Sarpanch, the Upa-Sarpanch and members for the period for which they would have held office under the said Act, subject however to the provisions relating to disqualification, resignation, removal and vacancy provided in this Act ;

(v) any Nyaya Panchayats constituted by or for the old village panchayats shall be deemed to have been constituted by or for the said gram or grams for the new gram panchayat thereof and shall continue to exercise the powers conferred on them as if they had been conferred under this Act until they are re-constituted under this Act and the chairman and deputy chairman, members or panchas elected or appointed for the Nyaya Panchayats of the old village panchayats and holding office immediately before the said date shall respectively be deemed to be the chairman, deputy chairman, and the members or panchas of the Nyaya Panchayats of the new gram panchayats ;

(vi) the unexpended balance of the village fund and all the properties (including arrears of rates, taxes and fees) vesting in the old village panchayats shall from the said date vest in the new gram panchayats and such arrears of rates, taxes and fees shall be recoverable under the provisions of this Act as if they had been imposed and recoverable under the provisions of this Act ;

(vii) all debts and obligations incurred and all contracts made by or on behalf of the old village panchayats immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the new gram panchayats in exercise of the powers conferred on them by this Act ;

(viii) any appointment, notification, notice, tax, fee, order, scheme, licence, permission, rule, by-law, or form made, issued, imposed, or granted in respect of the said villages and in force immediately before the date of the commencement of this Act shall in so far as they are not inconsistent be deemed to have been made, issued, imposed or granted under this Act in respect of the village and shall continue in force until it is superseded or modified by any appointment, notification, notice, tax, fee, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under this Act ;

(ix) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated immediately before the commencement of this Act by the old village panchayats shall be deemed to have been made or authenticated by the new gram panchayats under this Act ;

Repeal of
the Bombay
Village
Panchayats
Act, 1958.

(x) the Secretaries, all officers and servants in the employ of the old village panchayats immediately before the said date shall be Secretaries, officers and servants of the new gram panchayats and shall until other provision is made in accordance with the provisions of this Act, receive the salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date :

Provided that it shall be competent to the State Government, after giving a Secretary such notice as is required to be given by the terms of his employment, to discontinue his services if in the opinion of the Government he is not necessary or suitable to the requirements of the panchayat service ; and every Secretary whose services are so discontinued shall be entitled to such leave, pension, provident fund, gratuity, other rights and privileges as he would have been entitled to take or receive on being invalided out of service if he had continued in the employ of the panchayat or panchayats after the said date;

(xi) all proceedings pending before the old village panchayats and Nyaya Panchayats of the old village panchayats shall be deemed to have been instituted and to be pending before the new panchayats and Nyaya Panchayats of the new gram panchayats, as the case may be, and shall be heard and disposed of by the said panchayats or Nyaya Panchayats as the case may be, under this Act :

(xii) all prosecutions instituted by or on behalf of the old village panchayats and all suits or other legal proceedings instituted by or against the old village panchayats or any officer of such panchayats pending at the said date shall be continued by or against the new gram panchayats ;

(xiii) any reference to any enactment or in any instrument to the Act hereby repealed or to any provision thereof or any authority elected or appointed thereunder shall be construed as a reference to the Gujarat Panchayats Act, 1961, or to the corresponding provision thereof or to the corresponding authority elected or appointed thereunder. Guj. VI of 19 2.

Repeal of the
Bombay
Local Boards
Act, 1923
and saving.

326. With effect on and from such date as the State Government may, by notification in the *Official Gazette*, appoint (hereinafter referred to in this section as " the appointed day ") the Bombay Local Boards Act, 1923 (hereinafter referred to as " the said Act ") shall stand repealed and the following consequences shall ensue, that is to say —

(a) every district local board constituted under the said Act for a local area and functioning immediately before the appointed day (hereinafter referred to in this section as " the existing board ") shall stand dissolved and the President, Vice-President and all other members shall be deemed to have vacated their office ;

(b) all property movable and immovable, and all interests of whatsoever nature and kind therein, which vested in an existing board immediately before the appointed day, shall be deemed to be transferred to, and shall vest in the district panchayat constituted for the said local area under this Act (hereinafter referred to in this section as " the successor panchayat "), subject to all limitations, conditions and rights or interests of any person, body or authority in force or subsisting immediately before the appointed day ;

(c) all rights, liabilities and obligations of an existing board (including those arising under any agreement or contract) shall be deemed to be the rights, liabilities and obligations of the corresponding panchayat ;

(d) all sums due to an existing board, whether on account of any tax or otherwise, shall be recoverable by the successor panchayat and for the purposes of such recovery the successor panchayat shall be competent to take any measure or institute any proceedings which it would have been open to the existing board or any authority thereof to take or institute before the appointed day ;

(e) the unexpended balance in the local fund constituted under the said Act and all sums due to an existing board and recovered by the successor panchayat and such sums of any other body or bodies as the State Government may direct shall form part of, and be paid into, the district fund of the successor panchayat ;

(f) all contracts made with, and all instruments executed on behalf of, an existing board shall be deemed to have been made with, or executed with, or by or on behalf of successor panchayat and shall have effect accordingly ;

(g) all proceedings and matters pending before any authority of an existing board under the said Act immediately before the appointed day, shall be deemed to be transferred to the successor panchayat or to such authority as the successor panchayat may direct ;

(h) in all suits and legal proceedings pending on the appointed day in or to which an existing board was a party, the successor panchayat shall be deemed to be substituted therefor ;

(i) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law, regulation or form made, issued, imposed or granted by or in respect of an existing board established or constituted under the said Act or any other law in force in the area of such existing board and in force immediately before the appointed day, shall, in so far as it is not inconsistent with the provisions of this Act, continue to be in force as if made, issued, imposed or granted in respect of the corresponding area of the successor panchayat until superseded by an authority competent to do so ;

(j) all budget estimates, assessments, valuations, measurements and divisions made by or in respect of an existing board under the said Act or any other law in force in the area of such existing board and in force immediately before the appointed day shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made by or in respect of the corresponding area of the successor panchayat ;

(k) all officers and servants in the employment of an existing board immediately before the appointed day, shall, subject to the provisions of this Act be deemed to be transferred to the service of the successor panchayat ;

(l) any reference in any law or in any instrument to the provisions of the said Act, shall, unless a different intention appears, be construed as a reference to the corresponding provisions of this Act ;

(m) any reference in this Act to any law not in force, or to any officer, body or authority not functioning in the Bombay area, the Saurashtra area or the Kutch area, of the State of Gujarat shall, unless a different intention appears, be construed as a reference to the corresponding law in force, or to the officer, body or authority functioning in the Bombay area, the Saurashtra, or as the case may be, the Kutch area, of the State of Gujarat ;

(n) any reference in the above paragraph to an existing board shall, in case such existing board has been superseded or dissolved, be deemed to be a reference to the person or persons appointed to exercise the powers or to perform the functions of such existing board.

Power of State Government to adapt laws.

327. (1) For the purpose of bringing the provisions of any law in force in the territory of this State into accord with the provisions of this Act, the State Government may by order published in the *Official Gazette* make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(2) Nothing in sub-section (1) shall be deemed —

(a) to empower the State Government to make any adaptation or modification of any law after the expiration of two years from the commencement of this Act, or

(b) to prevent the State Legislature or other competent authority from repealing or amending any law adapted or modified by the State Government under this section.

Explanation.—The expression “law in force” in this section shall include a law passed or made by the State Legislature or other competent authority in the State before the commencement of this Act and not previously repealed, notwithstanding that it or parts of it may not be then in operation either in all, or any particular areas in the State.

Removal of difficulties.

328. If any difficulty arises in giving effect to the provisions of this Act or any Schedule the State Government may, as occasion requires, by order do any thing which appears to it to be necessary for the purpose of removing the difficulty.

SCHEDULE I.

(See section 88)

MATTERS IN RESPECT OF WHICH IT IS THE DUTY OF GRAM PANCHAYATS AND NAGAR PANCHAYATS TO MAKE PROVISION.

1. *In the sphere of sanitation and health—*

- (a) supply of water for domestic use and for cattle;
- (b) construction and cleaning of public roads, drains, ponds, tanks and wells other than tanks and wells used for irrigation purposes and other public places;
- (c) sanitation, conservancy, the prevention and abatement of nuisance;
- (d) preservation and improvement of public health, establishing and maintaining public hospitals and dispensaries and providing public relief ;
- (e) regulation by licensing or otherwise of tea, coffee, and milk shops;
- (f) provision, maintenance and regulation of burning and burial grounds;
- (g) ensuring systematic disposal of carcasses, provision of definite places for the purpose and other means for the disposal of unclaimed corpses and carcasses;
- (h) construction and maintenance of public latrines;
- (i) taking of measures to prevent the outbreak, spread and recurrence of any infectious disease;
- (j) reclaiming of unhealthy localities;
- (k) removal of rubbish heaps, jungle growth, prickly pear the filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows, the prevention of water-logging in irrigated areas and other improvements of sanitary conditions;
- (l) maternity and child welfare;
- (m) the encouragement of human and animal vaccination;
- (n) the provision and maintenance of compost pits;
- (o) taking necessary steps against stray dogs and pigs;
- (p) regulating, checking and abating of offensive or dangerous trade or practices;

(g) watering public streets and places

(r) cleansing public streets, places and sewers, and all spaces not being private property, which are open to the enjoyment of the public, whether such places are vested in the panchayat or not; removing the noxious vegetation, and abating all public nuisances;

(s) extinguishing fires, and protecting life and property when fires occur;

(t) removing obstruction and projections in public streets or places, and in spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the panchayat or belong to Government;

(u) securing or removing dangerous buildings or places;

(v) constructing, altering and maintaining public streets, culverts, panchayat boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage works, sewage works, baths, washing places, drinking fountains, tanks, wells, dams and the like;

(w) obtaining a supply of an additional supply of water proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply when such supply or additional supply can be obtained at a reasonable cost;

(x) paying the salary and the contingent expenditure on account of such police or guards as may be required by the panchayats for the purposes of this Act or for the protection of any panchayat property.

(y) constructing and maintaining residential quarters for the conservancy staff of the panchayat;

(z) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the Panchayat.

2. *In the sphere of public works—*

(a) removing of obstructions and projections in public streets or places and in sites, not being private property, which are open to the public whether such sites are vested in the panchayat or belong to Government;

(b) construction, maintenance and repair of public roads, drains, bunds and bridges;

Provided that if the roads, drains, bunds and bridges vest in any other public authority, such works shall not be undertaken without the consent of that authority;

(c) maintenance and regulation of the use of buildings handed over to the panchayat or of Government buildings under the control of the panchayat, grazing lands, forest lands including lands assigned under

XVI section 28 of the Indian Forest Act, 1927, and tanks and wells (other than tank
of
1927. and wells for irrigation);

- (d) lighting of the gram or nagar as the case may be ;
- (e) control of fairs, bazars, tonga-stands and cartstands ;
- (f) construction and maintenance or control of slaughter houses ;
- (g) planting of trees in market places and other public places and their maintenance and preservation ;
- (h) construction and maintenance of Dharmashalas ;
- (i) management and control of bathing and washing ghats which are not managed by any authority ;
- (j) establishment and maintenance of markets ;
- (k) construction and maintenance of houses for conservancy staff and village functionaries of the panchayat ;
- (l) provision and maintenance of camping grounds ;
- (m) establishment, control and management of cattle pounds ;
- (n) establishment and maintenance of works for the provision of employment particularly in times of scarcity ;
- (o) extension of village sites or nagar sites as the case may be and the regulation of buildings and housing schemes in accordance with such principles as may be prescribed ;
- (p) construction and maintenance of buildings for warehouses, shops, purchasing centres and such others ;
- (q) construction and maintenance of buildings for common use and of buildings necessary for development activities .
- (r) generation, distribution and supply of electrical energy and other matters connected therewith.

3. *In the sphere of education and culture—*

- (a) spread of education ;
- (b) establishment and maintenance of akhada, parks, clubs and other places of recreation for the welfare of women and youth ;
- (c) establishment and maintenance of theatres for promotion of art and culture ;
- (d) establishment and maintenance of libraries and reading rooms ;
- (e) promotion of social and moral welfare of the village including prohibition propaganda, removal of untouchability, amelioration of the condition of the backward classes, the eradication of corruption and the discouragement of gambling and other antisocial activities ;
- (f) assisting the introduction of compulsory primary education as planned by the State ;
- (g) provision of school-buildings and of necessary equipment for education ;
- (h) pro-primary education and child-welfare activities ;
- (i) repairs and maintenance of school-buildings ;
- (j) maintenance of school funds ;
- (k) offering financial assistance to needy students ;
- (l) celebration of school functions and festivals ;
- (m) arranging cultural programmes for the purposes of popular education ;
- (n) provision for light meals for school-children, if possible ;
- (o) establishment, construction and maintenance of secondary schools.

4. *In the sphere of self-defence and village-defence —*

- (a) watch and ward of the gram or nagar and of the crops therein and raising volunteer organisations or organisations of any other kind, encouraging and assisting such organisations ;

(b) providing for training facilities to the youth of the gram or nagar as the case may be for the purpose of self-defence and gram-defence and assisting such training that may be organised by the Government;

(c) preventing of fires rendering assistance in extinguishing fires and protecting life and property when fire occurs.

5. *In the sphere of planning and administration---*

(a) the preparation of plans for the development of the gram or nagar, as the case may be;

(b) assisting the implementation of soil improvement projects of the State Government;

(c) economic survey of the gram or nagar as the case may be accompanied by the provision of employment to the unemployed or under employed residents thereof;

(d) preparation of budget, collection and maintenance of accounts, custody and utilization of funds, assessment and collection of taxes and maintenance of an Account Code;

(e) use of assistance given by the Central or State Government for any purpose of the village;

(f) making independent surveys of the gram or nagar as the case may be or assisting such surveys undertaken by the Central or State Government;

(g) recruitment, training and management of staff to be employed by the panchayat;

(h) control of cattle-stands, thrashing floors, grazing grounds and community lands;

(i) establishment, maintenance and regulation of fairs, pilgrimages and festivals;

(j) reporting to proper authorities complaints which are not removable by the panchayat;

(k) preparation, maintenance and up-keep of the panchayat records;

(l) registration of births, deaths and marriages in such manner and in such form as may be laid down by the State Government by general or special order in this behalf;

(m) numbering of premises.

6. *In the sphere of Community Development---*

(a) relief of the crippled, destitute and the sick;

(b) assistance to the residents when any natural calamity occurs;

(c) organising, encouraging and assisting co-operative activities in the economic and social fields;

(d) propagation of family planning;

(e) organising voluntary labour for community works and works for the uplift of the gram or nagar as the case may be;

(f) opening fair-price shops.

7. *In the sphere of agriculture, preservation of forests and pasture lands---*

(a) planned improvement of agriculture;

(b) securing minimum standards of cultivation in the gram or nagar as the case may be with a view to increasing agricultural production;

(c) establishment and management of model agricultural farm;

- (d) the establishment and maintenance of granaries ;
- (e) bringing under cultivation waste and fallow lands vested by the State Government in the panchayat ;
- (f) ensuring conservation of manurial resources, preparing composts and sale of manure ;
- (g) production of improved seeds, the establishing of nurseries of improved seeds and promoting the use of improved seeds ;
- (h) promoting the use of improved agricultural implements and making such implements easily available ;
- (i) the promotion of co-operative farming ;
- (j) crop-protection and crop-experiments ;
- (k) minor irrigation, construction and maintenance of field channels and distribution of water ;
- (l) raising preservation and improvement of village forests, pastures and orchards ;
- (m) taking steps against harmful animals with a view to protection of crops.

8. *In the sphere of Animal Husbandry ---*

- (a) improvement of cattle and cattle-breedings ;
- (b) the general care of live-stock ;
- (c) providing and maintaining stud bulls for purposes of cattle breeding
- (d) promotion of dairy farming.

9. *In the sphere of Village Industries ---*

- (a) surveying and harnessing industrial and employment potential of the gram or nagar as the case may be ;
- (b) promoting hand-spinning, hand weaving, dying, printing embroidery, sewing, oil-pressing industry, leather-industry, pottery, carpentry, smithy, industries processing agricultural raw materials into finished products, other cottage industries and special arts or crafts of the village, if any, and protecting encouraging and assisting these with a view to improving and develop them.
- (c) providing necessary raw materials for cottage industries and arts and crafts ;
- (d) making efforts for the production by the village craftsmen of modern and improved tools for cottage industries and making such tools easily available to them ;
- (e) encouraging and assisting artisans for training in cottage industries and handicrafts ;
- (f) providing for the organisation, management and development of cottage industries on a co-operative basis ;

10. *In the sphere of collection of land revenue—*

- (a) collection of land revenue when so empowered by the State Government under section 149 ;
- (b) maintenance of records relating to land revenue in such manner and in such form as may be prescribed from time to time by or under any law relating to land revenue.

SCHEDULE II

(See section 117)

PART I

MATTERS IN RESPECT OF WHICH IT IS THE DUTY OF A TALUKA
PANCHAYAT TO MAKE PROVISION

1. *In the sphere of sanitation and health—*

- (a) Controlling small-pox and other epidemics and expansion and maintenance of health services ;
- (b) family planning ;
- (c) providing facilities for pure drinking water ;
- (d) maintenance and supervision of stores of drugs, dispensaries, pharmacies, maternity homes and primary health-centres ;
- (e) cultivating public opinion on following methods for the preservation of health and sanitation :—
 - (i) nourishment ;
 - (ii) maternity and child welfare ;
 - (iii) control and eradication of contagious diseases ;
- (f) providing for help and protection to the people against epidemics.

2. *In the sphere of communication—*

- (a) Construction and maintenance of village link roads ;
- (b) providing necessary assistance for construction and maintenance of village approach roads.

3. *In the sphere of education and culture.—*

- (a) establishment and maintenance of primary schools ;
- (b) preparing and implementing the programme of constructing buildings for primary schools ;
- (c) assisting educational activities of a gram panchayat and nagar panchayat ;
- (d) enforcing in the taluka the law relating to compulsory primary education ;
- (e) conducting and encouraging libraries, reading rooms and other cultural activities ;
- (f) assisting the propagation of pre-primary education.

4. *In the sphere of social education—*

To cultivate a new outlook, among the people to make them self-reliant industrious and co-operation-minded, and especially—

- (a) establishing and maintaining information centres, community educational centres and recreation centres,
- (b) establishing institutions for rendering social service such as youth clubs, womens clubs and farmers' associations and encouraging any such institutions if already established ;

- (c) establishing a village defence corps;
- (d) encouraging physical and cultural activities;
- (e) establishing voluntary health associations;
- (f) training gram-sevaks and utilising their services;
- (g) training gram-laxmis and gram sevikas and utilising their services;
- (h) promoting childrens' activities.

5. *In the sphere of community development —*

- (a) Planning for increased employment and production, as well as for co-ordination of village institutions;
- (b) training in self-help and self-sufficiency among the village community on the principle of mutual co-operation;
- (c) utilising the surplus energy, resources and time of the village for benefit of the community;
- (d) providing for the implementation of developmental programmes entrusted to it by the State Government.

6. *In the sphere of agriculture and irrigation —*

- (a) Planning for agricultural improvement in the Taluka;
- (b) use of land and water resources and propagation of improved agricultural methods according to the latest researches;
- (c) construction and maintenance of irrigation works in the taluka;
- (d) reclamation and conservation of agricultural land in the taluka;
- (e) maintenance of seed multiplication farms, assisting registered seed producers and distribution of seeds in the taluka;
- (f) raising the production of fruits and vegetables;
- (g) conservation of manurial resources, preparing compost manure, organic manure and mixture and to arrange for making them easily available;
- (h) promoting the use of improved agricultural implements and arranging to make them easily available;
- (i) the protection of crops, fruit-trees and plants against disease;
- (j) establishment and management of model agricultural farms;
- (k) providing credit and other facilities for irrigation and agricultural development;
- (l) increasing the area of land under irrigation by construction and repairs of wells digging and repairs of private ponds by undertaking minor irrigation works and by supervision of field channels;
- (m) increasing the use of sub-soil water by boring wells and giving assistance in regard to such wells;
- (n) providing for the timely and equitable distribution and full use of water available under irrigation schemes.

7. *In the sphere of animal husbandry —*

- (a) Improving cattle-breed by introduction of stud bulls, by castration of stray bullocks and establishment and maintaining artificial insemination centres;
- (b) introducing improved breeds of cattle, sheep, poultry etc. giving grants therefor and maintenance of small breeding centres;
- (c) controlling and checking infectious diseases;

(d) introducing improved grass and cattle-feeds and providing for their storage ;

(e) starting and maintaining first-aid centres and veterinary dispensaries ;

(f) providing for milk supply ;

(g) solving the problem of stray cattle.

3. *In the sphere of village and small-scale industries—*

To promote cottage, village and small-scale industries with a view to providing increased employment and raising peoples' standard of living and especially —

(a) to establish and maintain production and training centres ;

(b) to improve the skills of artisans ;

(c) to popularise improved implements ;

(d) to ensure the implementation of scheme for Cottage, Village and Small-Scale Industries run by the Khadi and Village Industries Board and other All-India Associations ;

(e) to establish industrial townships at the Taluka level ;

(f) to develop wool industry.

9. *In the sphere of co-operation—*

To promote the idea of co-operation in different fields of life and to organise and encourage co-operative institutions in the economic and social fields and especially —

(a) to establish and promote the development of multipurpose co-operative societies for credit, sale, industry, irrigation and agriculture ;

(b) promoting savings through thrift, small savings and insurance schemes.

10. *In the sphere of women's welfare—*

Implementing of schemes for women's and children's welfare and maintaining women's and children's welfare centres, education centres, craft centres and tailoring centres.

11. *In the sphere of social welfare—*

(a) provision of hostels for students of backward classes and scheduled castes and scheduled tribes ;

(b) implementing schemes of rural housing ;

(c) maintaining decrepit beggars ;

(d) sponsoring voluntary institutions of social welfare and coordinating and assisting their activities

(e) propaganda for prohibition and against drug addiction.

12. *In the sphere of relief—*

Providing immediate relief in cases of floods, fires, epidemics and other natural calamities on a small or large scale.

13. *In the sphere of collection of statistics—*

Collecting and co-ordinating statistics as may be required by the village panchayats, nagar panchayats, taluka panchayats or district panchayats or by the State Government.

14. *In the sphere of trusts—*

Managing trusts in furtherance of the objects of any programme that may be carried out with the taluka fund.

15. *In the sphere of forests—*

Promoting the development of village jungles and pastures.

16. *In the sphere of rural housing—*

Development of village-sites and nagar-sites with the cooperation of the village population and planning of rural housing.

17. *In the sphere of information—*

- (a) Community radio listening programme ;
- (b) arranging exhibitions ;
- (c) publications.

PART II

[See section 111(2)]

FUNCTIONS AND DUTIES OF THE EDUCATION COMMITTEE OF A TALUKA PANCHAYAT.

It shall be the duty of the Education committee of a taluka panchayat—

- (a) to assist the taluka panchayat in conducting and revising educational surveys and in preparing and implementing Five Year Plan for the development of primary educational and all other educational activities entrusted to it ;
- (b) to provide adequate accommodation and equipment for primary schools ;
- (c) to open, with the sanction of the district panchayat, new primary schools in places where they are needed ;
- (d) to determine the exact location of primary schools ;
- (e) to supervise the working of all primary schools and of such other educational institutions under the control of the district panchayat as that Panchayat may decide from time to time ;
- (f) to exercise such powers over the staff employed in primary schools and other educational institutions under the control of the district panchayats as may be delegated to it from time to time ;
- (g) to supervise the activities of the gram panchayats and nagar panchayats within the jurisdiction of the taluka panchayats, to ensure that each such

panchayat pays its contribution to the School funds, if any, and to bring cases of default to the notice of the Educational Inspector of the district and generally to guide them to maintain and improve the primary school or schools in their charge ;

(h) to be responsible for the enforcement of compulsory primary education ; and, without prejudice to the generality of the foregoing provision ;

(i) to determine on the recommendation of the competent officer of the district panchayat, the distance measured according to the nearest road between an approved school and the residence of the child for the purposes of the Bombay Primary Education Act, 1947 or as the case may be, the Saurashtra Primary Education Act, 1953.

(ii) to grant, on the recommendation of the aforesaid competent officer, exemption from attending an approved school to a child who is receiving instruction otherwise than in an approved school,

(i) to grant sanction to the changes in the dates of birth and the names of pupils attending primary schools ;

(j) to construct new buildings for primary schools and to carry out special repairs ;

(k) to sanction grants-in-aid to gram panchayats and nagar panchayats for their standing committee for Education ;

(l) to inform, and, if necessary to advise, the district panchayat, generally on all matters connected with primary education and other educational activities undertaken by the district panchayat in the taluka ;

(m) to carry on propaganda in the Taluka for the expansion and improvement of education in general and primary education in particular ; and

(n) to exercise such other powers and to perform such other duties as may be delegated to it by the district panchayat from time to time.

(o) to hire buildings for primary schools with the sanction of the taluka panchayat on reasonable rent, which shall be certified by the competent authority ;

(p) the supervision of individual primary schools ;

(q) to secure the enforcement of the Bombay Primary Education Act, 1947 and the Saurashtra Primary Education Act, 1956 and the rules or orders made thereunder.

SCHEDULE III.

PART I.

(See section 137)

MATTERS IN RESPECT OF WHICH IT IS THE DUTY OF DISTRICT PANCHAYAT TO MAKE PROVISION.

1. In the sphere of sanitation and health —

(a) establishment and maintenance of dispensaries ;

(b) constructing and preserving wells and tanks for drinking water ;

(c) taking necessary action or steps for improvement in public health and public amenities ;

(d) establishment and maintenance of primary health centres ;

- (e) assisting family-planning ;
- (f) supply of milk to children and nursing mothers in families in the low-income group ;
- (g) providing for training to mid-wives ;
- (h) giving protection against diphtheria, whooping cough and tetanus ;
- (i) establishment and maintenance of ayurvedic dispensaries ;
- (j) provision of medical relief through Ayurved Box Centres ;
- (k) assisting recognised medical relief-centres ;
- (l) providing for training of nurses.

2. *In the sphere of public works --*

- (a) construction and maintenance of roads ;
- (b) the planting and rearing of trees on both sides of the roads ;
- (c) execution of works entrusted to it by the State Government ;
- (d) supervision, repairs and preservation of buildings vested in the district panchayat ;
- (e) construction and maintenance of buildings required for the activities of the district panchayat ;

3. *In the sphere of education and other cultural activities --*

- (a) undertaking all educational activities entrusted to it ;
- (b) planning of education in the district within the frame work of the national policy and the national plan ;
- (c) survey and evaluation of educational activities ;
- (d) distribution of Government aid in regard to primary education between the taluka panchayats ;
- (e) recognising private educational institutions within its area ;
- (f) recommending the courses of study ;
- (g) selection of text-books ;
- (h) implementation of any programme in regard to secondary education that may be entrusted to it by the State Government ;
- (i) inspection of primary schools managed by the taluka panchayats and conduct of their examinations ;
- (j) accepting and managing educational funds ;
- (k) assisting, encouraging and guiding all educational activities in the district.
- (l) organising camps, conferences, and gatherings of all members, Sarpanchas of village panchayats, Chairmen of nagar panchayats Presidents of taluka panchayats and other panchas in the district ;

4. *In the sphere of administration --*

- (a) collection of necessary stores and materials ;
- (b) publication of statistical and other information relating to activities of panchayats ;
- (c) co-ordination and use of statistics and other information required for the activities of the village panchayats, nagar panchayats, taluka panchayats and district panchayats ;
- (d) periodical supervision and evaluation of the projects and programmes entrusted to the different panchayats in the district ;
- (e) accepting donations in the furtherance of the purposes for which fund might have been raised ;

5. *In the sphere of community development--*

(a) co-ordination and integration of the development schemes of all talukas in the district and preparing a plan therefore, for the whole district ;

(b) preparation of projects, plans and schemes concerning two or more talukas in the district ;

(c) (i) promoting the establishment and development of panchayats;

(ii) inspection, regulation and control of the taluka panchayats in the district ;

(iii) performance of all such functions as are assigned to it under any law or as may be assigned by the State Government from time to time ;

(d) implementation of any development programme that may be entrusted by the State Government ;

(e) distribution and co-ordination of work among gram panchayats, nagar panchayats, taluka panchayats and district panchayats.

6. *In the sphere of agriculture--*

(a) undertaking intensive pioneering schemes relating to paddy, wheat, bajari, juwar, ground-nuts and cotton ;

(b) construction and maintenance of buildings for seeds distribution centres ;

(c) implementation of schemes of urban manure ;

(d) promoting the planting of coconut-palm ;

(e) arranging for the purchase and sale of necessary equipment for the protection of plants.

(f) arranging for the purchase and sale of insecticides.

(g) establishment and maintenance of model agricultural farms ;

(h) procuring and distributing improved seeds ;

(i) implementing schemes relating to agricultural production and agricultural development ;

(j) arranging exhibitions as, competitions and other programmes in connection with agricultural development and cattle-breeding.

7. *In the sphere of animal husbandry--*

(a) establishment and maintaining supply-centres for cattle-breeding ;

(b) giving encouragement and assistance to cattle-breeding centres run by recognised institutions ;

(c) the implementation of schemes of key villages ;

(d) the implementing of the schemes of Goshala development ;

(e) provision for the rearing of stud calves ;

(f) the development of grass-lands ;

(g) encouraging and assisting schemes for the storage of grass ;

(h) implementing schemes of poultry farming ;

(i) the implementation of the schemes of cattle-breeding ;

(j) establishment and maintaining veterinary hospitals and dispensaries.

8. *In the sphere of village and small scale industries --*

(a) examining the possibilities of village industries and small-scale industries in the district, preparation and execution of plans for their revival, organisation and development ;

(b) providing for necessary assistance and encouragement of technical training to village workers in village industries and small-scale industries relating to their crafts ;

(c) establishing, maintaining, expanding and aiding secondary, technical and industrial schools.

9. *In the sphere of Social Welfare ---*

(a) providing necessary assistance and encouragement to the work of institutions of social service ;

(b) conducting necessary social welfare activities in the district ;

(c) arranging fairs and festivals other than fairs and festivals arranged by the State Government.

10. *In the sphere of relief ---*

Establishment and management of relief centres in times of natural calamities such as famine and scarcity, floods, fire and earthquake.

11. *In the sphere of minor irrigation projects --*

(a) provision for irrigation by canals from tanks and bunds ;

(b) the implementation of the schemes of tube-wells ;

(c) digging new wells and repairing old wells for irrigation ;

(d) giving assistance for the purchase of pumping sets and machinery ;

(e) provision and propaganda for improved Kcs ;

(f) providing detenters and boring equipment for wells ;

(g) encouraging and assisting irrigation schemes on a co-operative basis.

PART II.

[See Section 131 (2) .]

FUNCTIONS AND DUTIES OF THE EDUCATION COMMITTEE OF A DISTRICT PANCHAYAT.

It shall be the duty of the education committee of a district panchayat--

(a) to undertake all educational activities;

(b) to undertake the planning of education in the district within the frame-work of the national policy and the national plan;

- (c) to survey and evaluation of educational activities;
- (d) to act as a channel for the State Government in regard to primary education to reach panchayat;
- (e) to make suggestions as to courses of study for being determined by the State Government;
- (f) to make suggestions as to the selection of text-books by the State Government;
- (g) to implement any programme in regard to secondary education entrusted to the district panchayat by the State Government;
- (h) to arrange for the inspection of primary schools managed by the taluka panchayat and to conduct their examinations;
- (i) to supervise the working of all primary schools and of such other educational institutions under the control of the District Panchayat as that Panchayat may decide from time to time;
- (j) to supervise the activities of Gram Panchayats and Nagar Panchayats within the jurisdiction of the District Panchayat to ensure that each such Panchayat pays its contribution to the school funds, if any, and to bring cases of default to the notice of the Educational Inspector of the District and generally to guide them to maintain and improve primary school or schools in their charge.
- (k) to accept and manage educational funds;
- (l) to assist, encourage and guide all educational activities in the district;
- (m) to discharge the following duties if the district panchayats makes provision for secondary and other education—
 - (i) to conduct secondary schools providing for diversified courses in rural areas where private enterprise is not available and to introduce a number of High School Scholarships for poor and deserving in rural area;
 - (ii) to conduct hostels for High Schools as well as for pupils in Standards V to VII;
 - (iii) to provide for part-time education of children who leave school at about the age of 11 and of the children whose age is between 11 and 14 years and who are absolutely illiterate;
 - (iv) to make arrangements for vocational education in rural areas;
 - (v) to push the scheme of social education classes; village libraries and pre-primary education;
 - (vi) to recognise and aid gymnasia and to organise recreational centres and holiday and school camps.



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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Government

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GUJARAT ACT No. OF XXVI 1962.-- An Act to amend the Gujarat Panchayats Act, 1961.	PAGES 365-371
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The following Act of the Gujarat Legislature having been assented to by the Governor on the 13th August 1962, is hereby published for general information.

M. G. MONANI,

Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. XXVI OF 1962

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 18th August 1962).

An Act to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Thirteenth Year of the Republic of India, as follows :—

1. This Act may be called the Gujarat Panchayats (Amendment) Act, 1962. Short title.

Guj. VI of 1962 2. In section 1 of the Gujarat Panchayats Act, 1961, (hereinafter referred to as "the principal Act"), in sub-section (3) for the words "in such district and on such date" the words "in respect of such class of panchayats, in such district and on such dates" shall be, and shall be deemed always to have been, substituted. Amendment of section of Guj. Act of 1962.

Amendment
of section 2
of Guj. VI
of 1962.

3. In section 2 of the principal Act, —

(a) in clause (3) after the word “buffaloes,” the word “horses,” shall be inserted; and

(b) in clause (23) the words “of which the relevant figures have been published” shall be deleted.

Amendment
of section 10
of Guj. VI
of 1962.

4. In section 10 of the principal Act, —

(a) in clause (i), after the word “Code” the following shall be inserted, namely : —
“except the area over which a district panchayat has no authority under section 8”; and

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

“except the area over which a taluka panchayat has no authority under section 8”.

Amendment
of section 14
of Guj. VI
of 1962.

5. In section 14 of the principal Act, —

(1) in sub-section (1), —

(a) in clause (iii) after the words “within the taluka” the words “or the area of operation of which includes the whole or a part of the area of the taluka” shall be inserted;

(b) to clause (iii), the following proviso shall be, and shall be deemed always to have been, added, namely :—

“Provided that in the case of the constitution of a taluka panchayat for the first time the number of members shall be determined by the State Government;”;

(2) after sub-section (4), the following sub-sections shall be inserted, namely :—

“(5) Where any *ex-officio*, elected, appointed or co-opted member of a taluka panchayat is also a member of Parliament, he shall cease to be such member.

(6) An associate member of the panchayat shall have the right to speak and otherwise take part in the proceedings of the panchayat but shall not be entitled to vote or to be a member of any committee constituted under section 111 or 113.”.

Amendment
of section 15
of Guj. VI
of 1962.

6. In section 15 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely :—

“(5) An associate member of the panchayat shall have the right to speak and otherwise to take part in the proceedings of the panchayat but shall not be entitled to vote or to be a member of any committee constituted under section 131 or 133.”.

Amendment
of section 19
of Guj. VI
of 1962.

7. In section 19 of the principal Act, in clause (a) of sub-section (1), after the words “district panchayat” the words “or the competent authority until the district panchayat is duly constituted for the first time” shall be inserted.

8. In section 56 of the principal Act, in sub-section (2) for the words "a residence in the headquarters of the panchayat" the words "a residence, in the headquarters of the panchayat or with the previous sanction of the State Government at any other place in the taluka" shall be substituted. Amendment of section 56 of Guj. VI of 1962.

9. In section 60 of the principal Act,—

(1) in sub-section (1), after the word "member" the words "other than an associate member" shall be inserted; Amendment of section 60 of Guj. VI of 1962.

(2) in sub-section (2), after the words "then members of the panchayat" the words "other than associate members" shall be inserted.

10. In section 62 of the principal Act in clause (b) of sub-section (1), for the words "for four consecutive months from the meetings" the words "from four consecutive meetings" shall be substituted. Amendment of section 62 of Guj. VI of 1962.

11. In section 65 of the principal Act,—

(1) in sub-section (1),—

(a) after the words "by the election of a President or Vice-President or" the words "according as the vacancy is in the office of an elected or co-opted member, by election or co-option of a" shall be inserted; Amendment of section 65 of Guj. VI of 1962.

(b) after the word "elected" the words "or co-opted" shall be inserted;

(c) in the first proviso, after the word "elected" where it occurs at three places, the words "or co-opted" shall be inserted;

(2) in sub-section (2), for the words "a President Vice-President or member" the words "a President or Vice-President" shall be substituted;

(3) in sub-section (3), for the words "such officer as the Taluka Development Officer may authorise" the words "the Taluka Development Officer or such other officer as he may authorise" shall be substituted.

12. In section 68 of the principal Act, in sub-section (2), for the words "to the use of a residence" the words "to the use of a residence, in the headquarters of the panchayat or with the previous sanction of the State Government at any other place in the district" shall be substituted. Amendment of section 68 of Guj. VI of 1962.

13. In section 72 of the principal Act,—

(1) in sub-section (1), after the word "member" the words "other than an associate member" shall be inserted; Amendment of section 72 of Guj. VI of 1962.

(2) in sub-section (2), after the words "then members of the panchayat" the words "other than associate members" shall be inserted.

14. In section 74 of the principal Act, in clause (b) of sub-section (1), for the words "for four consecutive months from the meetings" the words "from four consecutive meetings" shall be substituted. Amendment of section 74 of Guj. VI of 1962.

Amendment
of section 77
of Guj. VI
of 1962.

15. In section 77 of the principal Act,

(1) in sub-section (1)—

(a) after the words "by the election of a President or Vice-President or" the words "according as the vacancy is in the office of an elected or co-opted member, by election or co-optation of a" shall be inserted ;

(b) after the word "elected" the words "or co-opted" shall be inserted ;

(c) in the first proviso after the word "elected" where it occurs at three places, the words "or co-opted" shall be inserted ;

(2) in sub-section (2) for the words "a President, Vice-President or member" the words "a President or Vice-President" shall be substituted ;

(3) in sub-section (3) for the words "such officer as the District Development Officer may authorise" the words "District Development Officer or such other officer as he may authorise" shall be substituted ;

Amendment
of section 103
of Guj. VI
of 1962.

16. In section 103 of the principal Act, for the words "the District Development Fund" the words and figures "the District Development Fund constituted under section 199" shall be substituted.

Amendment
of section 109
of Guj. VI
of 1962.

17. In section 109 of the principal Act, in clause (a) of sub-section (5), for the figures "178" the figures "317" shall be substituted.

Amendment
of section 138
of Guj. VI
of 1962.

18. To section 138 of the principal Act, the following marginal note shall added, namely :

"Other functions of panchayats".

Amendment
of section 139
of Guj. VI
of 1962.

19. In section 139 of the principal Act, in the proviso to sub-section (1), for the word, brackets and figure "sub-section (2)" the word, brackets and letter "clause (b)" shall be substituted.

Amendment
of section 157
of Guj. VI
of 1962.

20. In section 157 of the principal Act,

(1) in sub-section (1)—

(a) for the words "any such functions, and duties relating to any matter as are performed" the words "any such powers, functions, and duties relating to any matter as are exercised or performed" shall be substituted ;

(b) for the words "to discharge" the words "to exercise the powers and discharge" shall be substituted ;

(2) in sub-section (2) for the words "such functions and duties as are performed" the words "such powers, functions and duties as are exercised or performed" shall be substituted ;

(3) in sub-section (3)—

(a) for the words "any functions and duties" the words "any powers, functions and duties" shall be substituted,

(b) for the words "to discharge the functions and duties" the words "to exercise the powers and discharge the functions and duties" shall be substituted;

(4) in sub-section (1), for the words "any functions and duties" the words "any powers, functions and duties" shall be substituted.

21. In the proviso to section 172 of the principal Act, for the words "to pay the cess" the words "to pay the land revenue" shall be substituted. Amendment of section 17 of Guj. V of 1962.

22. In section 183 of the principal Act, in the second proviso to sub-section (1), in clause (i) Amendment of section 18 of Guj. V of 1962.

(a) for the words "consent of the Government concerned" the words "consent of the Government, or as the case may be, the district panchayat concerned" shall be substituted; and

(b) for the words "or the taluka panchayat or" the words "or the" shall be substituted.

23. In section 185 of the principal Act, in the second proviso to sub-section (1) in clause (i) Amendment of section 18 of Guj. V of 1962.

(a) for the words "consent of the Government concerned" the words "consent of the Government, or as the case may be, the taluka panchayats concerned" shall be substituted;

(b) the words "or district panchayat" shall be deleted.

24. In section 229 of the principal Act, under the heading "(a) under the Indian Penal Code:" for the entry "Criminal intimidation...506" the entry "Criminal intimidation...506 first part" shall be substituted. Amendment of section 29 of Guj. V of 1962.

25. In section 306 of the principal Act, in clause (d) for the words " "panchayat" means" the words " "panchayat" includes" shall be substituted. Amendment of section 30 of Guj. V of 1962.

26. In the principal Act, after section 310 the following new section shall be inserted, namely:— Insertion of new section 310-A in Guj. VI of 1962.

"310A. (1) When, on account of the constitution of a new district or taluka under the Land Revenue Code, or for any other reason, the limits of a district, or as the case may be, a taluka are, during the term of office of the members of the district panchayat or as the case may be, the taluka panchayat, altered, the State Government may, by order published in the *Official Gazette* dissolve such district panchayat or taluka panchayat from a date specified in the order and direct— Power of State Government to dissolve and reconstitute district and taluka panchayats on the alteration of limits of district or taluka

(i) that the district panchayat, or as the case may be, the taluka panchayat be reconstituted for the district or the taluka of which the district panchayat or the taluka panchayat has been dissolved, or

(ii) that a district panchayat or taluka panchayat be established for a new district, or as the case may be, a new taluka which has been constituted.

The members of the panchayat which has been dissolved shall vacate their offices from the date specified in the order.

(2) The panchayat reconstituted or established under the provisions of sub-section (1) shall consist of members nominated by the State Government. Such members shall, so far as may be practicable in the opinion of the State Government, be persons who were members of the district or taluka panchayat, as the case may be, which has dissolved under sub-section (1).

The President and Vice-President of a panchayat so reconstituted or established shall be elected in the manner provided in this Act.

(3) The members of a panchayat reconstituted or established under the provisions of sub-section (1) shall hold office for such period, not exceeding four years, as the State Government shall, by order in writing, specify.

(4) On the expiry of the period of office of the members of a panchayat under the provisions of sub-section (3), the district panchayat or as the case may be, the taluka panchayat shall be constituted under section 17.

(5) When a panchayat has been dissolved and reconstituted or established under the provisions of sub-section (1), so much of the fund and other property of the panchayat which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to, the panchayat reconstituted or established under sub-section (1) as the State Government may, by order in writing direct.

(6) The rights and liabilities of the panchayat which has been dissolved in respect of civil and criminal proceedings, contracts, agreements and any other matter or thing arising in or relating to any part of the area subject to the authority of the panchayat reconstituted or established, shall vest in such panchayat.

(7) Any notification, notice, tax, order, scheme, licence, permission, rule, bye-law or form issued, imposed, granted or made by the panchayat which has been dissolved in respect of any part of the area subject to the authority of the panchayat which has been reconstituted or established shall be deemed to have been issued imposed, granted or made by such panchayat, unless and until it is superseded by any other notification, notice, tax, order, scheme, licence, permission, rule, bye-law or form.

amendment section 321 of the principal Act, in sub-section (3) the words and figures "of the First Class exercising appellate jurisdiction under section 407 of the Code of Criminal Procedure, 1898," shall be deleted.
Guj. VI of 1962.

amendment section 325 of the principal Act, in sub-section (3) of section 325, in clause (xiii), for the words "any reference to" the words "any reference in" shall be substituted.
Guj. VI of 1962.

amendment heading of Chapter XVIII, for the heading "Miscellaneous provisions" the heading "(1) Miscellaneous provisions" shall be substituted.
Chapter XV of Guj. VI of 1962.

30. In the principal Act, after section 328, the following heading and section shall be inserted, namely:—

Insertion of
new section
329 in G.
VI of 196

“(2) Transitional Provisions.

329 (1) Until a taluka panchayat or district panchayat for a taluka or as the case may be, district is duly constituted under this Act for the first time and its first meeting is held, its powers, functions and duties in relation to the gram panchayats and nagar panchayats in the taluka or district shall be exercised and performed by the State Government or such officer as may be authorised by the State Government.

Powers and
functions of
taluka pa-
chayat to be
performed
by State Government
or authorised officer
in certain
cases.

(2) Anything done or any action taken by the State Government or the officer so authorised in the exercise of the powers and the performance of the functions and duties under sub-section (1) shall be binding on the taluka panchayat or, as the case may be, district panchayat, when it is so duly constituted.”



The Gujarat Government Gazette

EXTRAORDINARY

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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

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The following Act of the Gujarat Legislature, having been assented to by the Governor on the 29th December 1962, is hereby published for general information.

AKBAR S. SARELA,
 Secretary to the Government,
 Legal Department.

GUJARAT ACT NO. I OF 1963

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 1st January 1963).

An Act further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Thirteenth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Panchayats (Amendment) Act, 1962. Short title.
2. To clause (iii) of sub-section (1) of section 14 of the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), after the proviso the following proviso and Explanation shall be added and shall be deemed always to have been added, namely :— Amendment of section 14 of Guj. VI of 1962.

“ Provided further that where the area of operation of a co-operative society falls within the limits of more than one taluka, the Chairman of the society shall not be eligible to vote or stand for election under this clause except in the taluka which corresponds to or forms part of the revenue taluka or mahal in which the head office of the society is located.

Explanation :— In this clause “ revenue taluka or mahal” means a taluka or mahal as constituted under the Land Revenue Code”.

Substitution
of new section
for section
298 of Guj.
VI of 1962.

3. For section 298 of the principal Act, the following shall be substituted, namely :—

Consequences
of alteration of
limits of gram
or nagar.

“298. (1) When by a notification under sub-section (2) of section 9 the limits of any gram or nagar are altered so as to—

- (a) include any area therein, or
- (b) exclude any area therefrom,

the State Government may, notwithstanding anything contained in this Act or any other law for the time being in force, by order published in the *Official Gazette*, provide for all or any of the following matters, namely :—

(i) in a case falling under clause (a), the interim increase in the number of the members of the gram panchayat or, as the case may be, nagar panchayat by appointment of additional members by the State Government;

(ii) in a case falling under clause (b), the removal of the members of the gram panchayat or, as the case may be, nagar panchayat, who in the opinion of the State Government represent the area excluded from the gram or, as the case may be, nagar :

Provided that where the area so excluded has been included in any other gram or nagar, the members so removed shall be appointed as additional members of the panchayat of such gram or nagar;

(iii) the term for which the additional members so appointed shall hold office and the manner of filling casual vacancies;

(iv) allocation of any officer or servant of the panchayats affected by the alteration of the limits.

(2) The panchayat, if any, constituted for the gram or nagar and functioning immediately, before the alteration of the limits shall, subject to the addition or exclusion of members under sub-section (1), continue to function until the ex-

piry of its term under this Act and on such expiry it shall be reconstituted in the manner provided in this Act.

(3) The Nyaya Panchayat constituted for the respective gram or nagar shall, notwithstanding the alteration of the limits of the gram or nagar, continue to function in the gram or nagar as constituted with the altered limits, until the expiry of its term under this Act.

(4) If in altering the limits of any gram or nagar, the area excluded therefrom is included in any other gram or nagar, then—

(a) such portion of the gram or nagar fund, debts, obligations and other property of the gram or nagar from which the area is so excluded shall be transferred to and shall vest in, the panchayat of the gram or nagar in which such area is included, as the State Government may, by order in writing direct;

(b) the rights and liabilities of the panchayat in respect of any contracts, agreements and other matters and things, arising in or relating to the area so excluded shall vest in the panchayat of the gram or nagar in which the area is so included;

(c) any notice, tax, fee, cess, order, licence, permission, rule, or by-law issued, imposed, granted or made in respect of the area so excluded shall be deemed to have been issued, imposed, granted or made in respect of the panchayats in which the area is so included and shall continue in force until it is superseded under the provisions of the law applicable thereto;

(d) all proceedings relating to the area excluded from the gram or nagar and pending before the panchayat or the Nyaya Panchayat on the date of such exclusion shall be transferred to and disposed of by the panchayat, or, as the case may be, the Nyaya Panchayat of the gram or nagar in which the area is included.”

4. Section 299 of the principal Act shall be deleted.

Deletion of section 299 of Guj. VI of 1962.

5. In section 302 of the principal Act, in sub-section (1), the word and figures “or 298” shall be deleted.

Amendment of section 302 of Guj. VI of 1962.

6. After section 307 of the principal Act, the following section shall be inserted, namely :—

Insertion of new section 307 A in Guj. VI of 1962.

Validating provisions in respect of certain local areas declared as grams or nagars.

"307A. Where any local area declared as gram or nagar under sub-section (1) of section 9 before the commencement of the Gujarat Panchayats (Amendment) Ordinance, 1962, consisted of an area within the limits of a municipal district or municipal borough and an area outside such limits, the provisions of section 307 shall apply and shall be deemed always to have been applied, to such local area, as if the area outside such limits had been within such limits when the local area was so declared as gram or nagar and an interim panchayat constituted, if any, for the gram or nagar, as the case may be, under clause (b) of section 307 shall be deemed to have been constituted for the whole of the gram or nagar comprising the local area so declared; and accordingly the consequences ensuing under section 307 shall be deemed to have ensued in respect of the local area so declared and shall be valid and shall not be called in question merely on the ground that the local area so declared was not co-extensive with the limits of the municipal district or municipal borough."

Guj.
Ord.
X of
1962.

Repeal of Guj. Ord. No. X of 1962.

7. The Gujarat Panchayats (Amendment) Ordinance, 1962, is hereby repealed and the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904 shall apply to such repeal as if that Ordinance were an enactment.

Guj.
Ord.
No. X
of
1962.

Bom.
1 of
1904.



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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 5th April 1963, is hereby published for general information.

M. G. MONANI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. XVI OF 1963.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 5th April 1963).

An Act to provide for the cancellation of the suspension of the provisions of the Gujarat Panchayats Act, 1961, and to amend that Act to provide for an interim constitution of district panchayats and to provide for certain other matters.

It is hereby enacted in the Fourteenth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Panchayats Laws (Amendment) Act, 1963.

2. With effect on and from the date of the commencement of the Gujarat Panchayats Laws (Amendment) Ordinance, 1963—

(1) section 3 of the Gujarat Panchayats (Suspension of Provisions and Reconversion of certain local areas into Municipal Districts) Act, 1962 shall stand repealed, and

(2) those provisions of the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act") the operation of which was suspended under the said section 3, shall be operative.

Guj.
Ord.
I of
1963.

Guj.
IX of
1963.

Guj.
VI of
1962.

Repeal of
section 3 of
Guj. IX of
1963.

Amendment of Guj. VI of 1962. 3. The principal Act shall be amended in the manner and to the extent specified in the Schedule appended hereto.

Amendment of Bom. III of 1959. 4. In section 146 of the Bombay Village Panchayats Act, 1958, in sub-section (3), for the words "one year" the words "three years" shall be substituted.

Repeal of Guj. Ord. I of 1963. 5. The Gujarat Panchayats Laws (Amendment) Ordinance, 1963 is hereby repealed and the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904 shall apply to such repeal as if that Ordinance were an enactment.

SCHEDULE

(See section 3.)

Amendments to the Gujarat Panchayats Act, 1961.

1. In section 2 after clause 24, the following clause shall be inserted, namely:—
“(24A) ‘revenue district’ or ‘revenue taluka’ means a district or, as the case may be, a taluka or mahal constituted under the Land Revenue Code;”.

2. In section 14—

(1) in sub-section (1), under the heading “(C) Co-opted members” after clause (vii) the following proviso shall be inserted, namely:—

“ Provided that no person shall be eligible for being co-opted under clause (iv), (v), (vi) or (vii) unless his name is in the electoral roll of the Gujarat Legislative Assembly pertaining to the area of the taluka.”;

(2) in sub-section (1), under the heading “(D) Associate members” in clause (x), for the words “within the taluka” the words “within the revenue taluka” shall be substituted;

(3) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) An associate member of the panchayat shall have the right to speak or otherwise to take part in the proceedings of the panchayat but shall not be entitled to vote. He may also speak or otherwise take part in the proceedings of any committee of the panchayat as may be prescribed by rules but he shall not be entitled to vote.”.

3. In section 15,

(A) in sub-section (1)—

(1) in clause (vi) for the words “in the area within the jurisdiction of the district panchayat” the words “in the revenue district” shall be substituted;

(2) in clause (vii) after the words “district panchayat” the words “or part thereof” shall be inserted;

(3) in clause (viii) and in clause (ix) for the word “district” the words “revenue district” shall be substituted;

(B) for sub-section (5), the following shall be substituted; namely:—

“(5) An associate member of the panchayat shall have the right to speak or otherwise to take part in the proceedings of the panchayat but shall not be entitled to vote. He may also speak or otherwise take part in the proceedings of any committee of the panchayat as may be prescribed by rules but he shall not be entitled to vote.”.

4. After section 15 the following section shall be inserted, namely:—

"15 A. (1) Notwithstanding anything contained in section 15, or any other provisions of this Act, where a district panchayat is to be constituted for the first time at any time during the period during which the Proclamation of Emergency is in force and thereafter during such period not exceeding six months as the State Government may by notification in the *Official Gazette* specify, the following provisions of this section shall apply thereto.

Constitution of interim district panchayat and consequential provisions.

(2) Such district panchayat shall consist of the following members, namely:-

(A) *Elected members*

(i) such members of the district local board constituted for the district under the Bombay Local Boards Act, 1923 and functioning on the date of the coming into force of the Gujarat Panchayats Laws (Amendment) Ordinance, 1963 as are holding office on such date as the State Government may by order specify in this behalf;

(B) *Ex-Officio members*

(ii) the Presidents and Vice-Presidents of all the taluka panchayats in the district:

Provided that in the absence of any such *ex-officio* member or where any such *ex-officio* member becomes an associate member under sub-section (5), such member as the taluka panchayat may in the prescribed manner elect shall act as an *ex-officio* member in his place;

(C) *Co-opted members*

(iii) two representatives of the district school board of the district recommended by that board from amongst its members by passing a resolution in that behalf before such date as the State Government may by order specify:

Provided that in the absence of a district school board or where a district school board fails to so recommend its representatives, the State Government may nominate two persons from amongst the members of the district school board or from amongst the persons residing in the district;

(D) *Associate members*

(iv) members of the Council of States residing in the revenue district;

(v) members of the House of the People elected from the areas within the jurisdiction of the district panchayat or part thereof;

(vi) members of the Gujarat Legislative Assembly elected from the area within the jurisdiction of the district panchayat or part thereof;

(vii) the Collector of the revenue district;

(viii) Presidents of all the municipalities situate within the revenue district.

(3) The district panchayat shall have a President and Vice-President elected by its elected, *ex-officio* and co-opted members from amongst themselves.

(4) A President of a taluka panchayat, if elected as the President of the district panchayat under sub-section (3), shall vacate his office of the President of the taluka panchayat but shall continue to be an *ex-officio* member of the district panchayat.

(5) Where any elected, *ex-officio* or co-opted member of such district panchayat is or becomes a member of the Gujarat Legislative Assembly or of Parliament, he shall cease to be such member of the panchayat but shall continue as an associate member thereof.

Bom.
VI of
1923.

Guj.
Ord. I
of
1963.

(6) An associate member of the panchayat shall have the right to speak or otherwise to take part in the proceedings of the panchayat but shall not be entitled to vote. He may also speak or otherwise take part in the proceedings of any committee of the panchayat as may be prescribed by rules but he shall not be entitled to vote.

(7) In a district for which a district panchayat is constituted under this section, the members specified in clause (i) of sub-section (2) shall, in addition to their being members of the district panchayat, continue to be members of the district local board until its dissolution under section 326, and on such dissolution shall continue to be members of the district panchayat, notwithstanding their vacating office as members of the district local board under clause (a) of that section.

(8) The term of a district panchayat constituted under this section shall be such period, not exceeding two years in the aggregate from the date of its first meeting, as the State Government may from time to time by notification in the *Official Gazette* specify.

(9) Any vacancy in the office of a member holding office under clause (i) or (iii) of sub-section (2) shall be filled by nomination by the State Government and the person so nominated shall hold office so long only as the member in whose place he has been nominated would have held office had the vacancy not occurred.

(10) Section 43 shall have effect as if the words "or a district panchayat, as the case may be", the words "or district panchayat" where they occur at two places and the word "relevant" had been deleted therefrom.

(11) Section 67 shall have effect as if for sub-section (2) thereof the following sub-section had been substituted, namely:—

"(2) The meeting shall be on such day as may be fixed by the competent authority."

(12) Nothing in this section shall affect the operation of the provisions of this Act in respect of a district panchayat constituted under this section in so far as they are not inconsistent with this section.

Explanation.— In this section "Proclamation of Emergency" means the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution on the 26th October 1962."

5. In section 44, in sub-section (6), after the words "shall be referred" the words "within a period of thirty days from the date of the declaration of the result of the election" shall be inserted.

6. After section 44, the following section shall be inserted, namely:—

"44 A. (1) On the election of a new Sarpanch or Upa-Sarpanch or a new Chairman or Vice-Chairman, it shall be the duty of the retiring Sarpanch or, as the case may be, Upa-Sarpanch, Chairman or Vice-Chairman to hand over to him charge of his office and deliver to him the record and property belonging to the panchayat and in his custody.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* to a retiring member in the matter of handing over charge of his office."

7. In section 55, in sub-section (6), after the words "shall be referred" the words "within a period of thirty days from the date of the declaration of the result of the election" shall be inserted.

Duty of retiring Sarpanch etc. to hand over charge of office.

8. After section 55, the following section shall be inserted, namely:—

“55A. (1) On the election of a new President or Vice-President, it shall be the duty of the retiring President or, as the case may be, Vice-President to hand over to him charge of his office and deliver to him the record and property belonging to the panchayat and in his custody. Duty of retiring President etc., to hand over charge of office.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* to a retiring member in the matter of handing over charge of his office.”.

9. In section 67, in sub-section (6), after the words “shall be referred” the words “within a period of thirty days from the date of the declaration of the result of the election ” shall be inserted.

10. After section 67, the following section shall be inserted, namely:—

“67A. (1) On the election of a new President or Vice-President, it shall be the duty of the retiring President or, as the case may be, Vice-President to hand over to him charge of his office and to deliver to him the record and property belonging to the panchayat and in his custody. Duty of retiring President etc., to hand over charge.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* to a retiring member in the matter of handing over charge of his office.”.

11. In section 131, in clause (i) of sub-section (1), for the words and figures “Part II of Schedule II” the words and figures “Part II of Schedule III” shall be substituted.

12. In section 158, in sub-section (1), for the words “of this Act” the words “of this section” shall be substituted.

13. In section 206, in sub-section (1),

(1) in clause (i), for the figures and word “155, 157 and 325” the figures and word “157, 158 and 325” shall be substituted;

(2) in clause (ii) for the figures “158” the figures “155” shall be substituted.

14. In section 214 after sub-section (3) the following shall be inserted, namely :—

“(4) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section the dispute shall be referred within a period of thirty days from the date of the declaration of the result of the election, to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.”.

15. In section 246, in sub-section (1) for the words “administrative panch” the words “Chairman of the Nyaya Panchayat” shall be substituted.

16. In section 281, for the words and figures “section 232 or section 233” the words and figures “section 234 or section 235” and for the figures and word “230 and 231” the figures and word “232 and 233” shall be substituted.

17. In section 306, in clause (c) for the figures “216” the figures “219” shall be substituted.

18. In section 307—

(1) for the words and figures beginning with the words “When any local area” and ending with the words and figure “to be a gram or nagar under section 9” the following shall be substituted, namely :—

"Where any local area is declared to be a gram or nagar under section 9 and, immediately before such declaration, the local area was co-extensive with the limits of a municipal district or a municipal borough or included an area comprising a municipal district or municipal borough as well as any other area,";

(2) in clause (a) for the words "of such local area" the words "functioning in such local area or part thereof" shall be substituted;

(3) to clause (b) the following proviso shall be added, namely :—

"Provided that if immediately before the municipality so ceasing to exist, there be a person or persons appointed under section 179 or, as the case may be, 219 of the relevant municipal law referred to in clause (c) of section 306 to exercise the powers and perform the duties of the municipality, there shall be an interim gram panchayat or, as the case may be, an interim nagar panchayat for the local area and the person or persons so appointed shall be deemed to be a person or persons appointed under clause (a) of sub-section (4) of section 297 to exercise all the powers and perform all the duties of such interim gram panchayat or, as the case may be, interim nagar panchayat;"

(4) after clause (j), the following clause shall be inserted, namely :—

"(k) any law (other than the municipal law) or any rule, bye-law, notification or order issued under such law, which was applicable to and in force in the local area immediately before it was declared as a gram or nagar under section 9, shall continue to apply to and to be in force in the local area until it is superseded by or under a law."

19. In section 318—

(1) in sub-section (1),

(a) for the words "from panchayat" the words "from a panchayat" shall be substituted;

(b) for the words "any record or money" the words "any record, money or other property" shall be substituted;

(c) for the words "after his removal" the words "after his retirement, removal" shall be substituted;

(d) for the words "such record" the words "such record or property" shall be substituted, and

(e) for the words "the record or money" the words "the record, property or money" shall be substituted;

(2) in sub-section (2),

(a) for the words "deliver the record" the words "deliver the record or property" shall be substituted; and

(b) for the words "delivers up the record" the words "delivers the record or property" shall be substituted ;

(3) in sub-section (3), in clause (b), for the words "such record" the words "such record or property" shall be substituted;

(4) after sub-section (4) the following Explanation shall be inserted, namely:—

Explanation.—In this section the word “member” includes a Sarpanch, Upa-Sarpanch, Chairman, Vice-Chairman, President and Vice-President of a panchayat.”

20. In section 325, in sub-section (2),

(1) in clause (i), for the words “coming into force of this Act” the words “date of the coming into force of this section”,

(2) in clause (viii), for the words “the date of the commencement of this Act” the words “the said date”, and

(3) in clause (ix), for the words “before the commencement of this Act” the words “before the said date” shall be substituted.

21. In section 326,—

(1) in clause (1), after the words “the said Act” the words “or any authority constituted, elected or appointed thereunder”, and after the words “of this Act” the words “or as the case may be, to the corresponding authority constituted, elected or appointed under this Act” shall be inserted;

(2) in clause (n), the word “existing” shall be deleted where it occurs for the second and third times, and for the words “above paragraph” the words “foregoing paragraphs” shall be substituted.

22. In section 327, for the words “commencement of this Act” where they occur at two places the words “commencement of this section” shall be substituted.

23. After section 329, the following heading and section shall be inserted, namely:—

“(3) *Temporary provisions.*

330. (1) Notwithstanding anything contained in this Act, during the period during which the Proclamation of Emergency, issued under clause (1) of article 352 of the Constitution on the 26th October 1962, is in force and thereafter during such period not exceeding six months as the State Government may, by notification in the *Official Gazette*, appoint in this behalf, no vacancy in the office of a member of a panchayat, which according to the provisions of this Act has to be filled by election shall be so filled and the competent authority may fill such vacancy by appointing thereto a person from amongst the persons qualified to be elected under this Act. Vacancy to be filled by nomination.

(2) Any person appointed under sub-section (1) shall hold office so long only as the member in whose place he has been appointed would have held office had the vacancy not occurred.”



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Separate paging is given to this part in order that it may be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

[The following Act of the Gujarat Legislature, having been assented to by the President on the 2nd December 1963, is hereby published for general information.]

AKBAR S. SARELA,
Secretary to Government,
Legal Department.

GUJARAT ACT NO. LIII OF 1963.

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 3rd December 1963.)

An Act further to amend the Gujarat Panchayats Act, 1961, for certain purposes.

It is hereby enacted in the Fourteenth Year of the Republic of India as follows:

1. This Act may be called the Gujarat Panchayats (Second Amendment) Act, 1963. Short title.

2. In section 9 of the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in sub-section (2)— Amendment of section 9 of Guj. VI of 1962.

(1) in clause (b), the word "or" shall be added at the end;

(2) after clause (b), the following clause shall be inserted, namely:—

(c) having regard to clauses (a) and (b) of sub-section (1), declare the whole area comprised in a gram or the part thereof to be a nagar or two or more grams or the whole area comprised in a nagar to be a gram or two or more grams;

(3) for the words "or, as the case may be, the local area shall cease to be a nagar or gram" the words "or the local area shall cease to be a nagar or gram or, as

the case may be, the area declared to be a nagar or gram shall be a nagar, or gram as the case may be" shall be substituted.

Amendment
of section 14
of Guj. VI
of 1962.

3. In section 14 of the principal Act,—

(1) in sub-section (1)—

(a) in clause (iii), the Explanation shall be deleted;

(b) in clause (x), after the word "taluka" the words "or mahal and where any administrator or person has been appointed to perform the functions and exercise powers of any such municipality, such administrator or person," shall be inserted;

(2) in sub-section (3), for the word "vacate" the words "cease to hold" shall be substituted.

Amendment
of section 15
of Guj. VI
of 1962.

4. In section 15 of the principal Act,—

(1) in sub-section (1),—

(a) in clause (ii), after the words "own members" the words "other than associate members" shall be inserted;

(b) in clause (iii), in the second proviso, for the word "shall" the word "may" shall be substituted;

(c) in clause (ix), after the words "revenue district" the words "and where any administrator or person has been appointed to perform the functions and exercise the powers of any such municipality, such administrator or person" shall be inserted;

(2) in sub-section (3), for the word "vacate" the words "cease to hold" shall be substituted.

Amendment
of section 18
of Guj. VI
of 1962.

5. In section 18 of the principal Act,—

(1) in sub-section (1), for the words "the District Development Officer" the words "in the case of a taluka panchayat or district panchayat, the District Development Officer and in the case of a gram panchayat or nagar panchayat the Taluka Development Officer" shall be substituted;

(2) in sub-section (3), for the words "by the District Development Officer in the prescribed manner" the words "in the prescribed manner in the case of a taluka panchayat or district panchayat by the District Development Officer and in the case of a gram panchayat or nagar panchayat by the Taluka Development Officer" shall be substituted.

Insertion of
sections 22A
and 22B in
Guj. VI of
1962.

6. After section 22 of the principal Act, the following sections shall be inserted, namely:—

Restriction
on simultane-
ous or double
membership.

"22A. (1) No person shall, save as expressly authorised by this Act, be a member of two or more panchayats.

(2) No person while holding office in a panchayat in capacity as *ex officio*, elected or co-opted member, shall, save as expressly authorised by this Act, be eligible for holding office in the same panchayat in a capacity other than the capacity in which he is already holding office.

(3) If any person is simultaneously chosen as a member of two or more panchayats or as a member in different capacities in the same panchayat, then unless such membership is expressly authorised by this Act, the person shall within ten days from the date or the later of the dates on which he is so chosen, intimate to the competent authority one of the panchayats in which or, as the case may be, one of the capacities in which he wishes to serve and thereupon his seat in the panchayat or, as the case may be, the capacity other than the one in which he wishes to serve shall become vacant.

(4) Any intimation given under sub-section (3) shall be final and irrevocable.

(5) In default of such intimation within the aforesaid period the competent authority shall determine the seat which he shall retain and thereupon the remaining seats from which he was chosen shall become vacant.

Guj.
LIII of
1963.

(6) (a) Any person who holds on the date of the commencement of the Gujarat Panchayats (Second Amendment) Act, 1963 more offices than one simultaneously and the holding of such offices is not consistent with sub-section (1), such person shall within a period of thirty days from the said date intimate to the competent authority one of the panchayats in which or, as the case may be, one of the capacities in which, he wishes to serve and thereupon his seat in the panchayat or, as the case may be, the capacity other than the one in which he wishes to serve shall become vacant.

(b) Any intimation given under clause (a) shall be final and irrevocable.

(c) In default of such intimation within the aforesaid period the competent authority shall determine the seat which he shall retain and thereupon the remaining seats from which he was chosen shall become vacant.

22B. In the case of an election to a taluka panchayat by the chairman of co-operative societies,—

Voting rights
of Chairman
of Co-opera-
tive Society.

(a) if the same person is a chairman of two or more co-operative societies he shall have only one vote,

(b) no chairman of a co-operative society which is being wound up or which is defunct shall be eligible to vote at the election or to stand as a candidate for the election."

7. In section 24 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

Amendment
of section 24
of Guj. VI
of 1962.

"(2A) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under section 323, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

Explanation.—The expression "error" in this sub-section does not include any breach of or any omission to carry out or any non-compliance with the provisions of this Act or the rules made thereunder whereby the result of the election has been materially affected."

Amendment of section 25 of Guj. VI of 1962.

8. In section 25 of the principal Act, in sub-section (1),—

(1) for the words "elected or appointed" where they occur at two places the words "elected, appointed or co-opted" shall be substituted;

(2) for the words "election or appointment" the words "election, appointment or co-optation, as the case may be" shall be substituted.

Amendment of section 26 of Guj. VI of 1962.

9. In section 26 of the principal Act, after the words "fresh election" the words "or co-optation" shall be inserted.

Insertion of section 43A in Guj. VI of 1962.

10. After section 43 of the principal Act, the following section shall be inserted, namely:—

Circumstances in which members may be co-opted by appointment.

"43 A. (1) If in the preliminary meeting held under section 43, the required co-opted members are not chosen, the presiding officer of the meeting shall immediately inform the competent authority as to the number of persons necessary to make up the required number of co-opted members.

(2) On receipt of the information under sub-section (1), the competent authority shall as soon as possible appoint from persons qualified to be co-opted for the respective seats such persons as are necessary to make up the required number and the persons so appointed shall be deemed to have been duly co-opted by the relevant panchayat. The names of the members so appointed shall be published by the appointing authority in the prescribed manner."

Amendment of section 48 of Guj. VI of 1962.

11. In section 48 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Any member who intends to move a motion of no confidence against the Sarpanch or Upa-sarpanch or, as the case may be, the Chairman or Vice-Chairman may give notice thereof in the prescribed form to the panchayat. If the notice is supported by such number of members as may be prescribed, the motion may be moved."

Amendment of section 49 of Guj. VI of 1962.

12. In section 49 of the principal Act, in sub-section (1), for the words "has become" the words "abuses his powers or makes persistent default in the performance of his duties and functions under this Act or has become" shall be substituted.

Amendment of section 50 of Guj. VI of 1962.

13. In section 50 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

"Provided that such reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (1) the member as to the vacancy."

Substitution of section 54 of Guj. VI of 1962 by new section.

14. For section 54 of the principal Act, the following shall be substituted, namely:—

"54. (1) No disqualification of or defect in the election or appointment of any person acting as member or as the Sarpanch or Chairman or presiding authority of a general meeting or as Chairman or member of a committee appointed under this Act shall be deemed to vitiate any act or proceeding of the panchayat or of any such committee, as the case may be, in which the person has taken part, wherever the majority of persons, parties to such act or proceeding, were entitled to act.

Acts and proceedings of panchayat and committee not vitiated by qualification etc., of members thereof.

No resolution of a panchayat or of any committee appointed under this Act shall be deemed invalid on account of any irregularity in the service of notice upon any members, provided that the proceedings of the panchayat or committee were not prejudicially affected by such irregularity.

(2) Until the contrary is proved, every meeting of a panchayat or of a committee appointed under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted, and to have had the power to deal with the matters referred to in the minute.

(3) During any vacancy in a panchayat or committee thereof the continuing members may act as if no vacancy had occurred."

15. In section 57 of the principal Act, in the proviso to sub-section (1), for the words "if he ceases" the words "on the expiry of his term as such chairman or if he otherwise ceases" shall be substituted.

Amendment of section 57 of Guj. VI of 1962.

16. In section 60 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 60 of Guj. VI of 1962.

"(1) Any member who intends to move a motion of no confidence against the President or Vice-President may give a notice thereof in the prescribed form to the panchayat. If the notice is supported by such number of members as may be prescribed, the motion may be moved."

17. In section 61 of the principal Act, in sub-section (1), for the words "has become" the words "abuses his powers or makes persistent default in the performance of his duties and functions under this Act or has become" shall be substituted.

Amendment of section 61 of Guj. VI of 1962.

18. In section 62 of the principal Act,—

(1) in sub-section (1), for the words "Any member of a panchayat" the words and brackets "Any member (other than an *ex-officio* or associate member) of a panchayat" shall be substituted;

Amendment of section 62 of Guj. VI of 1962.

(2) to sub-section (2) the following proviso shall be added, namely:—

"Provided that such reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (1) the member as to the vacancy."

19. For section 66 of the principal Act; the following shall be substituted, namely:—

Substitution of section 66 of Guj. VI of 1962 by new section.

Acts and proceedings of panchayat and Committee not vitiated by qualifications etc., of members thereof.

"66. (1) No disqualification of or defect in the election, co-optation or appointment of any person acting as member or as the President or presiding authority of a general meeting or as chairman or member of a committee appointed under this Act shall be deemed to vitiate any act or proceeding of the panchayat or of any such committee, as the case may be, in which the person has taken part, wherever the majority of persons, parties to such act or proceeding, were entitled to act.

No resolution of a panchayat or of any committee appointed under this Act shall be deemed invalid on account of any irregularity in the service of notice upon any members, provided that the proceedings of the panchayat or committee, were not prejudicially affected by such irregularity.

(2) Until the contrary is proved, every meeting of a panchayat or of a committee appointed under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(3) During any vacancy in a panchayat or committee thereof the continuing members may act as if no vacancy had occurred."

Amendment of section 72 of Guj. VI of 1962.

20. In section 72 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Any member who intends to move a motion of no confidence against the President or Vice-President may give notice thereof in the prescribed form to the panchayat. If the notice is supported by such number of members as may be prescribed, the motion may be moved."

Amendment of section 73 of Guj. VI of 1962.

21. In section 73 of the principal Act, in sub-section (1), for the words "has become" the words "abuses his powers or makes persistent default in the performance of his duties and functions under this Act or has become" shall be substituted.

Amendment of section 74 of Guj. VI of 1962.

22. In section 74 of the principal Act,—

(1) in sub-section (1), for the words "Any member of a panchayat" the words and brackets "Any member (other than an *ex-officio* or associate member) of a panchayat" shall be substituted;

(2) to sub-section (2), the following proviso shall be added, namely:—

"Provided that such reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (1) the member as to the vacancy."

Substitution of section 78 of Guj. VI of 1962 by new section.

23. For section 78 of the principal Act, the following shall be substituted, namely:—

"78. (1) No disqualification of or defect in the election, co-optation or appointment of any person acting as a member or as the President or presiding authority of a general meeting or as chairman or member of a committee appointed under this Act shall be deemed to vitiate any act or proceeding of the panchayat or of any such committee, as the case may be, in which the person has taken part, wherever the majority of persons, parties to such act or proceeding, were entitled to act.

Acts and proceedings of panchayat and committee not vitiated by qualifications etc. of members thereof.

No resolution of a panchayat or of any committee appointed under this Act shall be deemed invalid on account of any irregularity in the service of notice upon any members, provided that the proceedings of the panchayat or committee were not prejudicially affected by such irregularity.

(2) Until the contrary is proved, every meeting of a panchayat or of a committee appointed under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(3) During any vacancy in a panchayat or committee thereof the continuing members may act as if no vacancy had occurred."

24. In section 81 of the principal Act,—

(1) in sub-section (2) for the proviso the following shall be substituted:—

"Provided that—

(a) where the Sarpanch and Upa-Sarpanch both are members of any such Committee, the Sarpanch shall be the *ex-officio* Chairman of such committee and if he declines to hold the office the Upa-Sarpanch shall be the *ex-officio* Chairman of the committee, unless he also declines to hold the office, and

(b) where only one of them is a member thereof he shall be the *ex-officio* Chairman of the Committee unless he declines to hold the office."

(2) in sub-section (4), for the words "may resign from membership" the words "or chairman may resign from membership or chairmanship" shall be substituted;

(3) after sub-section (8), the following sub-section shall be inserted, namely:—

"(9) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof, any person aggrieved by a decision of a committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat within a period of sixty days from the date of such decision and the panchayat after giving an opportunity to the appellant to be heard may confirm, modify or reverse the decision appealed against and pass such order as it may think proper."

25. In section 82 of the principal Act,—

(1) in sub-section (3) for the proviso the following shall be substituted.—

"Provided that—

(a) where the Chairman and Vice Chairman both are members of any such committee, the Chairman shall be the *ex-officio* Chairman of such committee and if he declines to hold the office the Vice Chairman shall be the *ex-officio* Chairman of the Committee, unless he also declines to hold the office, and

(b) where only one of them is a member thereof he shall be the *ex-officio* Chairman of the Committee, unless he declines to hold the office."

Amendment of section 81 of Guj. VI of 1962.

Amendment of section 82 of Guj. VI of 1962.

(2) in sub-section (5), for the words "may resign from membership" the words "or chairman may resign from membership or chairmanship" shall be substituted;

(3) after sub-section (9), the following sub-section shall be inserted, namely:—

"(10) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof, any person aggrieved by the decision of a committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat within a period of sixty days from the date of such decision and the panchayat after giving an opportunity to the appellant to be heard may confirm, modify or reverse the decision appealed against and pass such order as it may think proper.

Amendment of section 86 of Guj. VI of 1962. 26. In section 86 of the principal Act, the following proviso shall be added at the end, namely:—

"Provided that in such circumstances and subject to such conditions as may be prescribed, a decision on any question before a panchayat or committee thereof may be taken by circulating the propositions therefor for the vote of members."

Amendment of section 89 of Guj. VI of 1962. 27. In section 89 of the principal Act, for the word "educational" the word "education" shall be substituted.

Amendment of section 93 of Guj. VI of 1962. 28. In section 93 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

"Provided that no such appeal shall be entertained if it is made after the expiry of thirty days from the date on which the refusal is communicated to the applicant."

Amendment of section 94 of Guj. VI of 1962. 29. In section 94 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Nothing in sub-section (2) shall prevent the panchayat from permitting any construction referred to in clause (a) or clause (c) of sub-section (1) to stand on such terms and conditions as may be prescribed."

Amendment of section 101 of Guj. VI of 1962. 30. In section 101 of the principal Act, in sub-section (1), the words beginning with the words "to which a survey" and ending with the words "for the time being in force" shall be deleted.

Insertion of heading after section 101 of Guj. VI of 1962. 31. After section 101 of the principal Act, the heading "(DD) Officers and servants of panchayat" shall be inserted.

Amendment of section 102 of Guj. VI of 1962. 32. In section 102 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) the other servants of the panchayat shall perform such functions and duties and exercise such powers under this Act as may be imposed or conferred on them by the panchayat, subject to rules, if any, made in this behalf."

Amendment of sections 104 and 105 of Guj. VI of 1962. 33. In sub-section (2) of section 104 and in sub-section (1) of section 105 of the principal Act, for the words "refer it back" the words "return it" shall be substituted.

34. In section 111 of the principal Act,—

(1) in sub-section (3), for the proviso the following shall be substituted.—

“Provided that—

(a) where the President and Vice-President both are members of any such committee, the President shall be the *ex-officio* Chairman of such committee and if he declines to hold the office the Vice-President shall be the *ex-officio* Chairman of the committee, unless he also declines to hold the office; and

(b) where only one of them is a member thereof he shall be the *ex-officio* Chairman of the committee unless he declines to hold the office.”

(2) in sub-section (7), for the words “may resign from membership” the words “or chairman may resign from membership or chairmanship” shall be substituted.

Amendment
of section 111
of Guj. VI
of 1962.

35. In section 112 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof, any person aggrieved by the decision of a committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat within a period of sixty days from the date of such decision and the panchayat after giving an opportunity to the appellant to be heard may confirm, modify, or reverse the decision appealed against and pass such order as it may think proper.”

Amendment
of section 112
of Guj. VI
of 1962.

36. In section 115 of the principal Act, the following proviso shall be added at the end, namely:—

“Provided that in such circumstances and subject to such condition as may be prescribed, a decision on any question before a committee may be taken by circulating the propositions therefor for the votes of members.”

Amendment
of section 115
of Guj. VI
of 1962.

37. In section 118 of the principal Act, in sub-section (1), for the word “educational” the word “education” shall be substituted.

Amendment
of section 118
of Guj. VI of
1962.

38. In section 122 of the principal Act, in clause (3), the following shall be added at the end, namely:—

“The officers and servants so appointed shall in the discharge of their functions and duties, exercise such powers as may be conferred on them by the panchayat, subject to rules, if any, made in this behalf.”

Amendment
of section 122
of Guj. VI
of 1962.

39. In section 123 of the principal Act, in sub-section (1), in clause (a) for the word “powers” the words “functions and exercise all the powers” shall be substituted.

Amendment
of section 123
of Guj. VI
of 1962.

40. In sub-section (2) of section 124 and sub-section (1) of section 125 of the principal Act, in sub-section (2), for the words “refer it back” the words “return it” shall be substituted.

Amendment
of section 124
and section 125
of Guj. VI
of 1962.

Amendment
of section 131
of Guj. VI of
1962.

41. In section 131 of the principal Act,—

(1) in sub-section (2), in the proviso to clause (ii), for the words "the Chairman of the panchayat" the words "the President of the Panchayat" shall be substituted;

(2) in sub-section (3) for the proviso the following shall be substituted.—

"Provided that—

(a) where the President and the Vice-President both are members of any such committee, the President shall be the *ex-officio* Chairman of such committee and if he declines to hold the office the Vice-President shall be the *ex-officio* Chairman of the committee, unless he also declines to hold the office, and

(b) where only one of them is a member thereof he shall be the *ex-officio* Chairman of the committee unless he declines to hold the office."

(3) in sub-section (6), for the words "may resign from membership" the words "or chairman may resign from membership or chairmanship" shall be substituted;

(4) after sub-section (10), the following sub-section shall be inserted namely:—

(11) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof any person aggrieved by the decision of a committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat within a period of sixty days from the date of such decision and the panchayat after giving an opportunity to the appellant to be heard may confirm, modify or reverse the decision appealed against and pass such order as it may think proper."

Amendment
of section 132
of Guj. VI of
1962.

42. In section 132 of the principal Act, in clause (b) of sub-section (1), after the words "of the panchayat" the words "or with the sanction of the State Government at any other place in the district" shall be inserted.

Amendment
of section 135
of Guj. VI of
1962.

43. In section 135 of the principal Act, the following proviso shall be added at the end, namely:—

"Provided that in such circumstances and subject to such conditions as may be prescribed, a decision on any question before a committee may be taken by circulating the propositions therefor for the votes of members."

Amendment
of section 138
of Guj. VI of
1962.

44. In section 138 of the principal Act, in sub-section (1), for the word "educational" the word "education" shall be substituted.

Amendment
of section 142
of Guj. VI of
1962.

45. In section 142 of the principal Act, in sub-section (3), the following shall be added at the end, namely:—

(4) The officers and servants so appointed shall, in the discharge of their functions and duties, exercise such powers as may be conferred on them, by the panchayat, subject to rules, if any, made in this behalf."

Amendment
of section 143
of Guj. VI of
1962.

46. In section 143 of the principal Act, in sub-section (1), in clause (a), for the word "powers" the words "functions and exercise all the powers" shall be substituted.

47. In Chapter VI of the principal Act, after section 158, the following section shall be and shall be deemed always to have been inserted, namely:—

Insertion of section 158A in Guj. VI of 1962.

"158A. In transferring to a district panchayat any powers, functions and duties relating to any matter exercised by the State Government or any of its officers, it shall be lawful for the State Government to transfer to the district panchayat any property belonging to the State Government and connected with such matter together with the rights and liabilities (including rights and liabilities arising out of any contract) of the State Government in respect of the property and thereupon the rights and liabilities which accrued before such transfer or which may accrue thereafter shall be the rights and liabilities of the district panchayat."

Transfer of rights and liabilities in respect of property transferred to panchayat.

48. In section 160 of the principal Act, in sub-section (1), for the words "District Magistrate" the words "Taluka Development Officer" shall be substituted.

Amendment of section 160 of Guj. VI of 1962.

49. In section 179 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 179 of Guj. VI of 1962.

"(3) In the case of any matter referred to the State Government under sub-section (2), the State Government may, subject to such conditions as it may think fit to impose having regard to the circumstances of the case, by order in writing direct the panchayat to stay the collection or recovery from the factory of all or any of the taxes until the State Government decides the matter under sub-section (2)."

50. In section 180 of the principal Act, after the words "weekly bazars" the words "or the collecting of octroi" shall be inserted.

Amendment of section 180 of Guj. VI of 1962.

51. In section 192 of the principal Act, the proviso to sub-section (7) shall be deleted.

Amendment of section 192 of Guj. VI of 1962.

52. In section 206 of the principal Act, in sub-section (1),—

(1) in clause (i), after the word "staff" the words "allotted or" shall be inserted;

Amendment of section 206 of Guj. VI of 1962.

(2) after clause (i), the following clause shall be inserted, namely:—

"(ia) all officers and servants of the municipalities dissolved under section 307."

53. After section 206 of the principal Act, the following section shall be inserted, namely:—

Insertion of section 206A in Guj. VI of 1962.

"206A. (1) Notwithstanding anything contained in section 206, the allocation to the Panchayat service made under section 206 of officers or servants allotted or transferred to a panchayat under section 157 or 158 shall initially be provisional and it shall be lawful for the State Government to review their allocation within a period of three years from the 1st April, 1963 and if necessary to re-allocate by an order made in that behalf any of such officers or servants to the State Service for any of the following reasons, namely:—

Allocation to Panchayat service to be provisional for certain period and re-allocation of officers and servants to State service.

(1) if out of the officers and servants so allocated any officers or servants are found to be surplus in any category of the Panchayat Service;

(2) if in the interest of public service, it is considered necessary to recall any such officer or servant;

(3) any other reason prescribed by rules.

(2) Any officer or servant, who is not re-allocated under sub-section (1) and continues in the Panchayat Service immediately before the expiry of the aforesaid period of three years shall on such expiry be deemed to be finally allocated to the Panchayat Service.

(3) The conditions of service of an officer or servant re-allocated to the State Service shall not be less favourable than those applicable to him immediately before such reallocation."

Amendment
of section 207
of Gaj. VI of
1962.

54. In section 207 of the principal Act,—

(1) in sub-section (1), after the words "services of the State" the words and figures "and such number of officers or servants allotted or transferred to a panchayat under section 157 or 158 but not allocated to the Panchayat Service under section 206" shall be inserted;

(2) after sub-section (2), the following sub-section shall be inserted, namely.—

"(3) Any officer or servant who was allotted or transferred to a panchayat under section 157 or 158 but not allocated to the Panchayat Service under section 206 before the date of coming into force of the Gujarat Panchayats (Second Amendment) Act, 1963 shall be deemed to be posted under this section under the panchayat to which he was so allotted or transferred, subject, however, to such conditions and for such period as the State Government may specify by an order made within a period of six months from the said date."

Guj.
LIII
of
1963.

Amendment
of section 214
of Gaj. VI of
1962.

55. In section 214 of the principal Act, in sub-section (2), the words "which is entitled to have a Nyaya Panchayat" shall be deleted.

Amendment
of section 227
of Gaj. VI of
1962.

56. In section 227 of the principal Act, in sub-section (1)—

(1) in clause (c), the word "and" shall be added at the end, and

(2) after clause (c), the following clause shall be inserted, namely:—

"(d) suits for compensation for damage caused to property by cattle-trespass."

Amendment
of section 307
of Gaj. VI of
1962.

57. In section 307 of the principal Act, in clause (k), the words "by or under a law" shall be deleted.

Substitution
of section 310
of Gaj. VI of
1962 by 487
section.

58. For section 310 of the principal Act, the following section shall be substituted, namely:—

" 310. (I) Where by virtue of a notification issued under sub-section (2) of section 9, any gram ceases to be a gram or any nagar ceases to be a nagar, and

(i) the local area comprised in the gram is declared to be a nagar or is split up into a nagar and a new gram or into two or more grams, or

(ii) the local area comprised in the nagar is declared to be a gram or split up into two or more grams,

with effect from the date on which the local area is so declared or split up (hereinafter referred to as "the said date") the following consequences shall ensue, that is to say—

(a) the panchayat constituted in respect of such local area shall stand dissolved and all the members of the panchayat shall vacate office;

(b) until for the nagar or, as the case may be, the respective new gram or nagar panchayat or as the case may be a gram panchayat is constituted, the State Government shall appoint an administrator or administrators to exercise the powers and perform the functions of the respective panchayat of the nagar or, as the case may be, new gram;

(c) the members elected by the panchayat dissolved under clause (a) (hereinafter referred to as "the dissolved panchayat") to the Nyaya Panchayat functioning in the local area shall cease to be members of the Nyaya Panchayat and until the respective panchayat is constituted as aforesaid, the State Government shall—

(i) in the case of a new gram, appoint from amongst persons qualified under section 214 a person to be a member of the Nyaya Panchayat of the group in which such gram has been included; and

(ii) in the case of the nagar, appoint from amongst persons qualified under section 214 members of the Nagar Nyaya Panchayat of the Nagar and a standing member of the conciliation panch of the nagar;

(d) the Gram Nyaya Panchayat affected by the dissolution of a panchayat under section 9 shall continue to function in the area of the group of grams which continue within its jurisdiction after the exclusion of any area therefrom under section 9 unless the number of grams included in the group is rendered less than three;

(e) the unexpended balance of the gram fund or, as the case may be, nagar fund and all properties, including arrears of rates, taxes and fees belonging to the dissolved panchayat shall, subject to all charges and liabilities affecting the same, vest in such proportion and in such manner as the State Government may direct in the respective panchayat of the nagar or new gram:

Provided that until the respective panchayat for the nagar or new gram is constituted and it holds its first meeting under sub-section (I) of section 44, the unexpended balance of the fund and other properties vesting in the panchayat shall be held by the administrator of the nagar or, as the case may be, new gram and shall be utilised by him for the benefit of the inhabitants of the nagar or new gram in such manner as he may think fit,

(f) any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted in respect of the area within the jurisdiction of the dissolved panchayat and in force on the said date shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the nagar or new gram formed out of the said area until it is superseded or modified by any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, by-law or form made, issued, imposed or granted under the law applicable thereto;

(g) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated by the dissolved panchayat immediately before the said date shall, in so far as they relate to the nagar or, as the case may be, new gram, be deemed to have been made or authenticated in respect of the nagar or new gram;

(h) all debts and obligations incurred and all contracts made by or on behalf of the dissolved panchayat immediately before the said date and subsisting on the said date shall in so far as they relate to the nagar or any new gram formed in the area within the jurisdiction of the dissolved panchayat be the debts and obligations incurred by and the contracts made by the panchayat of the nagar or, as the case may be, new gram;

(i) all officers and servants in the employ of the dissolved panchayat immediately before the said date shall be allocated to the panchayat of the nagar or, as the case may be, new gram or new grams by the State Government in such manner as it may direct and until other provision is made in accordance with this Act, they shall receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on the said date;

(j) all proceedings (including appeals) pending at the said date before the dissolved panchayat shall be deemed to be transferred to and continued by the panchayat of the nagar or new gram before which they would have been instituted, had the nagar or new gram been formed when the proceedings were instituted;

Provided that until the panchayat for the nagar or new gram is constituted the administrator appointed for the nagar or, as the case may be, new gram may deal with such proceedings and dispose them of;

(k) all prosecutions instituted by or on behalf of and all suits or other legal proceedings instituted by or against the dissolved panchayat or any officer thereof and pending at the said date shall be continued by or against the panchayat of the nagar or new gram by, on behalf of or against which they would have been instituted, had the nagar or new gram been formed when the prosecutions, suits or legal proceedings were instituted and until such panchayat is constituted, shall be continued by or against the administrator appointed for the nagar or, as the case may be, new gram.

(2) Within one year of the said date, the panchayat for the respective nagar or as the case may be, new gram shall be constituted in accordance with the provisions of this Act."

59. After section 322 of the principal Act, the following section shall be inserted
namely:—

Insertion of section 322A in Guj. VI of 1962.

“ 322 A. When any person who is or had been a Sarpanch, Upa-Sarpanch Chairman, Vice-Chairman, President or Vice-President of a panchayat is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of the State Government or any officer authorised by the State Government in this behalf.”

Previous sanction for prosecution against Sarpanch, Chairman, President etc.

60. In section 325 of the principal Act, in sub-section (I), after clause (vi), the following clause shall be inserted, namely:—

Amendment of section 325 of Guj. VI of 1962.

“ (via) the unexpended balance of the District Village Development Fund established in a district under section 133 of the Act so repealed shall be transferred to and shall form part of the District Development Fund established under section 199 of this Act, in the corresponding district”.

61. In the Schedules to the principal Act, for the words “village panchayats” wherever they occur, the words “gram panchayats” shall be substituted.

Amendment of Schedules to Guj. VI of 1962.

62. In Part II of Schedule III to the principal Act, in the heading for the figures and brackets “131 (2)” the figures and brackets “131 (I) (i)” shall be substituted.

Amendment of Schedule III to Guj. VI of 1962.

Checked
S. J. J. / 4/1



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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor. / 4

The following Act of the Gujarat Legislature, having been assented to by the
Governor on the 23rd January 1964 is hereby published for general information.

AKBAR S. SARELA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 1 OF 1964.

[First published, after having received the assent of the Governor in the
Gujarat Government Gazette on the 24th January 1964.

An Act further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Fourteenth Year of the Republic of India
as follows:—

1. This Act may be called the Gujarat Panchayats (Third Amendment) Act, Short
1963.

amendment of section 53 of Guj. VI of 1962. 2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in sub-section (1) of section 53, for the words beginning with the words "Any vacancy" and ending with the words "or a member of a panchayat" the following shall be substituted, namely:—

"Any vacancy in the office of a Sarpanch, Upa-Sarpanch, Chairman, Vice-Chairman or member of a panchayat of which notice has been given to the competent authority in the prescribed manner."

amendment of section 65 of Guj. VI of 1962. 3. In section 65 of the principal Act, in sub-section (1), for the words beginning with the words "Any vacancy" and ending with the words "or member of a panchayat" the following shall be substituted, namely:—

"Any vacancy in the office of a President, Vice-President or a member of a panchayat of which notice has been given to the competent authority in the prescribed manner".

amendment of section 77 of Guj. VI of 1962. 4. In section 77 of the principal Act, in sub-section (1), for the words beginning with the words "Any vacancy" and ending with the words "or a member of a panchayat" the following shall be substituted, namely:—

"Any vacancy in the office of a President, Vice-President or member of a panchayat of which notice has been given to the competent authority in the prescribed manner".

amendment of section 192 of Guj. VI of 1962. 5. In section 192 of the principal Act,—

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

"(2) If any person fails to pay any tax or fee or any other sum due from him to a panchayat under this Act or the rules on or before the specified date of payment, he shall pay to the panchayat by way of penalty in addition to the tax, fee or sum, as the case may be, an amount equal to one percent of the amount of the tax or fee or sum, as the case may be, for each complete month during the time he continues to make default in the payment of tax, fee or sum, as the case may be."

(2A) In the case of a person who is a defaulter under sub-section (2), the panchayat shall cause a writ of demand in the prescribed form to be served on such person."

(2) in sub-section (7), for the words "other sum" the words and brackets "other sum (including penalty)" shall be substituted.

amendment of section 193 of Guj. VI of 1962. 6. In the principal Act, after section 193, the following Chapter and sections shall be inserted, namely:—

"CHAPTER IXA.

POWER TO EVICT PERSONS FROM PREMISES BELONGING TO PANCHAYATS.

193 A. (1) If a panchayat is satisfied—

(a) that the person authorised to occupy any premises belonging to it (hereinafter referred to as "the panchayat premises") as a tenant or otherwise has—

(i) not paid rent lawfully due from him in respect of such premises for a period of more than two months, or

(ii) sub-let, without the permission of the panchayat, the whole or any part of such premises, or

(iii) acted in contravention of any of the terms, express or implied under which he is authorised to occupy such premises, or

(b) that any person is in unauthorised occupation of any panchayat premises, the panchayat may, notwithstanding anything contained in any law for the time being in force, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that, that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of service of the notice.

(2) Before an order under sub-section (1) is made against any person the panchayat shall inform the person by notice in writing of the grounds on which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any, and to show cause why such order should not be made, within a period to be specified in such notice. If such person makes an application to the panchayat for extension of the period specified in the notice the panchayat may grant the same on such terms as to payment and recovery of the amount claimed in the notice as it deems fit. Any written statement put in by such person and documents produced in pursuance of such notice shall be filed with the record of the case and such person shall be entitled to appear before the panchayat by advocate, attorney or pleader. Such notice in writing shall be served in the manner provided for service of notice under sub-section (1).

(3) If any person refuses or fails to comply with an order made under sub-section (1), the officer authorised by the panchayat in this behalf may evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary.

(4) If a person, who has been ordered to vacate any premises on the grounds mentioned in sub-clause (i) or (iii) of clause (a) of sub-section (1) within one month of the date of service of the notice or such longer time as the panchayat may allow, pays to the panchayat, the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the panchayat, the panchayat shall, in lieu of evicting such person under sub-section (3), cancel its order made under sub-section (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before such notice was served on him.

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Explanation.—For the purposes of this section and section 193B, the expression “unauthorised occupation”, in relation to any person authorised to occupy any panchayat premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.

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193B. (1) Subject to any rules made by the State Government in this behalf, without prejudice to the provisions of section 193 A, where any person is in arrears of rent payable in respect of any panchayat premises, the panchayat may, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order such person to pay the same within such time not being less than ten days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified in the notice, such arrears may be recovered as arrears of land revenue.

(2) Where any person is in unauthorised occupation of any panchayat premises, the panchayat may, in the prescribed manner, assess such damages, on account of the use and occupation of the premises as it may deem fit, and may by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue.

(3) No order shall be made under sub-section (2) until after the issue of a notice in writing to the person calling on him to show cause, within a reasonable period to be specified in such notice, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same have been considered by the panchayat.

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193C. (1) Without prejudice to the provisions of section 193 A any person who has been allotted any panchayat premises and is an employee of the State Government or a local authority may execute an agreement in favour of the panchayat providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount as may be specified in the agreement and to pay the amount so deducted to the panchayat in satisfaction of the rent due by him in respect of the panchayat premises allotted to him.

(2) Notwithstanding anything contained in any law for the time being in force, on the execution of such agreement, the State Government or, as the case may be, the local authority shall, if so required by the panchayat by a requisition in writing make the deduction of the amount specified in the requisition from the salary or wages of the employee specified in the requisition in accordance with the requisition and pay the amount so deducted to the panchayat, as if it were a part of the salary or wages payable and paid to the employee.

3/ 193D. (1) Any person aggrieved by an order of the panchayat under section 193A or section 193B may, within thirty days of the date of the service of the notice under sub-section (1) of section 193A or sub-section (1) or (2) of section 193B, as the case may be, prefer an appeal to the State Government.

Provided that the State Government may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the State Government may, after calling for a report from the panchayat and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the State Government shall be final.

(3) Where an appeal is preferred under sub-section (1), the State Government may stay the enforcement of the order of the panchayat for such period and on such conditions as it thinks fit.

193E. No order made by the State Government or the panchayat in the exercise of any power conferred by or under this Chapter shall be called in question in any court and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter." Bar of jurisdiction of Civil Courts.

7. In section 206 of the principal Act, in clause (ii) of sub-section (1), the words "corresponding district" shall be and shall be deemed always to have been deleted. Amendment of section 206 of Guj. VI of 1962.

8. In section 214 of the principal Act,—

(1) in the second proviso to sub-section (1), after the words "being so elected" the following shall be added at the end, namely:— Amendment of section 214 of Guj. VI of 1962.

"or for being continued as a member of the Gram Nyaya Panchayat or as a standing member of a conciliation panch";

(2) in the first proviso to sub-section (2), after the words "being so elected" the following shall be added, namely:—

"or for being continued as a member of the Nagar Nyaya Panchayat or as a standing member of a conciliation panch";

(3) in sub-section (3), after the words "for being elected" where they occur for the second time, the words "or for being continued" shall be inserted.

9. In section 215 of the principal Act,—

(1) after sub-section (1), the following shall be inserted, namely:— Amendment of section 215 of Guj. VI of 1962.

"(1A) A member of a Nyaya Panchayat or a standing member of a conciliation panch who has not been qualified for being elected or for being continued as a member of the Nyaya Panchayat or as a standing member of a conciliation panch shall cease to be such member and his office shall become vacant from such date as the competent authority may specify."

10. In section 216 of the principal Act, in sub-section (1)—

(1) for the words "as a member" the words "as a member or Chairman" shall be substituted; Amendment of section 216 of Guj. VI of 1962.

(2) after the words "which elected him" the words "as a member of the Nyaya Panchayat or, as the case may be, standing member of the conciliation panch" shall be inserted.

Amendment
of section 219
of Guj. VI
of 1962.

11. In section 219 of the principal Act,—

(1) in sub-section (1), after the words "Nyaya Panchayat" the words "and of a standing member of a conciliation panch" shall be inserted;

(2) in sub-section (2), after the words "Nyaya Panchayat" the words "or of a standing member of a conciliation panch" shall be inserted, and after the figures "212" the words and figures "or 213, as the case may be" shall be inserted.

Amendment
of section 223
of Guj. VI
of 1962.

12. In section 223 of the principal Act, the following shall be added at the end, namely:—

"In the case of a Nagar Nyaya Panchayat, the Secretary of the Nagar Panchayat shall act as the judicial clerk of the Nyaya Panchayat for the purposes aforesaid."

Insertion of
new section
227A in Guj.
VI of 1962.

13. After section 227 of the principal Act, the following section shall be inserted, namely:—

Limitation for
suits.

"227A. Every suit of the nature referred to in section 227 instituted before a Nyaya Panchayat after the expiry of the period specified in respect thereof in the Table below shall be dismissed although limitation has not been set up as a defence.

TABLE

Description of suit.	Period of limitation.	Time from which period begins to run.
1. For money due on contract.	Three years	When the money became due to the plaintiff.
2. For the recovery of movable property or the value thereof.	Three years	When the plaintiff became entitled to the delivery of the movable property.
3. For compensation for wrongfully taking or injuring any movable property.	Three years	When the movable property was wrongfully taken or when injury was done to it.
4. For damage by cattle trespass.	Three years	When the damage was caused by the cattle trespass."

Insertion of
new section
231A in Guj.
VI of 1962.

14. After section 231 of the principal Act, the following section shall be inserted, namely:—

Limitation
for cases.

"231A. No Nyaya Panchayat shall take cognizance of any offence specified in section 229 after the expiry of one year from the date on which the offence was committed."

15. In section 242 of the principal Act, the following shall be added at the end, namely :—

Amendment of section 242 of Guj. VI of 1962.

“or the Nyaya Panchayat is debarred from entertaining such suit or from taking cognizance of such offence under any provision of this Act”.

16. After section 270 of the principal Act, the following section shall be inserted, namely :—

Insertion of new section 270A in Guj. VI of 1962.

“270A (1) If it is made to appear to a Sessions Court that in the interest of justice it is necessary so to do the Sessions Court may on an application made to it in this behalf transfer any case pending before a Nyaya Panchayat to another Nyaya Panchayat or to a Court subordinate to it.

Power to transfer criminal proceedings and award compensation.

(2) Where any application under sub-section (1) is dismissed, the Sessions Court may, if it is of the opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to the person who opposed the application such sum not exceeding one hundred rupees as it may consider proper in the circumstances of the case.”

17. In section 271 of the principal Act, after sub-section (3) the following sub-section shall be inserted, namely :—

Amendment of section 271 of Guj. VI of 1962.

“(3A) If in the opinion of the Court, the application made under sub-section (2) was frivolous or vexatious, it may order the applicant to pay by way of compensation to the person who opposed the application such sum not exceeding one hundred rupees as it may consider proper in the circumstances of the case.”

18. After section 322A of the principal Act, the following section shall be inserted, namely :—

Insertion of new section 322B in Guj. VI of 1962.

XVIII
of
1850.

“322B. The provisions of the Judicial Officers' Protection Act, 1850 shall apply to members of a conciliation panch and to members of Nyaya Panchayat in the discharge of their official duties as they apply to judges and magistrates.”

Application of Judicial Officers' Protection Act, 1850.



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 filed as a separate compilation

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 10th March 1965 is hereby published for general information.

AKBAR S. SARELA,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 1 OF 1965.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 12th March 1965).

AN ACT

to amend the Gujarat Panchayats Act, 1961 and the Gujarat New Capital (Periphery) Control Act, 1960 for certain purposes.

It is hereby enacted in the Sixteenth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Panchayats and the Gujarat New Capital (Periphery) Control (Amendment) Act, 1965. Short title.

2. In section 142 of the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the Panchayats Act") in sub-section (2), clause (b) shall be deleted.

Amendment
 of section
 142 of G. J.
 VI of 1961.

3. After section 158A of the Panchayats Act, the following new section shall be and shall be deemed always to have been inserted, namely :—

Insertion of
 new section
 158B in G. J.
 VI of 1961.

Obligation or liability of servants transferred under section 157 or 158 not affected.

"158B. The transfer or allotment of any servant to a panchayat under section 157 or 158 shall not affect—

(a) any obligation or liability incurred or default committed before such transfer or allotment by such servant while acting or purporting to act in the discharge of his duties as such servant; and

(b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default,

and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto before such transfer or allotment by such authority as the State Government may by general or special order specify in this behalf."

Amendment of section 178 of Guj. VI of 1962.

4. In section 178 of the Panchayats Act, in sub-section (1), for the words "It shall be competent to a gram panchayat and a nagar panchayat to levy" the following shall be substituted, namely :—

"Subject to any general or special order which the State Government may make in this behalf, it shall be competent to a gram panchayat, and to a nagar panchayat to levy".

Amendment of section 206 A of Guj. VI of 1962.

5. In section 206A of the Panchayats Act, after sub-section (3), the following sub-section shall be inserted, namely :—

"(4) The re-allocation of an officer or servant to the State service under sub-section (1) whether made before or after the commencement of the Gujarat Panchayats and the Gujarat New Capital (Periphery) Control (Amendment) Ordinance, 1964, shall not affect—

Guj.
Ord.
No. 2
of
1964.

(a) any obligation or liability incurred or default committed by such officer or servant during the period of his allocation to the Panchayat Service while acting or purporting to act in the discharge of his duties as such officer or servant, and

(b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default,

and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto during the said period of allocation by such authority as the State Government may by general or special order specify in this behalf."

Amendment of section 310A of Guj. VI of 1962.

6. In section 310A of the Panchayats Act,

(1) to clause (ii) of sub-section (1), the following proviso shall be added, namely :—

Guj.
X of
1960.

"Provided that if the new taluka or new district is a taluka or district constituted under section 2A of the Gujarat New Capital (Periphery) Control Act, 1960, the establishment of the taluka panchayat or, as the case may be, the district panchayat therefor may, notwithstanding anything contained in this Act, be postponed so long as the Gujarat New Capital (Periphery) Control Act, 1960, is in force or for such lesser period as the State Government may, by notification in the *Official Gazette*, specify."

(2) in sub-section (2) for the words, brackets and figures beginning with the words "The panchayat reconstituted" and ending with the words, brackets and figures "dissolved under sub-section (1)", the following shall be substituted, namely :—

"The Panchayat reconstituted or established under the provisions of sub-section (1) shall,

(a) if it be a taluka panchayat, consist of *ex-officio* and associate members eligible under clauses (A) and (D) of sub-section (1) of section 14 and such other members as the State Government may appoint in lieu of the elected and co-opted members referred to in clauses (B) and (C) of the said sub-section (1), and

(b) if it be a district panchayat, consist of *ex-officio* and associate members eligible under clauses (A) and (D) of sub-section (1) of section 15 and such other members as the State Government may appoint in lieu of the elected and co-opted members referred to in clauses (B) and (C) of the said sub-section (1);

and the members to be so appointed shall so far as may be practicable in the opinion of the State Government be persons who were members of the district or taluka panchayat, as the case may be, which has been dissolved under sub-section (1).";

(3) after sub-section (7), the following sub-sections shall be inserted, namely :—

"(8) In the case of a new taluka and new district to which the proviso to clause (ii) of sub-section (1) applies, the provisions of sub-sections (5) and (6) shall have effect subject to the modification that—

(a) the part of the fund and other property liable to be vested in and the portion of the debts and obligations liable to be transferred to the panchayat of the new taluka or, as the case may be, the new district, and

(b) the rights and liabilities liable to vest in the panchayat referred to in clause (a),

shall vest in, or as the case may be, be transferred to the State Government and the fund and property so vesting shall be utilised by the State Government for discharging the liability, if any, transferred to it under this sub-section and for the benefit of the inhabitants of the new taluka or, as the case may be, the new district in such manner as the State Government may think fit.

(9) If before the commencement of the Gujarat Panchayats and the Gujarat New Capital (Periphery) Control (Amendment) Ordinance, 1964, a district panchayat or taluka panchayat has been reconstituted or established under the provisions of this section as then existing for a new district or, as the case may be a new taluka, then notwithstanding anything contained in sub-sections (3) and (4) it shall be lawful for the State Government to further reconstitute such panchayats so as to be in conformity with the provisions of sub-section (2):

Provided that the members of the panchayats as so further reconstituted shall hold office so long only as they would have held office but for the further reconstitution of the panchayat under this sub-section and on the expiry of the period of office of such members the panchayat shall be constituted under section 17."

Amendment of section 323 of Guj. VI of 1962. 7. In section 323 of the Panchayats Act, in sub-section (3), after the words "previous publication" the words and figures "except where the rules provide for any of the matters specified in Chapter XI" shall be inserted.

Amendment of section 1 of Guj. X of 1960. 8. In the Gujarat New Capital (Periphery) Control Act, 1960 (hereinafter referred to as "the Capital Periphery Control Act"), to sub-section (2) of section 1, the following proviso shall be added, namely:—

"Provided that where the area so within a distance of five miles is a part of a revenue village constituted under the Bombay Land Revenue Code, 1879 this Act shall extend to the whole of the area comprising such village."

Insertion of new section 2A in Guj. X of 1960. 9. In the Capital Periphery Control Act, after section 2, the following new section shall be inserted, namely:—

Formation of special taluka and district. "2A. (1) With effect on and from such date as the State Government may by notification in the *Official Gazette* specify, the area to which this Act extends and the area of the new capital shall constitute a taluka and also a district consisting of the taluka so constituted within the meaning of section 7 of the Bombay Land Revenue Code, 1879, and the said Code shall have effect accordingly.

(2) The taluka and the district constituted under sub-section (1) shall be known by such names as the State Government may by notification in the *Official Gazette*, assign thereto."

Repeal of Guj. Ord. No. 2 of 1964. 10. The Gujarat Panchayats and the Gujarat New Capital (Periphery) Control (Amendment) Ordinance, 1964 is hereby repealed and the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904 shall apply to such repeal as if that Ordinance were an enactment.



The Gujarat Government Gazette EXTRAORDINARY

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Separate paging is given to this part in order that it may be
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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 31st March 1965 is hereby published for general information.

B. V. PARANJAPE,
Joint Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 7 OF 1965.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 31st March 1965.)

An Act to amend the Gujarat Panchayats Act, 1961 for certain purposes.

It is hereby enacted in the Sixteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Panchayats (Amendment) Act, 1965. Short title and comments cement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.
2. In section 14 of the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act") in sub-section (3) after the words "ex-officio member of the taluka panchayat" the following words shall be added, namely:— Amendment of section 14 of Guj. VI of 1962

and the continuance of such *ex-officio* membership shall not be affected by reason of the expiry of the term of the gram panchayat or, as the case may

be, nagar panchayat of which he is a member, if in the election held by reason of such expiry he is re-elected as a member of the gram panchayat or, as the case may be, nagar panchayat”.

Amendment
of section 22A
of Guj. VI of
1962.

3. In section 22A of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) Where a person while being a member of one panchayat intends to stand as a candidate for membership of another panchayat or while holding office in a panchayat as *ex-officio*, elected or co-opted member intends to stand as a candidate for membership in the same panchayat in a capacity other than the capacity in which he is already holding office, he may stand as a candidate for such membership, notwithstanding anything contained in sub-section (1) or (2) :

Provided that if he is chosen for the seat for which he stood as a candidate, the seat already held by him shall become vacant on the date on which he is so chosen.”.

Amendment
of section 22B
of Guj. VI of
1962.

4. In section 22B of the principal Act, in clause (b) after the words “no chair-man of a co-operative society” the words “which has failed to call its annual general meeting within the period prescribed by law or” shall be inserted.

Amendment
of section 23
of Guj. VI of
1962.

5. In section 23 of the principal Act, in clause (g) for the words “under any panchayat” the words “under the panchayat or any panchayat subordinate there-to” shall be substituted.

Amendment
of section 24
of Guj. VI of
1962.

6. In section 24 of the principal Act, after sub-section (1) the following sub-section shall be inserted, namely :—

“(1A) An applicant shall not join as respondents to his application persons except those mentioned in the following clauses, namely :—

(a) where the applicant in addition to challenging the validity of the election of all or any of the returned candidates, claims a further relief that he himself or any other candidate has been duly elected, all the contesting candidates other than the applicant and where no such further relief is claimed, all the returned candidates, and

(b) any other candidate against whom allegations of any corrupt practice are made in the application.”

7. In section 47 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely :—

Amendment
of section 47
of Guj. VI of
1962.

“(4) Notwithstanding anything contained in clause (d) of sub-section (2), no money shall be withdrawn from the fund of the panchayat except with the signature of the Sarpanch or, as the case may be, the Chairman and any one of the two other members of the panchayat authorised in that behalf by the panchayat.”

8. In sub-section (2) of section 53 of the principal Act, the following shall be added at the end, namely :—

Amendment
of section 53
of Guj. VI of
1962.

“and the election shall be held in the same manner in which the election of a Sarpanch or Upa-Sarpanch or Chairman or Vice-Chairman is held under section 44 and the provisions of that section shall, so far as may be, apply in respect of such election.”

9. In section 57 of the principal Act, in the proviso to sub-section (1), after the words “ as such Chairman” the words “unless he is re-elected as a Chairman of the co-operative society” shall be inserted.

Amendment
of section 57
of Guj. VI of
1962.

10. In sub-section (2) of section 65 of the principal Act, the following shall be added at the end, namely :—

Amendment
of section 65
of Guj. VI of
1962.

“and the election shall be held in the same manner in which the election of a President or Vice-President is held under section 55 and the provisions of that section shall, so far as may be, apply in respect of such election.”

11. In section 68 of the principal Act,

Amendment
of section 68
of Guj. VI of
1962.

(1) after sub-section (3) the following sub-section (3A) shall be and shall be deemed always to have been inserted, namely :—

“(3A) The President of the panchayat shall be paid a conveyance allowance or permanent travelling allowance or both at such rates and upon such conditions as the State Government may by order determine from time to time and any such order may be made so as to be retrospective to any date not earlier than the 1st April, 1963;”

(2) in sub-section (4)—

(a) for the words “The President, Vice-President” the words “The Vice-President” shall be and shall be deemed always to have been substituted;

(b) after the words "of the panchayat" the words, brackets, figures and letter "and in a case not covered by an order made under sub-section (3A), the President of the panchayat" shall be and shall be deemed always to have been substituted.

Amendment of section 77 of Guj. VI of 1962. 12. In sub-section (2) of section 77 of the principal Act, the following shall be added at the end, namely :—

"and the election shall be held in the same manner in which the election of a President or Vice-President is held under section 67 and the provisions of that section shall, so far as may be, apply in respect of such election."

Amendment of section 99 of Guj. VI of 1962. 13. In section 99 of the principal Act, in sub-section (2)—

(1) in clause (g), after the words "District Development Fund" the words "or otherwise" shall be inserted;

(2) clause (f) shall be deleted.

Amendment of section 178 of Guj. VI of 1962. 14. In section 178 of the principal Act, in sub-section (1), after clause (xv), the following clauses shall be and shall be deemed always to have been inserted, namely :—

"(xva) a drainage tax;

(xvb) a lighting tax;"

Amendment of section 308 of Guj. VI of 1962. 15. In section 308 of the principal Act, the proviso to sub-section (5) shall be deleted.

Amendment of section 316 of Guj. VI of 1962. 16. In section 316 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely :—

"(5) The term of office of the member elected by the Members of the Gujarat Legislative Assembly shall expire on the expiry of his term as the Member of the Gujarat Legislative Assembly or if he otherwise ceases to be such member.

(6) Any elected or nominated member of the Council may resign from the membership by tendering his resignation in writing to the Chairman and the resignation shall take effect from the date on which it is received by the Chairman who shall give intimation of the vacancy—

(a) to the State Government in the case of the resignation of a nominated member, and

(b) to the Secretary to the Gujarat Legislative Assembly in the case of the resignation of a member elected by that Assembly."



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Separate Paging is given to this part in order that it may be
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PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 9th December 1965 is hereby published for general information.

SUMANT M. VIDYARTHI,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 31 OF 1965.

(First published after having received the assent of the Governor in the Gujarat Government Gazette on the 13th December 1965.)

An Act further to amend the Gujarat Panchayats Act, 1961 for the purpose of increasing the rate of local cess.

It is hereby enacted in the Sixteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Panchayats (Second Amendment) Act, 1965. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. (1) In section 169 of the Gujarat Panchayats Act, 1961,—

(a) in sub-section (1), for the words "twenty naye paise" the words "fifty paise" shall be substituted, and Amendment of section 169 of Guj. VI of 1962 and date of effect.

(b) in the marginal note, for the words "twenty naye paise" the words "fifty paise" shall be substituted.

(2) The amendment made by sub-section (1) shall have effect from the revenue year commencing on the 1st August 1965.

Guj.
VI of
1962.



Act came into
from 26th April, 1966.
एज. ए. Part I-A
alt. 26-4-66.

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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 17th April 1966 is hereby published for general information.

SUMANT M. VIDYARTHI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 7 OF 1966.

(First published after having received the assent of the Governor in the *Gujarat Government Gazette*, on the 20th April 1966.)

An Act further to amend the Gujarat Panchayats Act, 1961 for certain purposes.

It is hereby enacted in the Seventeenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Panchayats (Amendment) Act, 1966. Short title and commencement.
(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, specify.

2. In section 18 of the Gujarat Panchayats Act, 1961 (hereinafter referred to as 'the principal Act'), in sub-section (1),— Amendment of section 18 of Guj. VI of 1962.

(1) in the proviso, after the words "expiry of the term" the words "except with the sanction of the State Government in that behalf," shall be inserted;

(2) after the proviso, the following further proviso shall be inserted, namely:—

“Provided further that any such sanction may be given so as to have retrospective effect.”.

Amendment
of section
56 of Guj.
VI of 1962.

3. In section 56 of the principal Act,—

(1) in sub-section (1), for the words “The taluka panchayat” the words “Subject to the provisions of this Act, the taluka panchayat” shall be substituted;

(2) in sub-section (4), for the words “Vice-President and members of the panchayat” the words “Vice-President, members of the panchayat and members co-opted to the Education Committee of the panchayat” shall be substituted and shall be deemed always to have been substituted.

Insertion of
new section
56A in Guj.
VI of 1962.

4. After section 56 of the principal Act, the following section shall be inserted, namely:—

“56A. (1) Subject to the provisions of sub-section (2), where the President of a taluka panchayat remains absent or on leave for a continuous period exceeding fifteen days, he shall not be entitled to any honorarium under sub-section (1) of section 56 for such period.

(2) Where the President remains absent on ground of illness duly certified by such medical authority as the State Government may by general or special order specify, the President shall be entitled to an honorarium under sub-section (1) of section 56 during the period of such absence in so far as such period does not exceed ninety days during any year.

(3) Nothing in sub-section (1) shall apply to the absence of the President on account of his touring on public business.”.

Amendment
of section 68
of Guj. VI of
1962.

5. In section 68 of the principal Act, in sub-section (1), for the words “The district panchayat” the words “Subject to the provisions of this Act, the district panchayat” shall be substituted.

Insertion of
new section
68A in Guj.
VI of 1962.

6. After section 68 of the principal Act, the following section shall be inserted, namely:—

Payment of
honorarium
to President
during leave
or absence.

“68A. (1) Subject to the provisions of sub-section (2), where the President of a district panchayat remains absent or on leave for a continuous period exceeding fifteen days, he shall not be entitled to any honorarium under sub-section (1) of section 68 for such period.

(2) Where the President remains absent on ground of illness duly certified by such medical authority as the State Government may by general or special order specify, the President shall be entitled to an honorarium under sub-section (1) of section 68 during the period of such absence in so far as such period does not exceed ninety days during any year.

(3) Nothing in sub-section (1) shall apply to the absence of the President on account of his touring on public business."

7. In section 100 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment
of section
100 of Guj.
VI of 1962.

"(1a) Any surplus funds in the hands of a panchayat which may not be required for current charges may be invested in such manner as may be prescribed."

8. In section 102 of the principal Act, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

Amendment
of section
102 of Guj.
VI of 1962.

"(b) a gram panchayat or as the case may be, nagar panchayat shall have such other servants as may be determined under section 203. Such servants shall be appointed by such authority and their conditions of service shall be such as may be prescribed."

9. In section 111 of the principal Act, in sub-section (1), for the words "A taluka panchayat" the words and figures "Subject to the provisions of section 112, a taluka panchayat" shall be substituted.

Amendment
of section
111 of Guj.
VI of 1962.

10. In section 121 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment
of section
121 of Guj. VI
of 1962.

"(1a) Any surplus funds in the hands of a panchayat which may not be required for current charges may be invested in such manner as may be prescribed."

11. In section 122 of the principal Act, for clause (3), the following clause shall be substituted, namely:—

Amendment
of section
122 of Guj.
VI of 1962.

"(3) a taluka panchayat shall have such other officers and servants as may be determined under section 203. Such officers and servants shall be appointed by such authority and their conditions of service shall be such as may be prescribed. The officers and servants so appointed shall in the discharge of their functions and duties exercise such powers as may be conferred on them by the panchayat, subject to rules, if any, made in this behalf."

12. In section 141 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment
of section
141 of Guj.
VI of 1962.

"(1a) Any surplus funds in the hands of a panchayat which may not be required for current charges may be invested in such manner as may be prescribed."

13. In section 142 of the principal Act, for clause (3), the following clause shall be substituted, namely:—

Amendment
of section
142 of Guj.
VI of 1962.

“(3) a district panchayat shall have such other officers and servants as may be determined under section 203. Such officers and servants shall be appointed by such authority and their conditions of service shall be such as may be prescribed. The officers and servants so appointed shall in the discharge of their functions and duties exercise such powers as may be conferred on them by the panchayat, subject to rules, if any, made in this behalf.”.

Amendment of section 161 of Guj. VI of 1962. 14. In section 161 of the principal Act, in sub-section (1), the following proviso shall be inserted at the end, namely :—

“Provided that in absence of adequate and special reasons to the contrary to be mentioned in the judgment of the court,—

(i) for a first offence, such fine shall not be less than one hundred rupees, and

(ii) for a second or subsequent offence, such fine shall not be less than two hundred and fifty rupees.”.

Amendment of section 178 of Guj. VI of 1962. 15. In section 178 of the principal Act,

(1) in sub-section (1), after clause (xvii), the following clause shall be inserted, namely :—

“(xviii) in lieu of any two or more separate taxes specified in clauses (i), (vii), (viii) and (xvb), a consolidated tax on buildings or lands or both situated within the limits of the gram or, as the case may be, nagar.”;

(2) in sub-section (3), for the word, brackets and figure “clause (i)” the words, brackets and figures “clauses (i) and (xviii)” shall be substituted.

Insertion of new section 182A in Guj. VI of 1962. 16. After section 182 of the principal Act, the following section shall be inserted, namely :—

Recovery of cost of watch and ward. “182A. If under clause (a) of item 4 of Schedule I, a gram panchayat or nagar panchayat incurs any expenditure on watch and ward of the gram or as the case may be, nagar and of the crops therein the cost of such watch and ward shall be levied and recovered by the panchayat from such persons and in such manner (including the levying of a fee) as may be prescribed.”.

Amendment of section 203 of Guj. VI of 1962. 17. In section 203 of the principal Act,

(1) after sub-section (2), the following sub-sections shall be inserted, namely :—

“(2A) (a) The cadres referred to in sub-section (2) may consist of district cadres, taluka cadres and local cadres.

(b) A servant belonging to a district cadre shall be liable to be posted whether by promotion or transfer to any post in any taluka in the district.

(c) A servant belonging to a taluka cadre shall be liable to be posted, whether by promotion or transfer to any post in any gram or nagar in the same taluka.

(d) A servant belonging to a local cadre shall be liable to be posted whether by promotion or transfer to any post in the same gram or, as the case may be, nagar.

(2B) In addition to the posts in the cadres referred to in sub-section (2A), a panchayat may have such other posts of such classes as the State Government may by general or special order determine. Such posts shall be called "deputation posts" and shall be filled in accordance with the provisions of section 207."

(2) in sub-section (3), for the words "powers of panchayats" the word "powers" shall be substituted.

18. In section 206A of the principal Act;

Amendment
of section
206A of Guj.
VI of 1962.

(1) in sub-section (1)—

(a) for the words "three years" the words "four years" shall be substituted; and shall be deemed always to have been substituted.

(b) clauses (1), (2) and (3) shall be renumbered as clauses (i), (ii) and (iii) respectively and after clause (ii) as so renumbered, the following clause shall be inserted, namely :—

"(iii) if in pursuance of any information called for in this behalf by or on behalf of the State Government at any time after the 1st April 1963, any such officer or servant has preferred to revert to the State Service and after taking into consideration the exigencies of service in the panchayat organisation and also of service under the State Government, the State Government thinks fit to recall such officer or servant;"

(2) in sub-section (2), for the words "three years" the words "four years" shall be substituted and shall be deemed always to have been substituted.

19. In section 207 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely :—

Amendment
of section
207 of Guj.
VI of 1962.

"(4) Notwithstanding anything contained in sub-section (1) if in the opinion of the State Government, it is necessary so to do in the public interest, it shall be lawful for the State Government to post by an order in writing any servant of class III services of the State under such panchayat and for such period and subject to such conditions as may be specified in the order and accordingly the provisions of sub-section (2) shall apply to such servant as they apply to an officer posted in accordance with sub-section (1)."

Amendment
of section
217 of Guj.
VI of 1962.

20. In section 217 of the principal Act,—

- (1) for the word, "elect" the word "choose" shall be substituted;
(2) the following proviso shall be inserted, namely :—

"Provided that in the event of any dispute in choosing the chairman, the competent authority shall nominate one of the members of the Nyaya Panchayat to be the Chairman."

Amendment
of section
287 of Guj.
VI of 1962.

21. In section 287 of the principal Act, in clause (2), after the words "the State policy in general" the words "and shall give effect to such general or special directions as the State Government may from time to time by order in writing issue in that behalf" shall be inserted.

Amendment
of section
292 of Guj.
VI of 1962.

22. Section 292 of the principal Act, shall be numbered as sub-section (1) of that section, and

(1) in sub-section (1) as so numbered,—

(i) for the words "by any panchayat" the words "by any subordinate panchayat" shall be substituted;

(ii) after the words "under its direction" the following shall be inserted, namely :—

"and also to enter the office of any such panchayat and inspect any record, register or other document kept therein and such panchayat shall comply with the inspection notes, if any, made by the person making such inspection";

(2) after sub-section (1) as so numbered, the following sub-section shall be inserted, namely :—

"(2) The taluka panchayat, if so empowered by the State Government, may authorise its President, Vice-President or Secretary to enter on and inspect, or cause to be entered on and inspected, at all reasonable times any immovable property occupied by any subordinate panchayat or any work in progress under its direction and also to enter the office of any such panchayat and inspect any record, register or other document kept therein and such panchayat shall comply with the inspection notes, if any, made by the person making such inspection."

Insertion
of new
section 292A
in Guj. VI of
1962.

23. After section 292 of the principal Act, the following section shall be inserted, namely :—

"292A. An officer authorised by the State Government in this behalf by a Powers of general or special order may enter on and inspect or cause to be entered on and inspected, at all reasonable times any immovable property occupied by any State Government panchayat or any work in progress under its direction and also enter the office of any panchayat and inspect any record, register or other document kept therein and the panchayat shall comply with the inspection notes, if any, made by such officer." State Government regarding inspection.

24. In section 303 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:— Amendment of section 303 of Guj. VI of 1962.

"(4) Where a panchayat, after its being liable to be reconstituted by reason of the expiry of its term or otherwise under the provisions of this Act continues to function as before and the members thereof continue to hold their office, it shall be lawful for the State Government to take action under sub-section (1) in respect of such panchayat as if it were a panchayat not validly constituted under this Act."

25. In section 310A of the principal Act, after sub-section (9), the following sub-section shall be inserted, namely:— Amendment of section 310A of Guj. VI of 1962.

"(10) Nothing in the foregoing provisions of this section shall apply or shall be deemed ever to have applied to the alteration of the limits of a district or taluka by reason of the inclusion in or exclusion from the district or taluka of any area as a result of the alteration of the limits of a municipal borough or conversion of a municipal borough into a gram or nagar or the establishment of or the alteration of the limits of a cantonment.

Guj.,
34 of
1964.

Explanation.— "Municipal borough" means a municipal borough constituted or deemed to be constituted under the Gujarat Municipalities Act, 1963."

26. In section 318 of the principal Act, in sub-section (1), the words "on an application from a panchayat" shall be deleted. Amendment of section 318 of Guj. VI of 1962.

27. In section 324 of the principal Act, in sub-section (2), after clause (xiii), the following clause shall be inserted, namely:— Amendment of section 324 of Guj. VI of 1962.

"(xiv) for the regulation of any matter specified in Schedule I by the issue of licences or permits or in any other manner."

28. In section 327 of the principal Act, in sub-section (2), in clause (a), for the words "two years" the words "four years" shall be and shall be deemed always to have been substituted. Amendment of section 327 of Guj. VI of 1962.



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 be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
 Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 27th November 1973 is hereby published for general information.

S. S. SHAH,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 26 OF 1973

(First published after having received the assent of the Governor in the *Gujarat Government Gazette* on the 28th November 1973).

An Act further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Panchayats (Second Amendment) Act, 1973. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in section 14, for sub-section (4), the following sub-section shall be substituted, namely:— Amendment of section 14 of Guj. 6 of 1962.

“(4) Out of the total number of seats specified in sub-section (3), there shall be reserved,—

(a) for Scheduled Castes, such number of seats as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be, the same proportion to the total number of seats specified in sub-section (3) as the population of the Scheduled Castes in the taluka bears to the total population of the taluka;

(b) for Scheduled Tribes, such number of seats as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be, the same proportion to the total number of seats specified in sub-section (3) as the population of the Scheduled Tribes in the taluka bears to the total population of the taluka;

(c) for women,—

(i) three seats where the total number of seats is fifteen,

(ii) four seats where the total number of seats is nineteen,

(iii) five seats where the total number of seats is twenty three,

(iv) six seats where the total number of seats is either twenty seven or, as the case may be, thirty one:

Provided that out of the seats reserved for women under clause (c) there shall be allotted—

(i) to the women belonging to the Scheduled Castes such number of seats, as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be, the same proportion to the total number of seats reserved for women under clause (c) as the number of seats reserved for the Scheduled Castes under clause (a) bears to the total number of seats specified in sub-section (3);

(ii) to the women belonging to the Scheduled Tribes such number of seats, as may be determined by the State Government so however that the number of seats so determined bears as nearly as may be the same proportion to the total number of seats reserved for women under clause (c) as the number of seats reserved for the Scheduled Tribes under clause (b) bears to the total number of seats specified in sub-section (3) :

Provided further that,—

(i) where under the first proviso, any seats are allotted to women belonging to the Scheduled Castes, the number of seats reserved for the Scheduled Castes under clause (a) shall be deemed to be inclusive of the number of seats so allotted to women belonging to the Scheduled Castes, and

(ii) where under the first proviso any seats are allotted to women belonging to the Scheduled Tribes, the number of seats reserved for the Scheduled Tribes under clause (b) shall be deemed to be inclusive of the number of seats so allotted to the women belonging to the Scheduled Tribes :

Provided further that the reserved seats may be allotted by rotation to different constituencies in a taluka in the prescribed manner :

Provided also that where in determining any seats to be reserved or allotted under this sub-section, any difficulty arises on account of a fraction in any number it shall be lawful for the State Government to round off such number in such manner as it considers necessary to secure the object of this sub-section."

3. In the principal Act, in section 15, for sub-section (4), the following sub-section shall be substituted, namely :—

Amendment
of section 15
of Guj. 6 of
1962.

"(4) Out of the total number of seats specified in sub-section (3), there shall be reserved,—

(a) for Scheduled Castes, such number of seats as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be, the same proportion to the total number of seats specified in sub-section (3) as the population of the Scheduled Castes in the district bears to the total population of the district;

(b) for Scheduled Tribes, such number of seats as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be, the same proportion to the total number of seats specified in sub-section (3) as the population of the Scheduled Tribes in the district bears to the total population of the district;

(c) for women,—

(i) six seats where the total number of seats is thirty one,

(ii) seven seats where the total number of seats is thirty five,

(iii) eight seats where the total number of seats is thirty nine,

(iv) nine seats where the total number of seats is forty three,

(v) ten seats where the total number of seats is either forty seven, or as the case may be, fifty one :

Provided that out of the seats reserved for women under clause (c) there shall be allotted,—

(i) to the women belonging to the Scheduled Castes such number of seats as may be determined by the State Government so however that the number of seats so determined bears, as nearly as may be, the same proportion to the total number of seats reserved for women under clause (c) as the number of seats reserved for the Scheduled Castes under clause (a) bears to the total number of seats specified in sub-section (3);

(ii) to the women belonging to the Scheduled Tribes such number of seats, as may be determined by the State Government so however that the number of seats so determined bears as nearly as may be the same proportion to the total number of seats reserved for women under clause (c) as the number of seats reserved for the Scheduled Tribes under clause (b) bears to the total number of seats specified in sub-section (3) :

Provided further that,—

(i) where under the first proviso, any seats are allotted to women belonging to the Scheduled Castes, the number of seats reserved for the Scheduled Castes under clause (a) shall be deemed to be inclusive of the number of seats so allotted to women belonging to the Scheduled Castes, and

(ii) where under the first proviso any seats are allotted to women belonging to the Scheduled Tribes, the number of seats reserved for the Scheduled Tribes under clause (b) shall be deemed to be inclusive of the number of seats so allotted to the women belonging to the Scheduled Tribes :

Provided further that the reserved seats may be allotted by rotation to different constituencies in a district in the prescribed manner :

Provided also that where in determining any seats to be reserved or allotted under this sub-section, any difficulty arises on account of a fraction in any number, it shall be lawful for the State Government to round off such number in such manner as it considers necessary to secure the object of this sub-section.”.



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Separate paging is given to this Part in order that it may
be filed as a separate compilation.

PART VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 29th March, 1975.

No. 7072/B.—The following President's Act assented on the 29th March, 1975,
is published for general information :—

THE GUJARAT PANCHAYATS (AMENDMENT) ACT, 1975.

(Act No. 1 of 1975)

Enacted by the President in the Twenty-sixth Year of the Republic of India.

AN ACT

further to amend the Gujarat Panchayats Act, 1961.

11 of 1974. In exercise of the powers conferred by section 3 of the Gujarat State Legislature
(Delegation of Powers) Act, 1974, the President is pleased to enact as follows :—

Short title.

1. This Act may be called the Gujarat Panchayats (Amendment) Act, 1975.

Insertion of new sections 303B and 303C.

2. In the Gujarat Panchayats Act, 1961, after section 303A, the following sections shall be inserted, namely:—

Gujarat Act VI of 1962.

Power of State Government to appoint officer to exercise and perform the powers and duties of panchayat when elections could not be held for reconstituting it.

“303B. (1) Notwithstanding anything contained in this Act or the rules or by-laws made thereunder, if, in respect of any panchayat, the State Government is satisfied, at any time before or after the date on which it is or has become liable to be reconstituted on account of the expiry of its term or otherwise, that it is not possible to hold elections for the reconstitution of that panchayat, by reason of any of the matters connected with the holding of election of members set out in sections 20 and 21 or elsewhere in this Act or any rules made thereunder not having been completed and not being likely to be completed within a reasonable period, the State Government may, by notification in the *Official Gazette*, make a declaration to that effect.

(2) A notification issued under sub-section (1) in relation to any panchayat shall remain in force for such period, not exceeding six months, as may be specified therein:

Provided that if the State Government is of the opinion that it is necessary so to do, it may, by order and for reasons to be mentioned therein, extend, from time to time, the period so specified; so however that the notification shall not in any case remain in force for more than one year in the aggregate.

(3) On the issue of a notification under sub-section (1) in relation to any panchayat, with effect from such date (not being earlier than the date on which the panchayat is or has become liable to be reconstituted) as the State Government may, by order, specify and so long as that notification remains in force, all the powers and duties of the panchayat shall be exercised and performed by such officer of the State Government as may be specified in the said order.

(4) The State Government shall, before the expiry of the period specified in the notification issued under sub-section (1) or extended under the proviso to sub-section (2), as the case may be, take steps for the purpose of reconstituting the panchayat in the manner provided in this Act.

Power of State Government to empower officer to exercise and perform the powers and duties of Sarpanch, etc., in certain cases.

303C. Where a notification has been issued under sub-section (1) of section 303A or sub-section (1) of section 303B in relation to any panchayat, the State Government may, notwithstanding anything contained in this Act or the rules or by-laws made thereunder, by order, empower such officer of the State Government as it may think fit, to exercise and perform, all the powers and duties conferred or imposed on a Sarpanch, Chairman or, as the case may be, President or any Committee of that panchayat under this Act

and upon the issue of such order the Sarpanch, Chairman or, as the case may be, President shall cease to carry on the current duties of his office.”.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

REASONS FOR THE ENACTMENT

There is at present no provision in the Gujarat Panchayats Act, 1961 under which it would be possible to carry on the administration of a panchayat after it has become liable to be reconstituted on the expiry of its term or otherwise, but, by reason of the matters connected with the holding of elections set out in sections 20 and 21 or elsewhere in the said Act not having been completed and not being likely to be completed within a reasonable period, it is not possible to reconstitute the panchayat by holding elections thereto. In the absence of any such provision in the Act, the administration of the affairs of a panchayat faced with such a situation will obviously come to a standstill to the detriment of public interest. Therefore, in order to overcome this difficulty during the interregnum preceding the reconstitution of the concerned panchayat, it is considered necessary to make suitable provisions in the Act to enable the State Government to carry on the administration of the panchayat through its officer or officers specially specified for the purpose. Sections 303B and 303C proposed to be inserted in the Act by this measure seek to achieve this object.

2. The Consultative Committee, constituted under the proviso to sub-section (2) of section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1974 has been consulted before the enactment of this measure as a President's Act.

M. A. QURAIISHI,
Secy. to the Govt. of India,
Ministry of Agriculture and Irrigation
(Department of Rural Development).

By order and in the name of the Governor of Gujarat,

N. C. BUCH,
Joint Secretary to Government.



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Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 25th February, 1976 is hereby published for general information.

S. L. TALATI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 1 OF 1976.

(First published after having received the assent of the Governor in the "*Gujarat Government Gazette*" on the 4th March, 1976).

An Act further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Panchayats (Amendment) Act, 1976. Short title.

Amendment
of section 12
of Guj. 6 of
1962.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in section 12, in sub-section (5), for clause (a), the following clause shall be substituted, namely:—

"(a) for women, two seats;"

Amendment
of section 13
of Guj. 6 of
1962.

3. In the principal Act, in section 13, in sub-section (3), for clause (a), the following clause shall be substituted, namely:—

"(a) for women, two seats;"

Amendment
of section 14
of Guj. 6 of
1962.

4. In the principal Act, in section 14,—

(1) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The elected members of a taluka panchayat shall consist of—

(a) members elected from amongst the qualified voters of the taluka concerned, and

(b) members elected by the Sarpanchas of all gram panchayats within the taluka from amongst themselves;"

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

"(2) A taluka panchayat shall have a President and a Vice-President elected by its elected members from amongst members referred to in clause (a) of sub-section (1A).";

(3) in sub-section (3),—

(i) after the words "The number of elected members" the words, brackets, letters and figure "referred to in clause (a) of sub-section (1A)" shall be inserted;

(ii) the words "and such members shall be elected from amongst the qualified voters of the taluka concerned" shall be deleted;

(4) in sub-section (4), for clause (c) excluding the provisos, the following clause shall be substituted, namely:—

"(c) for women,—

(i) two seats, where the total number of seats is either fifteen or, as the case may be, nineteen;

(ii) three seats in any other case;"

(5) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) The number of elected members of a taluka panchayat referred to in clause (b) of sub-section (1A) shall be such as may be determined by the

State Government so however that the number so determined shall be, as nearly as possible, one third of the total number of seats specified in sub-section (3).”;

(6) in sub-section (5), after clause (ii), the following clause shall be inserted, namely :—

“(iia) Chairmen of all nagar panchayats within the taluka, and where a person has been appointed under clause (a) of sub-section (4) of section 297 to exercise the powers and perform the duties of any such nagar panchayat, such person, or where an officer is empowered under section 303C to exercise the powers and perform the duties of the Chairman of any such nagar panchayat, such officer;”;

(7) after sub-section (5), the following sub-section shall be inserted, namely :—

“(5A) Where any elected member of a taluka panchayat is elected as a member of the Gujarat Legislative Assembly and thereby becomes an associate member of the taluka panchayat under sub-section (5), he shall cease to be elected member of the panchayat but shall continue as an associate member of the panchayat.”.

5. In the principal Act, in section 15,—

Amendment
of section 15
of Guj. 6 of
1962.

(1) in sub-section (1), for the words “elected and associate members”, the words “*ex-officio*, elected and associate members” shall be substituted;

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

“(2) A district panchayat shall have a President and a Vice-President elected by its *ex-officio* and elected members from amongst its elected members.

(2A) The President of all the taluka panchayats in the district shall be *ex-officio* members of a district panchayat.”;

(3) in sub-section (4), for clause (c) excluding the provisos, the following clause shall be substituted, namely :—

“(c) for women,—

(i) three seats where the total number of seats is either thirty one or, as the case may be, thirty five;

(ii) four seats where the total number of seats is either thirty nine or, as the case may be, forty three;

(iii) five seats where the total number of seats is either forty seven or, as the case may be, fifty one.”;

(4) after sub-section (5), the following sub-section shall be inserted, namely :—

“(5A) Where any *ex-officio* or elected member of a district panchayat is elected as a member of the House of the People, the Council of States or the Gujarat Legislative Assembly and thereby becomes an associate member of the district panchayat under sub-section (5), he shall cease to be an *ex-officio* or elected member of the panchayat but shall continue as an associate member of the panchayat.”.

Amendment of section 22A of Guj. 6 of 1962.

6. In the principal Act, in section 22A, in sub-sections (2) and (2A), for the words “as elected or co-opted member”, the words “as *ex-officio*, elected or co-opted member” shall be substituted.

Amendment of section 57 of Guj. 6 of 1962.

7. In the principal Act, in section 57, to sub-section (1), the following proviso shall be added, namely :—

“Provided that a Sarpanch who has been elected as a member of a taluka panchayat shall, on ceasing to be a Sarpanch, cease to be a member of that panchayat.”.

Insertion of new sections 303A, 303B and 303C in Guj. 6 of 1962.

8. In the principal Act, after section 303, the following sections shall be inserted, namely :—

“303A. (1) Notwithstanding anything contained in this Act or the rules or by-laws made thereunder, if at any time, the State Government is satisfied that a situation exists by reason of dissension among the members of a panchayat or disturbances in the whole or any part of the State of Gujarat, whereby —

(i) the administration of the affairs of a panchayat cannot be carried on in accordance with the provisions of this Act or the rules or by-laws made thereunder, or

(ii) it is not possible or expedient to hold elections for the re-constitution of a panchayat on the expiry of its term,

the State Government may, by notification in the *Official Gazette*, make a declaration to that effect.

(2) A notification issued under sub-section (1) in relation to any panchayat shall remain in force for such period, not exceeding six months, as may be specified therein :

Power of State Government to appoint officers to carry on the administration of panchayats in certain circumstances.

Provided that if the State Government is of the opinion that it is necessary so to do, it may, by order and for reasons to be mentioned therein, extend, from time to time, the period so specified; so, however, that the notification shall not in any case remain in force for more than one year in the aggregate.

(3) On the issue of a notification under sub-section (1) in relation to any panchayat,—

(a) all the members of such panchayat shall vacate their office as such members;

(b) all the powers and duties of such panchayat shall, during the period when such notification is in force, be exercised and performed by such officer of the State Government as it may, by order, specify in that behalf.

(4) The State Government shall, before the expiry of the period specified in the notification issued under sub-section (1), or extended under the proviso to sub-section (2), as the case may be, take steps for the purpose of reconstituting the panchayat in the manner provided in this Act.

303B. (1) Notwithstanding anything contained in this Act or the rules or by-laws made thereunder, if, in respect of any panchayat, the State Government is satisfied, at any time before or after the date on which it is or has become liable to be reconstituted on account of the expiry of its term or otherwise, that it is not possible to hold elections for the reconstitution of that panchayat, by reason of any of the matters connected with the holding of election of members set out in sections 20 and 21 or elsewhere in this Act or any rules made thereunder not having been completed and not being likely to be completed within a reasonable period, the State Government may, by notification in the *Official Gazette*, make a declaration to that effect.

Power of State Government to appoint officer to exercise and perform the powers and duties of panchayat when elections could not be held for reconstituting it.

(2) A notification issued under sub-section (1) in relation to any panchayat shall remain in force for such period, not exceeding six months, as may be specified therein:

Provided that if the State Government is of the opinion that it is necessary so to do, it may, by order and for reasons to be mentioned therein, extend, from time to time, the period so specified; so, however, that the notification shall not in any case remain in force for more than one year in the aggregate.

(3) On the issue of a notification under sub-section (1) in relation to any panchayat, with effect from such date (not being earlier than the date on which the panchayat is or has become liable to be reconstituted) as the State Government may, by order, specify and so long as that notification remains in force, all the powers and duties of the panchayat shall be exercised and performed by such officer of the State Government as may be specified in the said order.

(4) The State Government shall, before the expiry of the period specified in the notification issued under sub-section (1) or extended under the proviso to sub-section (2), as the case may be, take steps for the purpose of reconstituting the panchayat in the manner provided in this Act.

Power of State Government to empower officer to exercise and perform the powers and duties of Sarpanch, etc. in certain cases.

303C. Where a notification has been issued under sub-section (1) of section 303A or sub-section (1) of section 303B in relation to any panchayat, the State Government may, notwithstanding anything contained in this Act or the rules or by-laws made thereunder, by order, empower such officer of the State Government as it may think fit, to exercise and perform, all the powers and duties conferred or imposed on a Sarpanch, Chairman or, as the case may be, President or any Committee of that panchayat under this Act and upon the issue of such order the Sarpanch, Chairman or, as the case may be, President shall cease to carry on the current duties of his office."

Substitution of section 314C of Guj. 6 of 1962.

9. In the principal Act, for section 314C, the following section shall be substituted, namely :—

Gandhinagar district panchayat.

"314C. (1) Notwithstanding anything contained in section 15,—

(a) the elected members of the district panchayat for the district of Gandhinagar (hereinafter in this section referred to as "Gandhinagar district panchayat") shall consist of—

(i) thirty one members elected from amongst the qualified voters of the district of Gandhinagar, and

(ii) ten members elected by the Sarpanchas of all gram panchayats within the district of Gandhinagar from amongst themselves;

and accordingly reference to the expression "the total number of seats specified in sub-section (3)" in sub-section (4) of section 15 shall, in relation to the Gandhinagar district panchayat, be construed as a reference to the aforesaid thirty one seats;

(b) the Gandhinagar district panchayat shall have a President and a Vice-President elected by its elected members from amongst members referred to in sub-clause (i) of clause (a).

(2) A Sarpanch who has been elected as a member of the Gandhinagar district panchayat shall, on ceasing to be a Sarpanch, cease to be a member of such panchayat."

10. Nothing in the principal Act as amended by sections 2 to 7 and 9 of ^{Saving.} this Act shall operate to invalidate the constitution and functioning of any panchayat or of any committee thereof validly constituted under the principal Act before the coming into operation of the Gujarat Panchayats (Amendment) Ordinance, 1975 and functioning immediately before the commencement of this Act and every such panchayat or committee shall, subject to the provisions of the principal Act, continue to function after such commencement until the expiry of its term as if this Act had not been enacted.

Guj.
Ord.
No. 3
of
1975.

11. The Gujarat Panchayats (Amendment) Act, 1974, the Gujarat Panchayats (Amendment) Act, 1975 and the Gujarat Panchayats (Amendment) Ordinance, 1975 are hereby repealed and the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904 shall apply to such repeal as if the said Acts and Ordinance were enactments.

Presi-
dent's
Act
No. 8
of
1974.
Presi-
dent's
Act
No. 1
of
1975.
Guj.
Ord.
No. 3
of
1975.

Repeal of
President's
Acts No. 8
of 1974 and
No. 1 of
1975 and
Guj. Ord.
No. 3 of
1975.

Bom.
I of
1904.



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PART VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 23rd December, 1976.

No. 35629/B.—The following President's Act assented on the 23rd December 1976, is published for general information.

THE GUJARAT PANCHAYATS (SECOND AMENDMENT) ACT, 1976.

[Act No. 44 of 1976]

ENACTED BY THE PRESIDENT IN THE TWENTY-SEVENTH YEAR OF THE
REPUBLIC OF INDIA.

-AN ACT

further to amend the Gujarat Panchayats Act, 1961.

In exercise of the powers conferred by section 3 of the Gujarat State Legisla-
44 of 1976. ture (Delegation of Powers) Act, 1976, the President is pleased to enact as
follows:—

1. This Act may be called the Gujarat Panchayats (Second Amendment) Act, ~~Short~~ title.
1976.

Amendment
of
section 14.

2. In section 14 of the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in sub-section (5), after clause (i), the following clause shall be inserted, namely:—

"(ia) the Mamlatdar or, as the case may be, the Mahalkari, of the revenue taluka;"

Amendment
of
section 51.

3. In section 51 of the principal Act, in sub-section (1), for the words "or who has been detained in a prison during trial under the provisions of any law for the time being in force", the following shall be substituted, namely:—

"or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the panchayat under section 23 or who has been detained under any law relating to preventive detention for the time being in force".

Amendment
of
section 63.

4. In section 63 of the principal Act, in sub-section (1), for the words "or who has been detained in a prison during trial under the provisions of any law for the time being in force", the following shall be substituted, namely:—

"or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the panchayat under section 23 or who has been detained under any law relating to preventive detention for the time being in force".

Amendment
of
section 75.

5. In section 75 of the principal Act, in sub-section (1), for the words "or who has been detained in a prison during trial under the provisions of any law for the time being in force", the following shall be substituted, namely:—

"or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the panchayat under section 23 or who has been detained under any law relating to preventive detention for the time being in force".

Amendment
of
section 111.

6. In section 111 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Executive Committee shall consist of—

(a) five members, if the total number of elected members of the taluka panchayat does not exceed twenty;

(b) seven members, if the total number of elected members of the taluka panchayat exceeds twenty, but does not exceed twenty-five;

(c) nine members, if the total number of elected members of the taluka panchayat exceeds twenty-five, but does not exceed thirty-one;

(d) eleven members, if the total number of elected members of the taluka panchayat exceeds thirty-one.”

7. In section 178 of the principal Act, in sub-section (1),—

Amendment
of
section 178.

(a) after the words “or special order”, the brackets and words “(including an order fixing the minimum and maximum rates of a tax or fee)” shall be inserted;

(b) the brackets and words “(but subject to the minimum and maximum rates which may be fixed by the State Government)” shall be omitted.

8. In section 203 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

Amendment
of
section 203.

“(6) The promotion of a servant in a cadre in the Panchayat service to a cadre in the State service in accordance with rules made under clause (a) of sub-section (4) shall not affect—

(a) any obligation or liability incurred or default committed by such servant during the period of his service in a cadre in the Panchayat service while acting or purporting to act in the discharge of his duties as such servant, or

(b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default, and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto during the said period of service by such authority as the State Government may by general or special order specify in this behalf.”

9. After section 295 of the principal Act, the following new section shall be inserted, namely:—

Insertion
of new
section 295A.

“295A. (1) If for the purpose of taking immediate steps for protecting life and property in any area affected by an outbreak of fire or epidemic disease or any other natural calamity, the District Development Officer is satisfied that it is necessary to requisition any service, equipment or staff provided or maintained by any panchayat within the area for which it is constituted, such Officer may by order in writing direct the panchayat to supply to the area so affected such service, equipment and staff for such purpose and for such period as may be specified in the order and the panchayat shall be bound to comply with the direction.

Extension
by pancha-
yat of its
services, etc.,
to area out-
side its limits.

(2) Where any direction is issued to a panchayat under sub-section (1), the panchayat shall, subject to the provisions of sub-section (3), be entitled to the cost of supplying the service, equipment and staff in pursuance of the direction.

(3) (a) The sum payable to the panchayat under sub-section (2) by way of cost shall be determined by the Officer making requisition under sub-section (1).

(b) If the area to which the service, equipment and staff are so supplied, is within the local limits of any municipal corporation, municipality, or any other panchayat, such corporation, municipality, or panchayat, as the case may be, shall be liable to pay to the panchayat to which the order under sub-section (1) is directed, the sum determined under clause (a) and shall pay the same to the panchayat within such period as the Officer determining the sum directs and in any other case, the sum determined under clause (a) shall be paid to the panchayat by the State Government.

(4) If any area not comprised within the local limits of a municipal corporation, municipality or any panchayat, is affected by an outbreak of fire or epidemic disease or any other natural calamity and a panchayat is satisfied that for protecting life and property in that area it is necessary to take immediate steps to make available any of its services, equipment and staff for that area, then notwithstanding anything contained in sub-section (1), sub-section (2) or sub-section (3), and whether a requisition under sub-section (1) has been made or not, it shall be lawful for the panchayat to do so free of cost.”.

Substitution
of new section
for section
310A.

10. For section 310A of the principal Act, the following section shall be substituted, namely:—

Consequences
of alteration
of limits of
district or
taluka.

“310A. (1) When, on account of the constitution of a new district or taluka under the Land Revenue Code, or for any other reason, the limits of a district, or as the case may be, a taluka are, during the term of office of the members of the district panchayat or, as the case may be, the taluka panchayat, altered so as to—

- (a) include any area therein, or
- (b) exclude any area therefrom,

the State Government may, notwithstanding anything contained in this Act or any other law for the time being in force, by order published in the *Official Gazette*, provide for all or any of the following matters, namely:—

(i) in a case falling under clause (a), the interim increase in the number of members of the district panchayat or, as the case may be, the taluka panchayat, and the appointment of such additional members from amongst persons qualified to be elected under the provisions of this Act as such members from the area so included:

Provided that where the area so included had been a part of a district or taluka for which a panchayat has been established, the members of such panchayat who are elected from that area shall be appointed as additional members;

(ii) in a case falling under clause (b), the interim reduction in the number of members of the district panchayat, or, as the case may be, the taluka panchayat and the termination of office of the elected members of the district panchayat or, as the case may be, taluka panchayat who are elected as such members from the area so excluded;

(iii) the term for which additional members so appointed shall hold office and the manner of filling casual vacancies of such members;

(iv) allocation of any officer or servant of the panchayat affected by the alteration of the limits;

(v) the removal of any difficulty which may arise on account of any change referred to in clause (a) or clause (b).

(2) The district panchayat or the taluka panchayat, if any, functioning immediately before the alteration of the limits shall, subject to the addition or exclusion of members under sub-section (1), continue to function until the expiry of its term under this Act and on such expiry it shall be reconstituted in the manner provided in this Act.

(3) If in consequence of the alteration of the limits of any district or taluka, the area excluded therefrom is included in any other district or taluka, then—

(a) such portion of the district or taluka fund, and other property of the district or taluka panchayat of the district or taluka from which the area is so excluded shall vest in, and be transferred to, the district panchayat, or as the case may be, the taluka panchayat of the district, or as the case may be, the taluka in which such area is included, as the State Government may, by order in writing, direct;

(b) the rights, assets and liabilities of the district or taluka panchayat of the district or taluka from which the area is so excluded in respect of any contracts, agreements and other matters and things, arising in or relating to the area so excluded, shall vest in, and be transferred to, the district or taluka panchayat of the district or taluka in which the area is included;

(c) any notification, notice, tax, fee, cess, rule, bye-law, order, licence or permission issued, imposed, made or granted by the district or taluka panchayat in respect of the area so excluded shall be deemed to have been issued, imposed, made or granted by the district or taluka panchayat of the district or taluka in which the area is so included and shall continue in force until it is superseded in accordance with law;

(d) all proceedings relating to the area excluded from the district or taluka and pending before the panchayat on the date of such exclusion shall be transferred to and disposed of by the district or taluka panchayat of the district or taluka in which the area is included.”

11. Nothing in sub-section (3) of section 111 of the principal Act as amended ^{Saving.} by section 6 of this Act shall affect the constitution and functioning of the Executive Committee of a taluka panchayat constituted under the principal Act and functioning immediately before the commencement of this Act and every such Committee shall, subject to the provisions of the principal Act, continue to function after such commencement until the expiry of its term or until it is reconstituted under sub-section (3) of section 111 of the principal Act as amended by the said section 6, whichever is earlier.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

REASONS FOR THE ENACTMENT

The State Government of Gujarat have proposed to amend the Gujarat Panchayats Act, 1961 (Gujarat Act VI of 1962), with a view to removing certain practical and administrative difficulties or infirmities found as a result of experience gained in the working of the Act. The proposed amendments mainly relate to the following matters, namely :—

(i) *Amendment of section 14.*—It is proposed to make the Mamlatdar as an associate member of the taluka panchayat.

(ii) *Amendment of section 51, 63 and 75.*—It is proposed to empower the State Government to suspend an officebearer of a gram/nagar/taluka/district panchayat detained under any law relating to preventive detention.

(iii) *Amendment of section 203.*—It is proposed to enable the panchayat to initiate any proceedings, or to continue any proceedings already initiated, against its employee for any default committed by him after his promotion to a cadre in the State Service.

(iv) *Insertion of a new section 295A.* This section will enable a panchayat to render services in areas beyond its jurisdiction in exigencies like outbreak of fire, epidemic, other natural calamities, etc.

(v) *Substitution of a new section for section 310A.* The new section proposes to provide for giving representation to the existing members of a district or taluka panchayat on the district or the taluka panchayat of the district or taluka where the areas from which they are elected are added and their removal from the district or taluka panchayats from whose jurisdiction the areas are taken out. The existing section provides for the dissolution and reconstitution of such panchayats with nominated members.

2. This measure seeks to achieve the aforesaid objects.

3. The Consultative Committee constituted under the proviso to sub-section (2) of section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1976 (44 of 1976), has been consulted before the enactment of this measure as a President's Act.

B. N. AZAD,

Joint Secretary to the Government of India,

Ministry of Agriculture and Irrigation,
Department of Rural Development.

By order and in the name of the Governor of Gujarat,

S. L. TALATI,
Secretary to Government.



The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may
be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the
Governor on the 4th July, 1977 is hereby published for general information.

S. L. TALATI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 7 OF 1977.

(First published after having received the assent of the Governor in the
"Gujarat Government Gazette" on the 11th July, 1977).

An Act further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Twenty-eighth Year of the Republic of India as
follows :—

1. This Act may be called the Gujarat Panchayats (Amendment) Act, 1977. Short title.

2. In the Gujarat Panchayats Act, 1961, after section 199, the following new section shall be inserted, namely:—

Guj.
VI of
1962.

Insertion of
new section
199A in Guj.
VI of 1962.

Temporary withdrawal from District Gram Encouragement Fund or District Development Fund for certain purposes.

“199A. (1) Notwithstanding anything contained in sections 198 and 199, it shall be lawful for the district panchayat to utilise, at any time during the period ending on the 31st July, 1977, the amount standing to the credit of the District Gram Encouragement Fund established under section 198 or of the District Development Fund established under section 199, for the purpose of giving financial assistance to landless labourers for construction of houses on the plots of lands allotted for such purpose to such labourers by the State Government:

Provided that the maximum amount of such financial assistance to be given from any of the said Funds during the aforesaid period and the mode of payment of such assistance, shall be regulated, by general or special order made by the State Government in that behalf.

(2) Any amount withdrawn from any of the aforesaid Funds for the purpose of sub-section (1) shall be regarded as an advance, repayable without any interest by the district panchayat to the credit of the concerned Fund within a period of one year from the date of its withdrawal.”.

Repeal of Guj. Ord. No. 3 of 1977.

3. The Gujarat Panchayats (Amendment) Ordinance, 1977 is hereby repealed and the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply to such repeal as if that Ordinance were an enactment.

Guj.
Ord.
No. 3
of
1977.

Bom.
I of
1904.



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Separate paging is given to this Part in order that it may
 be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
 Regulations made by the Governor.

The following Acts have been published as Extraordinary Gazette on
 the dates shown against them :—

The following Act of the Gujarat Legislature having been assented to by the
 Governor on the 18th January 1978 is hereby published for general information.

S. L. TALATI,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 2 OF 1978.

(First published after having received the assent of the Governor in the *Gujarat
 Government Gazette* on the 24th January 1978).

An Act further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Twenty-eighth Year of the Republic of India, as
 follows :—

1. This Act may be called the Gujarat Panchayats (Amendment) Act, 1978. Short title.

Guj. VI of 1962. 2. In the Gujarat Panchayats Act, 1961, in section 316, in sub-section (1), Amendment of section 316 of Guj. VI of 1962.
 for clause (ii) appearing under the heading "(B) Vice-Chairman", the following clause shall be substituted, namely :—

“(ii) The Minister of State dealing with the Panchayats Organisation of the State or if there is no such Minister of State, the Deputy Minister dealing with such Organisation, or in the absence of both such Ministers, the Parliamentary Secretary dealing with such Organisation :

Provided that where there is no person holding any of such offices, the Vice-Chairman shall be elected by the Council from amongst its members;”.

Repeal and savings.

3. (1) The Gujarat Panchayats (Second Amendment) Ordinance, 1977 is hereby repealed.

Guj.
Ord.
No. 12
of
1977.

(2) Notwithstanding such repeal, anything done or any action taken under the Gujarat Panchayats Act, 1961 as amended by the said Ordinance shall be deemed to have been done or taken under the said Act as amended by this Act, as if this Act had come into force on the date on which the said Ordinance had come into force.

Guj.
VI of
1962.



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Separate paging is given to this Part in order that it may
 be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
 Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the
 Governor on the 3rd March, 1978 is hereby published for general information.

S. L. TALATI,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 18 OF 1978.

(First published after having received the assent of the Governor in the
 "Gujarat Government Gazette" on the 9th March, 1978).

An Act further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Twenty-ninth Year of the Republic of India
 as follows:—

1. (1) This Act may be called the Gujarat Panchayats (Second Amendment)
 Act, 1978. Short title,
commence-
ment and
application.

(2) It shall come into force on such date as the State Government may, by
 notification in the *Official Gazette*, appoint:

Guj. VI of 1962. Provided that the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the
 principal Act") shall even after the date so appointed, continue to apply to the
 districts of Dangs and Junagadh as if this Act had not come into force, until the
 State Government, by a notification in the *Official Gazette*, otherwise directs in
 relation to any of the said districts.

Amendment of section 2 of Guj. VI of 1962. 2. In the principal Act, in section 2, for clause (16), the following shall be substituted, namely:—

“(16) “list of voters” means a list of voters prepared and maintained in accordance with the provisions of sections 21 to 21 E for an electoral division within the meaning of that expression in sub-section (6) of section 20;”.

Insertion of section 17A in Guj. VI of 1962. 3. In the principal Act, in Chapter III, before section 18, the following section shall be inserted, namely:—

Definitions. “17A. In this Chapter, unless the context otherwise requires,—

(a) “Assembly” means the Gujarat Legislative Assembly;

(b) “Central law” means the Representation of the People Act, 1950; ^{43 of 1960.}

(c) “qualifying date” means the 1st day of January of the year in which the list of voters for the purposes of the general election of members for reconstituting a panchayat is prepared under section 21A or, as the case may be, is revised under the proviso to section 21F.

Amendment of section 20 of Guj. VI of 1962.

4. In the principal Act, in section 20,—

(1) in sub-section (5),

(a) for the words “At any time before the date for entertaining nomination of candidates for a general election of a panchayat is notified”, the following shall be substituted, namely:—

“At any time not later than four months before the date of the expiry of the term of a panchayat under section 17 and in the case of a panchayat which is to be constituted or reconstituted under the provisions of this Act otherwise than on the expiry of its term under section 17, at any such time before it is to be constituted or, as the case may be, reconstituted as the State Government may, by order published in the *Official Gazette*, notify”;

(b) in clause (a), for the words “where the general election is” the words “for the purpose of general election” shall be substituted;

(c) in clause (b), for the words “where the general election is” the words “for the purpose of general election” shall be inserted;

(2) sub-section (7) shall be deleted.

Substitution of sections 21 to 21J for existing section 21 in Guj. VI of 1962.

5. In the principal Act, for section 21, the following sections shall be substituted, namely:—

"21. For every electoral division, there shall be a list of voters which shall be prepared and maintained by the competent authority in accordance with the provisions of sections 21A to 21E. List of voters for every electoral division.

21A. At any time not later than two months before the expiry of the term of office of a panchayat under section 17, and in the case of a panchayat which is to be constituted or reconstituted under the provisions of this Act otherwise than on the expiry of its term under section 17, at any such time as the State Government may, by order published in the *Official Gazette*, direct, the competent authority shall, for the purpose of the general election of members for constituting or, as the case may be, reconstituting such panchayat, prepare a list of voters for every electoral division in respect of such panchayat as determined under section 20 and in force at the time when such list is prepared. Preparation of list of voters.

21B. Subject to the provisions of sections 21A to 21E, every person who is not less than eighteen years of age on the qualifying date and who would be entitled to be registered as a voter in the electoral roll for a constituency for the purpose of elections to the Assembly under Part III of the Central law if under the said law persons less than twenty-one years of age on the qualifying date had been entitled to be so registered shall be entitled to be registered as a voter in the list of voters for any electoral division, to be prepared under section 21A. Persons qualified to be registered as voters.

21C. (1) The list of voters for any electoral division to be prepared and maintained under the foregoing provisions shall consist of two parts as follows :— Form of list of voters, etc.

(A) Part I of the list shall contain the names of all voters included in the electoral roll of the Assembly prepared under the provisions of the Central law for the time being in force for such part of the constituency of the Assembly as is included in the relevant electoral division, subject to any amendment, deletion or addition of names under sub-section (2) or the inclusion of any name under sub-section (4) made therein;

(B) Part II of the list shall contain the names of all persons other than the voters whose names are included, or are eligible for being included in Part I of the list, who are not less than eighteen years of age on the qualifying date and who would be entitled to be registered as voters in the electoral roll of the Assembly prepared under the provisions of the Central law for such part of the constituency of the Assembly as is included in the relevant electoral division if under the said law persons less than twenty-one years of age on the qualifying date had been entitled to be so registered.

(2) If on an application made to it in this behalf or on its own motion, the competent authority is satisfied that Part I of the list of voters is at variance with the relevant part of the electoral roll of the Assembly on account of any mistake in the said Part I, he shall amend the same so as to bring it in conformity with the said electoral roll and for that purpose may amend, delete or add any entry in the said Part I.

(3) Any person who may have become entitled to be registered in the relevant part of the electoral roll of the Assembly under the Central law after the 1st day of January of the year in which the electoral roll for the concerned constituency was last prepared or revised, as the case may be, may apply to the competent authority for inclusion of his name in Part I of the list of voters.

(4) When the competent authority, after making such inquiry as it may consider necessary, is satisfied that the applicant is entitled to be registered in the relevant part of the electoral roll of the Assembly under the Central law, it shall direct the name of the applicant to be included in Part I of the list of voters.

(5) No amendment, deletion or addition of any entry in the list of voters for an electoral division shall be made under sub-section (2) and no direction for inclusion of a name in that list shall be given under sub-section (4) during the period between such date as the State Government may, by general or special order, notify in this behalf and the date of the completion of any concerned election in the electoral division.

(6) Part II of the list of voters for any electoral division shall be prepared in the prescribed manner and for such purpose the State Government shall, after consulting the Chief Electoral Officer for the State of Gujarat, by notification in the *Official Gazette*, make rules to provide for all or any of the following matters, namely:—

- (a) the particulars to be entered in this Part of the list of voters;
- (b) the procedure by which the competent authority may call for or collect the names and other particulars of the persons entitled to be included as voters in this Part or by which such names and particulars may be furnished or sent to such authority;
- (c) the preliminary publication of the names of voters to be included in this Part of the list of voters;
- (d) the manner in which and the time within which claims and objections as to the inclusion of such names in such Part may be preferred;
- (e) the manner in which notices of such claims or objections shall be published;
- (f) the place, date and time at which claims or objections shall be heard and disposed of;
- (g) inspection of such Part of the list of voters by, and the delivery of its copy to, any person on payment of such reasonable fee as may be prescribed;

(h) the revision and correction of such Part of the list of voters by amendment, deletion or addition of any entry or by taking any other remedial action if it appears that through mistake, inadvertance or otherwise any entry in the list is made erroneously or defectively in any particular or any entry is left out or is wrongly included therein or any entry is required to be excluded from the list as a result of any person having ceased to be a voter on account of death or otherwise;

(i) any other matter for which rules may require to be made for carrying out the purposes aforesaid.

(7) The list of voters, consisting of both its parts shall, after it is finally prepared under this section, be published by the competent authority in the prescribed manner and shall come into operation immediately upon its final publication in accordance with the rules prescribed for the purpose. The list so published shall be final and conclusive.

21D. No person shall be entitled to have his name included in the list of voters for more than one electoral division of the same panchayat.

Name of person not to be included in list of voters for more than one electoral division.

21E. No person shall be entitled to have his name included in the list of voters for any electoral division more than once.

Name of person not to be included in list of voters for more than once.

21F. The list of voters for any electoral division which has been published and has come into operation under sub-section (7) of section 21C shall, subject to any revision made under the proviso to this section, remain in operation until a new list of voters for that electoral division is prepared, published and comes into operation:

Period for which a list of voters shall remain in operation.

Provided that the State Government may, for reasons to be recorded in writing, direct that such list for any electoral division may be revised in the prescribed manner by reference to the qualifying date, before any bye-election to fill a casual vacancy in a seat allotted to that electoral division.

21G. Every panchayat shall make available to the competent authority such staff as it may require for the performance of any duties in connection with the preparation and revision of a list of voters for an electoral division in respect of that panchayat.

Staff of panchayat, to be made available.

21H. No civil court shall have jurisdiction ---

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to have his name included in a list of voters; or

Jurisdiction of civil courts barred.

(b) to question the legality of any action taken by or under the authority of a competent authority or of any decision given by any other authority appointed under this Act for the revision of any such list.

Making false declarations.

21I. If any person makes in connection with—

(a) the preparation, revision or correction of a list of voters, or

(b) the inclusion or exclusion of any entry in or from a list of voters,

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Breach of official duty in connection with the preparation, etc. of list of voters.

21J. (1) If the competent authority or any other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of a list of voters or the inclusion or exclusion of any entry in or from that list is, without reasonable cause, guilty of any act or omission involving breach of such official duty, it or he, as the case may be, shall be punishable with fine which may extend to five hundred rupees.

(2) No suit or other legal proceeding shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No court shall take cognizance of any offence punishable under sub-section (1) except on a complaint made by order of, or under authority from, the State Government, the Election Authority or the Chief Electoral Officer of the State of Gujarat.”

Amendment of section 24 of Guj. VI of 1962.

6. In the principal Act, in section 24, in sub-section (2A), for the words and figures “rules made under section 323” the words, brackets, figures and letter “rules made under sub-section (6) of section 21C or any other rules made under section 323” shall be substituted.

Transitory provision.

7. Notwithstanding anything contained in section 21B of the principal Act as amended by this Act—

(i) no person who has not attained the age of 21 years on the qualifying date shall be entitled to have his name included in the list of voters for the purpose of any election that may be held during the specified period,

(ii) the list of voters for an electoral division in operation on the date of the commencement of this Act (hereinafter referred to as the “existing list of voters”) shall, notwithstanding that it has become inconsistent with the provisions of Chapter III of the principal Act as amended by this Act, continue to be in operation during the specified period, subject to the other provisions of the principal Act, as if this Act had not been passed.

Explanation.—For the purposes of this section—

(i) “qualifying date” shall have the same meaning as that expression has been given in clause (c) of section 17A of the principal Act as amended by this Act;

(ii) “specified period” means the period beginning with the date on which this Act comes into force and ending on the date on which the new list of voters replacing the existing list of voters comes into operation.



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be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 15th September, 1978 is hereby published for general information.

S. L. TALATI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 28 OF 1978.

(First published after having received the assent of the Governor in the "Gujarat Government Gazette" on the 15th September, 1978.)

an act further to amend the Gujarat Panchayat Act, 1961.

It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Panchayats (Third Amendment) Act, 1978. Short title
and comm-
encement.

(2) This section and sections 10, 14, 16, 17 and 18 shall come into force at once; sections 2, 4, 5, 7, 12, 13 and 15, clause (1) of section 3, clauses (1) and (4) of section 6, clause (1) of section 11 and section 8 except sub-clause (b) of clause (1) thereof shall be deemed to have come into force on the 24th February, 1962; clauses (2) and (3) of section 6 and clause (3) of section 11 shall be deemed

to have come into force on the 26th April, 1966; clause (2) of section 3, sub-clause (b) of clause (1) of section 8, section 9 and clause (2) of section 11 shall be deemed to have come into force on the 3rd December, 1963; and clause (5) of section 6 shall be deemed to have come into force on the 23rd December 1976; and any reference in any such provision to the date of the commencement of this Act shall be construed as reference to the date of the coming into force of that provision.

Substitution
of section
11 of Guj.
VI of 1982
by new section.
Guj. VI of
1982.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act") for section 11, the following section shall be substituted namely:—

Control of
State Government
over panchayats.

"11. The State Government shall exercise its control over the panchayats either directly or through such officer or officers as it may by general or special order appoint for the purpose."

Amendment
of section
102 of Guj.
VI of 1982.

3. In the principal Act, in section 102,—

(1) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1)(a) Subject to the provisions of this Act and the rules made thereunder there shall be a secretary for every gram panchayat and nagar panchayat who shall be appointed in accordance with the rules:

Provided that where on account of conversion of a municipality into a gram panchayat or a nagar panchayat under section 307, an officer of a municipality becomes a secretary of such panchayat or where any person not being a talati-cum-panchayat secretary is appointed as a secretary to such panchayat, such secretary shall not be governed by the rules so made and the rules for regulating recruitment, and conditions of service of such secretary shall be such as the panchayat may, subject to general or special order of the State Government, by its resolution determine:

Provided further that the State Government having regard to the population of a gram and income of the panchayat thereof may direct in respect of a group of gram panchayats that such group shall have one secretary and thereupon there shall be one secretary for that group.

(b) A gram panchayat or, as the case may be, a nagar panchayat may, subject to general or special order of the State Government, appoint such servants as may be necessary for the proper exercise of its powers, discharge of its duties and performance of its functions under this Act, and the rules for regulating recruitment, and conditions of service, of such servants shall be such as the panchayat may subject to like order by its resolution determine.

Explanation.—For the purpose of this clause the expression "servant" shall include a Secretary referred to in the first proviso to clause (a).

(c) Notwithstanding anything contained in any judgment, decree or order of any court,—

(i) the officers and servants of a gram panchayat or, as the case may be, of a nagar panchayat shall be and shall be deemed to have always been the officers and servants of such gram panchayat or nagar panchayat;

(ii) the expenditure towards the pay and allowances of, and other benefits available to, a servant of the gram panchayat or, as the case may be, nagar panchayat, shall be made by that panchayat from its own fund.”;

(2) in sub-section (3),—

(a) the word “other” shall be deleted;

(b) for the words “subject to rules, if any, made in this behalf” the words “subject to general or special order if any, made by the State Government, in this behalf” shall be substituted.

4. In the principal Act, in section 157, to sub-section (3), the following proviso shall be added, namely:—

Amendment
of section
157 of Guj.
VI of 1962.

“Provided that where a district panchayat delegates to a gram panchayat or, a nagar panchayat, subordinate to it, any of the functions, powers and duties transferred to it, it shall not transfer any staff to such gram or nagar panchayat.”.

5. In the principal Act, in Chapter XI for the heading “PROVISIONS RELATING TO SERVICES” the heading “PROVISIONS RELATING TO PANCHAYAT SERVICE” shall be substituted.

Amendment
of heading
of Chapter
XI of Guj.
VI of 1962.

6. In the principal Act, in section 203,—

Amendment
of section
203 of Guj.
VI of 1962.

(1) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) In order to enable taluka panchayats and district panchayats to exercise their powers, discharge their duties and perform their functions effectively and efficiently, there shall be constituted a Panchayat Service consisting of persons employed in connection with the affairs of taluka panchayats and district panchayats and of specified servants, and notwithstanding anything contained in any judgment, decree or order of any court such persons and servants shall be and shall be deemed to have always been the officers and servants of the taluka panchayats or, as the case may be, the district panchayats.

Explanation.—In this sub-section the expression “specified servants” means—

(a) talatis-cum-Panchayat secretaries discharging the functions of gram panchayats or of nagar panchayats, and

(b) kotwals.”;

(2) in sub-section (2A) —

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

“(a) The cadres referred to in sub-section (2) shall consist of district cadres and taluka cadres.”;

(b) clause (d) shall be deleted;

(3) in sub-section (2B), for the words “a panchayat” the words “a taluka panchayat or a district panchayat” shall be substituted;

(4) in sub-section (4),—

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

“(a) a provision entitling persons holding such classes of posts in the district cadre to be recruited to such cadre in the State service as may be prescribed.”;

(b) in clause (b), for the words “classes of posts” where they occur at two places the words “classes of posts in the district cadres and the taluka cadres” shall be substituted;

(5) in sub-section (6), for the words “The promotion” the words “The recruitment” shall be substituted.

Substitution
of section
204 of Guj.
VI of 1962.

7. In the principal Act, for section 204, the following section shall be substituted, namely:—

Expenditure
towards
pay and
allowances
etc. of offi-
cers and
servants in
Panchayat
Service to
be met by
the panch-
ayats.

“204. (1) The expenditure towards pay and allowances of and other benefits available to an officer or servant of the Panchayat Service serving for the time being under any panchayat shall be met by that panchayat from its own fund.

(2) Nothing contained in sub-section (1) shall affect the liability of the State Government to allot or transfer the fund under section 157 or 158 in the case where any powers, functions and duties are transferred under section 157 or, as the case may be, section 158.”.

Amendment
of section
206 of Guj.
VI of 1962.

8. In the principal Act, in section 206,—

(1) in sub-section (1)—

(a) in clause (i), for the figures and word “157, 158 and 325” the figures and word “157 and 158” shall be substituted;

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

“(ia) all persons who have under clause (x) of section 325 become the secretaries of new gram panchayats and *kotwals*.”;

(c) in clause (iii), for the words "the panchayats" the words "the district and taluka panchayats" shall be substituted;

(2) in sub-section (2), for the words "such panchayats" the words "such district and taluka panchayats" shall be substituted.

9. In the principal Act, in section 206A, in sub-section (1), for the words "allotted or transferred to a panchayat" the words "allotted or transferred to a district panchayat or a taluka panchayat" shall be substituted.

Amendment
of section
206A of Guj.
VI of 1962.

10. In the principal Act, after section 206A, the following sections shall be inserted, namely:—

Insertion
of new se-
ctions 206
AB and
206AC in
Guj. VI of
1962.

"206AB. (1) Notwithstanding anything contained in section 206, the allocation to the Panchayat Service made under section 206 of officers and servants allotted or transferred under section 157 or 158 after the 31st March, 1967 and before the date of commencement of the Gujarat Panchayats (Amendment) Ordinance, 1978 shall initially be provisional and shall become final in respect of such of those officers and servants who under sub-section (3) are deemed to have opted for the Panchayat Service.

Guj.
Ord. 6
of
1978.

Option to
persons be-
longing to
Panchayat
Service.

(2) Notwithstanding anything contained in section 206, an officer or servant allotted or transferred to a panchayat under section 157 or 158 after the 31st March, 1967 but before the date of the commencement of the Gujarat Panchayats (Amendment) Ordinance, 1978 shall within six months from the said date, by a notice in writing given to the State Government intimate his option of not continuing in the Panchayat Service, and on receipt of such a notice, he shall be permitted to retire from the Panchayat Service, and shall be entitled to such terminal benefits as pension, gratuity and the like as are available to him.

(3) Where an officer or servant does not intimate his option of not continuing in the Panchayat Service under sub-section (2), he shall be deemed to have opted for the Panchayat Service and to have ceased to be in the State service and to have become an officer or servant of a taluka panchayat or, as the case may be, a district panchayat.

(4) Where an officer or servant by a notice in writing given to the State Government intimates under sub-section (2) his option of not continuing in the Panchayat Service and the State Government is of the opinion that—

(a) at the time when such officer or servant was allotted or transferred to a panchayat under section 157 or 158, an officer or servant junior to the first mentioned officer or servant could have been so allotted or transferred instead of the first mentioned officer or servant, and

(b) such junior officer or servant is available for such allotment or transfer, then -

notwithstanding anything contained in section 157 or 158 or an order of allotment or transfer made under any of those sections in relation to the first mentioned officer or servant or in sub-section (2) the State Government shall by an order reallot or retransfer the first mentioned officer or servant to the State Service and allot or transfer the junior officer or servant to the concerned panchayat and thereupon the provisions of this section shall apply to the junior officer or servant as if—

(i) such junior officer or servant were allotted or transferred to a panchayat under section 157 or 158 after the 31st March, 1967 but before the commencement of the Gujarat Panchayats (Amendment) Ordinance, 1978 and

(ii) in sub-section (2) for the words "within six months from the said date" the words, brackets and figures "within six months from the date of order made under sub-section (4)" were substituted.

Explanation.—In this section and section 206AC reference to the date of commencement of the Gujarat Panchayats (Amendment) Ordinance, 1978 shall be construed as a reference to the date on which section 11 of that Ordinance has come into force.

Option to persons allotted or transferred under sections 157 and 158.

206AC. (1) An officer or servant allotted or transferred to the panchayat under section 157 or 158, on or after the date of the commencement of the Gujarat Panchayats (Amendment) Ordinance, 1978, shall, within a period of three months from the date of the order of the allotment or transfer, by a notice in writing given to the State Government, intimate his option of not continuing in the Panchayat Service, and on receipt of such a notice, he shall be permitted to retire from the Government service, and shall be entitled to such terminal benefits as pension, gratuity and the like as are available to him.

(2) Where an officer or servant does not intimate his option of not continuing in the Panchayat Service under sub-section (1), he shall be deemed to have opted for the Panchayat Service, and thereupon, the State Government may allocate him to the Panchayat Service by an order under sub-section (1) of section 206.

(3) Where in respect of an officer or servant who is deemed to have opted for Panchayat Service under sub-section (2), an order of allocation is made under sub-section (1) of section 206 allocating him to the Panchayat Service, such officer or servant shall cease to be in the State service and shall become the officer or servant of a taluka panchayat or, as the case may be, a district panchayat.

(4) where an officer or servant by a notice in writing given to the State Government intimates under sub-section (1) his option of not continuing in Panchayat Service and the State Government is of the opinion that —

(a) at the time when such officer or servant was allotted or transferred to a Panchayat under section 157 or 158, an officer or servant junior to the first mentioned officer or servant could have been so allotted or transferred instead of the first mentioned officer or servant, and

(b) such junior officer or servant is available for such allotment or transfer, then—

notwithstanding anything contained in section 157 or 158 or an order of allotment or transfer made under any of those sections in relation to the first mentioned officer or servant or in sub-section (1), the State Government shall by an order reallocate or retransfer the first mentioned officer or servant to the State Service and allot or transfer the junior officer or servant to the concerned panchayat and thereupon the provisions of this section shall apply to the junior officer or servant as if—

(i) such junior officer or servant were allotted or transferred to a panchayat under section 157 or 158, and

(ii) in sub-section (1) after the words "allotment or transfer" the words, brackets and figure "made under sub-section (4)" were inserted."

11. In the principal Act, in section 207—

Amendment
of section
207 of Guj.
VI of 1962.

(1) in sub-section (1)—

(a) for the words "For the purpose of enabling the panchayats" the words "For the purpose of enabling the district and taluka panchayats" shall be substituted;

(b) for the words "allotted or transferred to a panchayat" the words "allotted or transferred to a district panchayat or, as the case may be, taluka panchayat" shall be substituted;

(c) for the words "such panchayat" occurring at the first place the words "such district panchayat or, as the case may be, taluka panchayat" shall be substituted;

(2) in sub-section (3), for the words "who was allotted or transferred to a panchayat" the words "who was allotted or transferred to a district panchayat or, as the case may be, a taluka panchayat" shall be substituted;

(3) in sub-section (4), for the words "such panchayat" occurring at the first place the words "such district panchayat or taluka panchayat" shall be substituted.

Amendment
of section
210 of Guj.
VI of 1962.

12. In the principal Act, in section 210, in sub-section (5), for the words "to advise the panchayat" the words "to advise the district panchayat or the taluka panchayat" shall be substituted.

Amendment
of section
211 of Guj.
VI of 1962.

13. In the principal Act, in section 211, in sub-section (1), for the words "to advise the panchayats" the words "to advise the district and taluka panchayats" shall be substituted.

Insertion
of new sec-
tion 211A
in Guj. VI
of 1962.

14. In the principal Act, after section 211, the following section shall be inserted, namely:—

Certain offi-
cers and
servants
not to be
deemed to
be allocated
to Pancha-
yat Service.

"211A. All allocations to the Panchayat Service of—

(a) officers and servants in the employ of a municipality who have under clause (g) of section 307 become officers and servants of interim panchayats and whose services are not discontinued under the proviso to clause (g); and

(b) officers and servants of the old village panchayats who have under clause (x) of sub-section (2) of section 325 become the officers and servants of the new gram panchayats,

shall cease to have effect as if no order for such allocations were ever made under section 206 and such officers and the servants shall be deemed to have always been officers and servants of the gram panchayats or, as the case may be, the nagar panchayats.

Explanation.—For the purposes of this section,—

(i) the expression "interim panchayat" shall have the same meaning as it has in section 307 and,

(ii) the expressions "old village panchayat" and "new gram panchayat" shall have the same meanings as they have in section 325."

Amendment
of section
287 of Guj.
VI of 1962.

15. In the principal Act, in section 287,—

(1) clause (1) shall be deleted;

(2) for the marginal note, the following marginal note shall be substituted, namely:—

"Panchayats to perform functions so as to carry out the State policy."

16. Nothing contained in the principal Act, as amended by this Act shall ^{savings.} affect—

(1) anything done or any action taken before the commencement of this Act in relation to the servants of a gram panchayat or, as the case may be, a nagar panchayat, under any rules made under the principal Act,

(2) the conditions of service of an officer or servant of the Panchayat Service (Constituted under section 203 of the principal Act as amended by this Act) as applicable to him immediately before the commencement of this Act under any rules made under the principal Act.

17. In any notification issued under sub-section (3) of section 1 of the principal Act, a reference to any provision of that Act shall be construed as a reference to that provision as amended by this Act. ^{Construction of references to provisions of principal Act.}

18. (1) The Gujarat Panchayats (Amendment) Ordinance, 1978 is hereby ^{Repeal and savings} repealed. ^{Guj. Ord. No. 6 of 1978.}

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or action taken under the principal Act as amended by this Act as if this Act has come into force on the date on which the said Ordinance had come into force.



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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the Governor on the 1st September, 1980 is hereby published for general information.

N. B. PATEL,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 14 OF 1980.

(First published after having received the assent of the Governor in the "Gujarat Government Gazette" on the 3rd September, 1980).

An Act further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Thirty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Panchayats (Amendment) Act, 1980. Short title and commencement.]

(2) It shall be deemed to have come into force on the 22nd July, 1980.

Guj. VI of 1982.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in section 111, in sub-section (5), for the proviso, the following proviso shall be substituted, namely:— Amendment of section 111 of Guj. VI of 1982.

"Provided that the taluka panchayat may appoint, in accordance with any rules made in this behalf, any of the qualified voters of the taluka on a committee constituted under sub-section (2) or sub-section (4) and the qualified voters so appointed shall have the right to speak or otherwise to take part in the proceedings of a meeting of the committee but shall not, except in the case of a committee constituted under sub-section (4), be entitled to vote."

Insertion of new sections 111A and 112 in Guj VI of 1982. 3. In the principal Act, after section 111, the following sections shall be inserted, namely:—

Honorarium to Chairman of Social Justice Committee.

"111A. The Chairman of the Social Justice Committee of a taluka panchayat shall with effect on and from the 1st July, 1980 be entitled to an honorarium of Rs. 100 per month.

Travelling allowance to members of committee who are not members of a taluka panchayat.

112. The Chairman and members of any committee of a taluka panchayat constituted under section 111 who, not being the members of such panchayat, are not entitled to payment of travelling allowances under sub-section (4) of section 56, shall be entitled to travelling allowances while touring for the purpose of attending a meeting of the committee or any business relating to the committee at such rates and subject to such conditions as may be prescribed."

Amendment of section 132 of Guj. VI of 1982.

4. In the principal Act, in section 132, in sub-section (1), clause (c) shall be deleted.

Insertion of new sections 133 and 133A in Guj. VI of 1982.

5. In the principal Act, after section 132, the following sections shall be inserted, namely:—

Honorarium etc., to Chairman of Social Justice Committee.

"133. (1) The Chairman of the Social Justice Committee of a district panchayat shall be entitled,—

(a) to an honorarium of Rs. 200 per month ;

(b) without payment of rent to use of a residence in the headquarters of the panchayat or with the sanction of the State Government at any other place in the district throughout his term of office and for a period of fifteen days thereafter or in lieu of such residence a house allowance at such rate as the State Government may, by general or special order, determine.

(2) No charge shall fall on the Chairman personally in respect of the maintenance of any residence provided under sub-clause (b) of sub-section (1).

(3) During the leave or absence of the Chairman, the member of the Committee elected by it for performing the functions of the Chairman and performing such function shall be paid such honorarium and allowances as may be prescribed.

133A. The Chairman and members of any committee of a district panchayat constituted under section 131, who, not being members of such panchayat, are not entitled to payment of allowances, under sub-section (3A) or (4) of section 68, shall be entitled to travelling allowances while touring for the purpose of attending a meeting of the committee or any business, relating to the committee at such rates and subject to such conditions as may be prescribed." Travelling allowance to members of a committee who are not members of district panchayat.

6. In the principal Act, in section 206AB,—

Amendment
of section
206AB of
Guj. VI
of 1962.

(1) in sub-section (1), for the words brackets and figure "who under sub-section (3)" the words, brackets, figures and letter "who under sub-section (3) or (3A)" shall be substituted ;

(2) after sub-section (3), the following sub-section shall be inserted, namely :—

"(3A) (a) Any officer or servant who has not intimated before the commencement of the Gujarat Panchayats (Second Amendment) Ordinance, 1980 his option of not continuing in the Panchayat Service under sub-section (2) within the period specified in that sub-section, shall, notwithstanding anything contained in sub-section (3), not be deemed to have opted for the Panchayat Service and to have ceased to be in the State Service, and to have become an officer or servant of a taluka panchayat, or, as the case may be, a district panchayat; and such officer or servant shall notwithstanding anything contained in sub-section (2) within a period of six months from such commencement by a notice in writing given to the State Government intimate his option of not continuing in the Panchayat Service, and on receipt of such a notice, he shall be permitted to retire from the Panchayat Service and shall be entitled to such terminal benefits as pension, gratuity and the like as are available to him.

(b) Where an officer or servant does not intimate his option of not continuing in the Panchayat Service under clause (a), he shall be deemed to have opted for the Panchayat Service and to have ceased to be in the State Service and to have become an officer or servant of a taluka panchayat, or, as the case may be, a district panchayat.”;

(3) in sub-section (4),—

(a) for the words, brackets and figure “intimates under sub-section (2)” the words, brackets, figures and letters “intimates under sub-section (2) or clause (a) of sub-section (3A)” shall be substituted;

(b) for the words, brackets and figure “officer or servant or in sub-section (2)” the words, brackets, figures and letters “officer or servant or in sub-section (2) or in clause (a) of sub-section (3A)” shall be substituted.

Amendment
of section
206AC in Gaj.
VI of 1982.

7. In the principal Act, in section 206AC,—

(1) in sub-section (1), for the words “three months” the words “six months” shall be substituted;

(2) after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) (a) Any officer or servant who has not intimated before the commencement of the Gujarat Panchayats (Second Amendment) Ordinance, ^{Guj} Ord. ^{6 of} 1980 his option of not continuing in the Panchayat Service under sub-section (1) within the period specified in that sub-section, shall, notwithstanding anything contained in sub-section (2), not be deemed to have opted for the Panchayat Service and any order made before such commencement under sub-section (1) of section 206 allocating him to the Panchayat Service shall be deemed to be ineffective; and such officer or servant shall, notwithstanding anything contained in sub-section (1), within a period of six months from such commencement, by a notice in writing given to the State Government intimate his option of not continuing in the Panchayat Service and on receipt of such a notice, he shall be permitted to retire from the Government Service and shall be entitled to such terminal benefits as pension, gratuity and the like as are available to him.

(b) Where an officer or servant does not intimate his option of not continuing in the Panchayat Service under clause (a), he shall be deemed to have opted for the Panchayat Service and thereupon, the State Government may allocate him to the Panchayat Service by an order under sub-section (1) of section 206.”;

(3) in sub-section (3), for the words, brackets and figure “under sub-section (2A) the words, brackets, figures and letters “under sub-section (2) or clause (b) of sub-section (2A)” shall be substituted;

(4) in sub-section (4),—

(a) for the words, brackets and figure "intimates under sub-section (1)" the words, brackets, figures and letters "intimates under sub-section (1) or clause (a) of sub-section (2A)" shall be substituted;

(b) for the words, brackets and figure "officer or servant or in sub-section (1)" the words, brackets, figures and letters "officer or servant or in sub-section (1) or clause (a) of sub-section (2A)" shall be substituted.

Guj. 8. (1) The Gujarat Panchayats (Third Amendment) Ordinance, 1980 is hereby repealed. Repeal and saving.

Ord.
16 of
1980.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

EXTRA-IV-31 (2)



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Separate paging is given to this Part in order that it may be filed as a separate
Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the
Governor on the 13th October, 1980 is hereby published for general information.

N. B. PATEL,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 20 OF 1980.

(First published after having received the assent of the Governor in the
"Gujarat Government Gazette" on the 17th October, 1980.)

An Act further to amend the Gujarat Panchayats Act, 1961 and the Gujarat
Municipalities Act, 1963.

It is hereby enacted in the Thirty-first Year of the Republic of India, as
follows:—

1. (1) This Act may be called the Gujarat Panchayats and Municipalities
Laws (Amendment) Act, 1980.

(2) It shall come into force on such date as the State Government may, by
notification in the Official Gazette appoint.

Short title
and
commence-
ment.

Amendment
of Section 9
of Guj.
VI of 1962.

2. In the Gujarat Panchayats Act, 1961 hereinafter referred to as "the Panchayats Act") in section 9,— Gt
VI
19

(1). in sub-section (1),—

(a) in clause (a), for the figures "20,000" the figures "25,000" shall be substituted;

(b) for the existing proviso, the following provisos shall be substituted, namely:—

"Provided that if in the case of a local area which is eligible for being declared as a nagar under clause (a), the State Government, having regard to the geography, extent of urban development and such other factors in relation to that area as may be prescribed and after consulting the local authority if any, constituted for such local area, is of the opinion that the local area should be declared to be a gram, the State Government may by a like notification declare the local area to be a gram :

Provided further that if in the case of a local area, which is eligible for being declared as a gram under clause (b), the State Government having regard to the geography, extent of urban development and such other factors in relation to that area as may be prescribed and after consulting the local authority, if any, constituted for such local area, is of the opinion that the local area should be declared to be a nagar, the State Government may by a like notification declare the local area to be a nagar."

(2) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) Notwithstanding anything contained in sub-section (1) and section 4 of the Gujarat Municipalities Act, 1963, if the State Government having regard to the geography, extent of urban development and such other factors in relation to a municipal borough as may be prescribed, and after consulting the municipality constituted for such municipal borough, is of the opinion that the area comprised in the municipal borough be declared to be a gram or nagar, the State Government may, by notification in the *Official Gazette*, declare the area comprised in the municipal borough and specified in the notification to be a gram or nagar."

Amendment
of section
21C of Guj.
VI of 1962.

3. In the Panchayats Act, in section 21C, in sub-section (7), the words "The list so published shall be final and conclusive" shall be deleted.

4. In the Panchayats Act, in Chapter III, under the heading "Provisions relating to elections" after section 26A, the following section shall be inserted, namely :—

Insertion of new section 26B in Guj. VI of 1982.

"26B. In relation to general elections to taluka panchayats and district panchayats to be held in the year 1981, this Chapter shall apply subject to the following modifications, namely :—

Application of Chapter to certain general elections.

(1) In section 20, in sub-section (5), for the words "At any time not later than four months" the words "At any time not later than two months" shall be substituted.

(2) After section 21C, the following section shall be inserted, namely :—

"21CC. (1) Where the limits of any territorial constituency of the concerned taluka or district for the purpose of general election in relation to a taluka panchayat or, as the case may be, district panchayat are altered under sub-section (5) of section 20, after the list of voters for the constituency existing before such alteration of its limits has been finally published under sub-section (7) of section 21C, such list of voters may be altered by the competent authority so as to make it consistent with the limits of the territorial constituency as so altered.

Final list of voters to be altered in certain circumstances.

(2) The list of voters as altered under sub-section (1) shall be published in the same manner as provided under sub-section (7) of section 21C."

5. In the Panchayats Act, in Chapter V, in Part I, under the heading "(C) Administrative powers and duties" after section 95, the following section shall be inserted, namely :—

Insertion of new section 95A in Guj. VI of 1982.

"95A. (1) Where any premises in any gram or nagar are, in the opinion of the Taluka Development Officer, without adequate and suitable water-closet or privy accommodation in accordance with the rules or bye-laws made under this Act in that behalf, the Taluka Development Officer, may, by written notice, require the owner of such premises to provide such water or privy accommodation in accordance with the rules or bye-laws made under this Act in that behalf, within such time as may be specified in such notice and if the owner fails to comply with such requirement, within the time so specified or within such time as may, on the application of the owner, be extended by the Taluka Development Officer for any reasonable cause, it shall be lawful for the Taluka Development Officer to make such provision from the gram fund or, as the case may be, nagar fund and where such fund is inadequate, with the permission of the district panchayat from the District Development Fund. The expenses incurred by the Taluka Development Officer in making such

Power of Taluka Development Officer to require owner to provide water closet or privy accommodation.

provision shall, on demand by the Taluka Development Officer, be payable by the owner and if not paid by him on demand, such expenses shall be recoverable by the Taluka Development Officer in accordance with the provisions of section 192.

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

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

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

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

Bom.
LVII
of
1947.

Explanation.—For the purposes of this section “water closet” means a closet used as a privy in which discharges are pushed in or carried off by water, and includes an acqua privy, gas plant, latrine attached with gas plant, a closet of type known as P. R. A. I. (Planning Research Actor Institute) type, septic tank type, hand flush type, bore hole type, clap trap type or any other type which the State Government may, by notification in the *Official Gazette*, specify.”

Guj. 34 of 1964. 6. In the Gujarat Municipalities Act, 1963 (hereinafter referred to as "the Municipalities Act"), after section 4, the following new section shall be inserted, namely:—

Insertion of section 4A in Guj. 34 of 1964.

Guj. VI of 1982. "4A. (1) Notwithstanding anything contained in section 4 of this Act and section 9 of the Gujarat Panchayats Act, 1961, the area comprised in every nagar in the State, in which the population on the date of the commencement of the Gujarat Panchayats and Municipalities Laws (Amendment) Act, 1980 is 25000 or above shall with effect on and from that date be a municipal borough.

Special provision for declaration of nagar as municipal borough.

Guj. VI of 1982. (2) Notwithstanding anything contained in section 4 of this Act and section 9 of the Gujarat Panchayats Act, 1961 after making such inquiries as may be prescribed by rules made by it and after consulting the nagar panchayat, the State Government may, by notification in the *Official Gazette*, declare the areas comprised in a nagar and specified in the notification as a municipal borough, if the population of the nagar is 25,000 or above:

Provided that where the State Government having regard to the geography, extent of urban development and such other factors in relation to that area as may be prescribed by it by rules made under this Act and after consulting the nagar panchayat is of the opinion that it is not in public interest so to do, it shall be lawful for it not to so declare the area.

(3) Notwithstanding anything contained in section 4 of this Act and section 9 of the Gujarat Panchayats Act, 1961 where the State Government having regard to the geography, extent of urban development and such other factors in relation to the area comprised in a nagar having population not exceeding 25000 or in relation to the area comprised in a gram as may be prescribed by it by rules made under this Act and after consulting the nagar panchayat or, as the case may be the gram panchayat, is of the opinion that it is in public interest so to do, it may by a like notification declare such area as a municipal borough.

(4) Nothing contained in sub-section (2) or sub-section (3) shall prohibit the State Government from declaring an area to be a municipal borough notwithstanding that such area is comprised in a nagar and one or more grams adjacent to such nagar or in two or more grams which are adjacent to one another, if in other respects such declaration is consistent with the provisions of sub-section (2), or, as the case may be, sub-section (3).

Explanation.—For the purposes of this section—

Guj. VI of 1982. (a) "gram" means a gram formed, or any local area deemed to be a gram, under the Gujarat Panchayats Act, 1961;

Guj. VI of 1982. (b) "gram panchayat" means a gram panchayat constituted or deemed to be constituted for a gram and includes a person or persons appointed to exercise the powers and perform the functions of a gram panchayat under the Gujarat Panchayats Act, 1961;

(c) "nagar" means a nagar formed under the Gujarat Panchayats Act, 1961; ^{Guj. VI of 1962.}

(d) "nagar panchayat" means a nagar panchayat constituted for a nagar ^{1962.} and includes a person or persons appointed to exercise the powers and perform the functions of a nagar panchayat under the Gujarat Panchayats Act, 1961; and

(e) "population" in relation to gram or nagar means the population thereof as ascertained at the last preceding census."

7. In the Municipalities Act, after section 167, the following section shall be inserted, namely:—

Insertion
of new
section 167A
in Guj.
Act of 1964.

Power of
Chief Officer
to require
owner to
provide
water closet
or privy
accommoda-
tion.

"167A. (1) Where any premises are, in the opinion of the Chief Officer, without adequate and suitable water-closet or privy accommodation in accordance with the bye-laws made by the municipality in that behalf, the Chief Officer, may, by written notice, require the owner of such premises to provide such water-closet or privy accommodation in accordance with the bye-laws made by the municipality in that behalf, within such time as may be specified in such notice and if the owner fails to comply with such requirement, within the time so specified or within such time as may, on the application of the owner, be extended by the Chief Officer for any reasonable cause it shall be lawful for the Chief Officer to make such provision from the municipal fund. The expenses incurred by the Chief Officer in making such provision shall, on demand by the Chief Officer, be payable by the owner and if not paid by him on demand, such expenses shall be recoverable by the Chief Officer in the manner provided by Chapter IX of this Act.

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

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

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

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

Bom.
LVII
of
1947.

Explanation.—For the purpose of this section “water closet” means a closet used as a privy in which discharges are pushed in or carried off by water, and includes an acqua privy, gas plant, latrine attached with gas plant, a closet of type known as P.R.A.I. (Planning Research Action Institute) type, septic tank type, hand flush type, bore hole type, clap trap type or any other type which the State Government may, by notification in the *Official Gazette*, specify.”

8. In the Municipalities Act, after Chapter XVII, the following new Chapter shall be inserted, namely :—

Insertion
of new
Chapter
XVIIA in
Guj. 34
of 1964.

“CHAPTER XVIIA.

SPECIAL PROVISIONS FOR CONVERSION OF GRAM OR NAGAR PANCHAYATS INTO MUNICIPALITIES.

266A. For the purposes of this Chapter, unless the context otherwise requires— Interpretation.

(a) “gram” means a gram formed or an area deemed to be a gram, under the Panchayats Act;

(b) “gram panchayat” means a gram panchayat constituted or deemed to be constituted for a gram and includes a person or persons appointed to exercise the powers and perform the functions of a gram panchayat under the Panchayats Act;

(c) “nagar” means a nagar formed under the Panchayats Act;

(d) “nagar panchayat” means a nagar panchayat constituted for a nagar and includes a person or persons appointed to exercise the powers and perform the functions of a nagar panchayat under the Panchayats Act;

(e) “panchayat” means a gram panchayat or a nagar panchayat;

(f) “Panchayats Act” means the Gujarat Panchayats Act, 1961.

Guj.
VI of
1963.

Effect of
conversion
of nagar
panchayat
in to
municipality.

266B. Where under sub-section (1) of section 4A an area comprised in a nagar becomes a municipal borough or under sub-section (2) or sub-section (3) of section 4A an area comprised in a gram or a nagar is declared to be, a municipal borough, then with effect from the date on which such local area becomes or is so declared to be a municipal borough (in this section referred to as "the said date"), the following consequences, shall, notwithstanding anything contained in this Act or the Panchayats Act, ensue that is to say—

(a) the panchayat functioning in the local area shall stand dissolved and the Sarpanch and the Upasarpnach or as the case may be, the Chairman and the Vice-Chairman and all other members of such panchayat shall vacate their offices;

(b) (i) the member elected by the gram panchayat of the gram shall cease to be the member of the Nyaya Panchayat constituted for a group of grams and the said Nyaya Panchayat shall continue to function in respect of the group of grams excluding the local area unless the number of grams remaining in the group is rendered less than three:

(ii) the Nyaya Panchayat of the dissolved nagar panchayat shall stand dissolved and all members thereof shall vacate their offices;

(iii) the conciliation panch of the dissolved panchayat shall cease to exist;

(c) until, a municipality is constituted for the municipal borough under the Municipalities Act, there shall, notwithstanding anything contained in any law for the time being in force, be constituted for the municipal borough an interim municipality;

(d) the State Government shall appoint an administrator or administrators to exercise the powers and perform the duties and functions of the interim municipality until a municipality is constituted for the municipal borough under this Act:

Provided that if immediately before such dissolution of the panchayat there be a person or persons appointed under the Panchayats Act, to exercise the powers and perform the duties of the panchayat, there shall be an interim municipality for the municipal borough and the person or persons so appointed shall be deemed to be administrator or administrators appointed by the State Government under this clause to exercise the powers and perform the duties and functions of the interim municipality until a municipality is constituted for the municipal borough under this Act:

(e) the unexpended balance of the gram fund or the nagar fund and property including arrears of rates, taxes and fees, belonging to the dissolved panchayat, and all rights and powers, which prior to the said date vested in the panchayat shall subject to all charges and liabilities affecting the same, vest in the administrator or administrators on behalf of the interim municipality until a municipality is constituted and on constitution of a municipality in such municipality;

(f) (i) any appointment, notification, notice, order, scheme, licence, permission, rule, by-law or form made, issued or granted or deemed to have been made, issued or granted under the Panchayats Act, immediately before the said date in respect of the local area shall continue in force and be deemed to have been made, issued or granted in respect of the municipal borough, until it is superseded or modified by any other appointment, notification, notice, order, scheme, licence, permission, rule, bye-law or form made, issued or granted under this Act;

(ii) any tax, fee or cess (not being cess levied under section 181 of the Panchayats Act) which immediately before the said date were being levied by the State Government or by the dissolved panchayat in the local area shall continue to be levied in the municipal borough until it is superseded or modified by any other tax, fee or cess levied under this Act;

(iii) any tax, fee or cess which immediately before the said date were being levied by a taluka panchayat or a district panchayat or the cess which before the said date was being levied by the State Government under section 181 of the Panchayats Act in the local area shall cease to be so levied in the municipal borough after the end of the financial year in which the said date occurs except that as respects arrears of such tax, fee or cess at the end of the financial year, the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply as if the Panchayats Act had then been repealed by a Gujarat Act, in so far as the local area is concerned;

Bomb. I
of
1904.

(g) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated under the Panchayats Act immediately before the said date in respect of the local area shall be deemed to have been made or authenticated under this Act;

(h) all debts and obligations incurred and all contracts made by or on behalf of the dissolved panchayat immediately before the said date and subsisting on that date shall be deemed to have been incurred and made by the interim municipality until a municipality is constituted and on constitution of a municipality by such municipality in exercise of the powers conferred on it by or under this Act;

(i) all officers and servants in the employ of the dissolved panchayat immediately before the said date shall be officers and servants of the interim municipality until a municipality is constituted and on constitution of a municipality, of such municipality under this Act, and shall, until other provision is made in accordance with this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on the said date:

Provided that it shall be competent to the interim municipality or, as the case may be, the municipality subject however to the previous sanction of the State Government, to discontinue the services of any officer or servant who, in its opinion, is not necessary or suitable to the requirements of the service of the interim municipality or, as the case may be, the municipality after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalided out of service as if the panchayat in the employ of which he was, had not ceased to exist;

(j) all proceedings pending at the said date before the dissolved panchayat shall be deemed to be transferred to, and continued by the interim municipality until a municipality is constituted and on constitution of a municipality such municipality;

(k) all appeals pending at the said date before the dissolved panchayat shall, so far as may be practicable, be disposed of as if the local area had been the municipal borough when they were filed;

(l) all prosecutions instituted by or on behalf of the dissolved panchayat and all suits or other legal proceedings instituted by or against such panchayat or any officer of the dissolved panchayat pending at the said date shall be continued by or against the interim municipality until a municipality is constituted and on constitution of a municipality by or against such municipality as if the local area had been the municipal borough when such prosecutions, suits or proceedings were instituted;

(m) (i) the provisions of sub-sections (2) and (3) of section 282 of the Panchayats Act shall be deemed to apply in respect of any suits or cases pending before the dissolved Nyaya Panchayat or, as the case may be, before the Nyaya Panchayat continuing to function under sub-clause (i) of clause (b) in so far as such suits and cases relate to the area comprised in the gram, as if the District or Sessions Court, as the case may be, had passed an order under sub-section (1) of the said section 282 quashing such suits or cases; and

(ii) all pending proceedings and applications for the execution of decrees or orders in suits and for the recovery of fines and compensation in cases shall be transferred to the Court of the Civil Judge of the lowest grade or the Court of the Magistrate, as the case may be who would have had jurisdiction to try the suit or cases if the Nyaya Panchayat had not been constituted and such Civil Court or the Court of Magistrate, as the case may be shall deal with the proceedings or applications as if the suit or case out of which the proceedings or applications arose, had been heard and decided by such Civil Court or the Court of such Magistrate;

(n) any law (other than the Panchayats Act) or any rule, bye-law, notification or order issued under such law, which was applicable to and in force in the nagar immediately before the said date shall continue to apply to and to be in force in the municipal borough until it is superseded.

266C. Where under sub-section (4) of section 4A any area comprised in a nagar and a gram or grams or in two or more grams is declared as a municipal borough, the provisions of section 266B shall apply as if—

Application of section 266B in certain cases.

(a) reference to "local area" in that section shall, unless the context otherwise requires, mean the local area comprising the area of such nagar and gram or grams or two or more grams;

(b) reference to "the panchayat functioning in the local area" in clause (a) of that section shall mean every gram panchayat or nagar panchayat functioning in the local area; and the words "dissolved panchayat" in that section shall be construed accordingly.

266D. (1) The Collector shall, within a period not exceeding one year from the date on which the interim municipality has been constituted take steps to hold election for a new municipality.

Interim municipalities.

(2) All arrears of taxes and fees vesting in the interim municipality shall be recoverable under the provisions of this Act, as if the taxes and fees were imposed and recoverable under this Act.

(3) In other respects the provisions of the Municipalities Act shall *mutatis mutandis* apply to the interim municipality.

266E. If any difficulty arises in giving effect to the provisions of this Chapter, the State Government may, by notification in the *Official Gazette*, make any order in relation to an area comprised in a gram or nagar which becomes or is declared to be a municipal borough under section 4A, not inconsistent with the provisions of this Act, which appears to it to be necessary for the purpose of removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of two years from the date on which the area comprised in a nagar becomes or is declared to be a municipal borough:

Provided further that every such order shall, as soon as may be after it is made, be laid before the State Legislature."



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Separate paging is given to this Part in order that it may
be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the
Governor on the 26th February, 1981 is hereby published for general information.

K. M. SATWANI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 4 OF 1981.

(First published after having received the assent of the Governor in the
"Gujarat Government Gazette" on the 27th February 1981).

An Act

further to amend the Gujarat Panchayats Act, 1961 and to validate certain
notifications issued under sections 14 and 15 of that Act.

It is hereby enacted in the Thirty-second Year of the Republic of India as
follows :—

1. (1) This Act may be called the Gujarat Panchayats (Amendment and Validation) Act, 1981. Short title
(and comm-
encement.)

(2) This section and section 6 shall be deemed to have come into force on
the 3rd January, 1981; sections 2, 3 and 5 shall be deemed to have come into
force on the 27th February, 1974 and section 4 shall be deemed to have come
into force on the 21st January, 1980.

Amendment
of section
14 of Guj.
VI of 1962.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in section 14, in sub-section (4), for the third proviso the following proviso shall be substituted, namely :—

Guj.
VI of
1962.

"Provided further that the reserved seats may be allotted by rotation to different constituencies in a taluka in the manner specified in Schedule IA."

Amendment
of section
15 of Guj.
VI of 1962.

3. In the principal Act, in section 15, in sub-section (4), for the third proviso the following proviso shall be substituted, namely :—

"Provided further that the reserved seats may be allotted by rotation to different constituencies in a district in the manner specified in Schedule IA."

Amendment
of section
23 of Guj.
VI of 1962.

4. In the principal Act, in section 23, in sub-section (1), in clause (f), after the words "Education Committee" the words "or of a Social Justice Committee" shall be inserted.

Insertion of
new Schedule
I-A in Guj.
VI of 1962.

5. In the principal Act, before Schedule I, the following shall be inserted, namely :—

"SCHEDULE IA.

(See section 14 and 15)

For the purposes of the constitution or reconstitution of any taluka panchayat or district panchayat the manner of allotment of reserved seats by rotation amongst different constituencies shall be as under, namely :—

1. A taluka or, as the case may be, district shall be divided into as many single member territorial constituencies as there are total seats to be filled and each constituency shall be named after giving it the name of a town or village having the largest population therein :

Provided that if the area of such town falls in more than one constituency, the constituencies covered by the area of such town shall be distinguished by adding to their names arithmetical figures. For example if "X" is a town having the largest population and its area extends to more than one constituency, such constituencies shall be distinguished by giving them names as X-1 and X-2 and so on.

2. The names of the constituencies shall be arranged in the English alphabetical order and shall be serially numbered. The serial numbers so given to the constituencies shall not be changed notwithstanding any change in the name of any constituency.

3. For the purpose of allotment of seats reserved for the Scheduled Castes in a taluka or, as the case may be, district, the rotation shall be as under :—

(1) The constituencies in a taluka or, as the case may be, district named and numbered as provided in paragraphs 1 and 2 shall be given special serial numbers for this purpose according to the percentage of the population of the Scheduled Castes in each such constituency starting with the highest percentage; and

(2) subject to the provisions of sub-paragraphs (2) and (3) of paragraph 6 the rotation of seats in the constituencies shall take place serially according to the serial numbers of the constituencies given under sub-paragraph (1).

4. For the purpose of allotment of seats reserved for the Scheduled Tribes in a taluka or, as the case may be, district, wherein the total population of the Scheduled Tribes is less than 15 per cent of the total population of such taluka or, as the case may be, district, the rotation shall be as under, namely :—

(1) The constituencies in a taluka or, as the case may be, district, named and numbered as provided in paragraphs 1 and 2 shall be given special serial numbers for this purpose according to the percentage of the population of the Scheduled Tribes in each such constituency, starting with the highest percentage; and

(2) subject to the provisions of sub-paragraphs (2) and (3) of paragraph 6, the rotation of seats amongst the constituencies shall take place serially according to the serial numbers of the constituencies specified under sub-paragraph (1).

5. In a taluka, or as the case may be, district, wherein the population of the Scheduled Tribes is 15 per cent or more of the total population of the taluka, or as the case may be, district, the reserved seats for the Scheduled Tribes shall not be rotated between different constituencies of such taluka, or, as the case may be, district, but shall be allotted to different constituencies as under, namely :—

(1) The constituencies in a taluka or, as the case may be, district, named and numbered as provided in paragraphs 1 and 2 shall be given special serial numbers for this purpose according to the percentage of the population of the Scheduled Tribes in each such constituency, starting with the highest percentage; and

(2) subject to the provisions of sub-paragraphs (2) and (3) of paragraph 6, the allotment of seats in accordance with the provisions of sub-section (4) of section 14, or, as the case may be, sub-section (4) of section 15 amongst the constituencies shall take place serially according to serial numbers of the constituencies specified under sub-paragraph (1).

6. For the purpose of allotment of seats reserved for women in a taluka or, as the case may be, district, the rotation shall be as under :—

(1) The reserved seats for women shall first be distributed according to the allocation made under sub-section (4) of section 14, or, as the case may be, sub-section (4) of section 15 to the women belonging to the Scheduled Castes, the Scheduled Tribes and to the women not belonging to the Scheduled Castes and the Scheduled Tribes :

Provided that for purposes of making such distribution, fractions of a seat of one half and above shall be counted as one and fraction below one half shall be ignored.

(2) (a) If the seat allocable to the women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes is only one, then, such seat shall be allotted by rotation in the first general elections held after the 27th February, 1974 to the constituency which may be first in the serial order to which seat or seats are allocable under the provisions of paragraphs 3, 4, or, as the case may be 5 and in the second and subsequent general elections to the constituency which may be second, third and so on in the said serial order;

(b) if the seats allocable to the women belonging to the Scheduled Castes or the Scheduled Tribes are more than one, then, such seats shall be allotted by rotation to the constituency or constituencies referred to in paragraph 3, 4 or, as the case may be, paragraph 5 in the same manner as specified in clause (b) of sub-paragraph (3).

(3) The rotation of seat or seats allocable to women not belonging to the Scheduled Castes and the Scheduled Tribes shall be as under :—

(a) If the seat allocable to the women not belonging to the Scheduled Castes or Scheduled Tribes is only one, then, such seat shall be allotted by rotation in the first general elections held after the 27th February, 1974, to the constituency which may be first in the serial order as per serial numbers given under paragraph 2 and in the second and subsequent general elections to the constituency which may be second, third and so on in the said serial order.

(b) If the seats so allocable under section 14 or, as the case may be, 15 are more than one, such seats shall be allotted to women not belonging to the Scheduled Castes or the Scheduled Tribes by rotation in the following manner, namely :—

(i) In the first general election held after the 27th February, 1974, one seat shall be allotted to the constituency bearing serial number one given under paragraph 2 and the second seat shall be allotted to the constituency bearing such serial number as is arrived at by adding the quotient to the said serial number one and the third seat shall be allotted to the constituency bearing such serial number as is arrived at by adding the quotient to the serial number of the constituency to which the second seat is allotted and so on.

(ii) In the second and subsequent general elections, the seats shall be allotted by rotation, in the manner specified in sub-clause (i) commencing from such serial number as is arrived at by adding the quotient to the last serial number arrived at in the preceding general election :

Provided that—

(a) where the serial number arrived at by adding the quotient is greater than the total number of such constituencies in the taluka or the district, such latter number shall be deducted from the former number and the rotation shall be commenced or, as the case may be, continued from the number arrived at by such deduction,

(b) where in any case there is a fraction in the quotient such fraction shall be disregarded.

Explanation.—For the purpose of this clause the expression “quotient” means the quotient arrived at by dividing the total number of seats allotted or capable of being allotted to members not belonging to the Scheduled Castes or the Scheduled Tribes in accordance with the provisions of section 14 or, as the case may be, section 15 by the number of reserved seats for women allocable to women not belonging to the Scheduled Castes or the Scheduled Tribes.

ILLUSTRATIONS.

I. If total number of seats of elected members as specified under section 14, is fifteen and if out of the number of seats so specified one seat is reserved for members belonging to the Scheduled Castes and no seat is reserved for members belonging to the Scheduled Tribes and the remaining fourteen seats are capable of being allotted to members not belonging to the Scheduled Castes and the two reserved seats for women capable of being allotted to members not belonging to the Scheduled Castes, then, during the first general election such reserved seats for women so allocable shall be allotted to constituencies bearing serial numbers one and eight as under:—

$$14 \div 2 = 7; 1; 1 + 7 = 8.$$

For the second general election reserved seats for women so allocable shall be allotted by rotation to constituencies numbers fifteen and seven as under,—

$$8 + 7 = 15; 15 + 7 = 22;$$

$$22 - 15 = 7; \text{ i.e. Nos. 15 \& 7.}$$

II. If total number of seats of elected members as specified under section 15 is thirty nine and if out of number of seats so specified two seats are reserved for members belonging to the Scheduled Castes, eight seats are reserved for members belonging to the Scheduled Tribes and remaining twenty-nine seats are capable of being allotted to members not belonging to the Scheduled Castes and the Scheduled Tribes and out of total number of four seats to be reserved for women, three reserved seats for women are capable of being allotted to members not belonging to the Scheduled Castes or the Scheduled Tribes, then, such reserved seats for women so allocable shall be allotted to constituencies numbers one, ten and nineteen as under,—

$$29 \div 3 = 9.66, \text{ i.e. 9. (fraction of the quotient to be ignored).}$$

$$1; 1 + 9 = 10; 10 + 9 = 19.$$

7. In case where a seat for Scheduled Castes and also for Scheduled Tribes becomes allocable to the same constituency such constituency shall have a reserved seat for Scheduled Castes and the seat for Scheduled Tribes shall be shifted to the constituency, which may be next in the serial order where a seat for Scheduled Tribes would otherwise have to be reserved.

8. If any question arises as to the constituency to which any seat reserved for women, Scheduled Castes or Scheduled Tribes should be or is capable of being allotted under this Schedule, it shall be competent for the State Government or the Development Commissioner authorised in this behalf to decide the same and its or his decision shall be final."

Validation of
certain noti-
fications.

6. Notwithstanding anything contained in any judgment, decree or order (whether interim or otherwise) of any Court, every notification allocating reserved seats for women, the Scheduled Castes and the Scheduled Tribes and general seats, to the constituencies of talukas and districts in the State issued under sub-sections (3) and (4) of section 14 of the principal Act and sub-sections (3) and (4) of section 15 of that Act before the commencement of this section by the Development Commissioner in exercise of the powers of the State Government under the aforesaid provision, delegated to him, shall be deemed to have been validly issued in accordance with law, as if, the principal Act had been in force as amended by this Act at all material times when such notification was issued.

Repeal and
savings.

7. (1) The Gujarat Panchayats (Amendment and Validation) Ordinance, Guj Ord. No. 1 of 1981.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.



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Separate paging is given to this Part in order that it may be filed as a separate
Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the
Governor on the 2nd March, 1981 is hereby published for general information.

K. M. SATWANI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 7 OF 1981.

(First published after having received the assent of the Governor in the "*Gujarat
Government Gazette*" on the 5th March, 1981).

An act further to amend the Gujarat Panchayats Act, 1961 and to validate
establishment of district family welfare funds by certain district panchayats.

It is hereby enacted in the Thirty-second Year of the Republic of India, as
follows:—

1. This Act may be called the Gujarat Panchayats (Second Amendment and Short title,
Validation) Act, 1981.

Guj. 6 of 1982. 2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), after section 141, the following section shall be inserted, namely:—

Insertion of new section 141A in Guj. 6 of 1982.

District,
Family
Welfare
Fund.

"141A. (1) Notwithstanding anything contained in sections 140 and 141, in each district, there shall be established by the district panchayat a fund to be called the District Family Welfare Fund which shall consist of—

(a) all the sums received by way of gifts or contribution from the State Government or the Central Government or any person for the purpose of family welfare programmes;

(b) the proceeds of entertainment programme arranged by the panchayat;

(c) the sale proceeds of family welfare seeds.

(2) The Fund shall be applied by the panchayat for the purpose of family welfare programmes in the district.

(3) Any sum in the fund which may not be required for the current expenditure may be invested in such manner as may be prescribed."

Validation of
establish-
ment of
District
Family
Welfare Fund
by certain
district
panchayats.

6. Notwithstanding anything contained in the principal Act, a District Family Welfare Fund established and applied by a district panchayat for the purpose of family welfare programmes, before the commencement of this Act shall be deemed to have been validly established and applied in accordance with law, as if, section 141A of the principal Act as amended by this Act had been in force at all material times, when such fund was established and applied.



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WEDNESDAY, MARCH 9, 1983/PHALGUNA 18, 1904

Separate paging is given to this Part in order that it may
 be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the Governor on the 5th March, 1983 is hereby published for general information.

K. M. SATWANI,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 3 OF 1983.

(First published after having received the assent of the Governor in the "Gujarat Government Gazette" on the 9th March, 1983).

further to amend the Gujarat Panchayats, Act, 1961.

AN ACT

It is hereby enacted in the Thirty-third Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Panchayats (Amendment) Act, 1982. Short title.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in section 60, in sub-section (1),—

Amendment
 of section 60
 of Gui.VI
 of 1962.

(1) for the words "Any member" the words and brackets "Any member (other than an associate member)" shall be substituted;

(2) for the words "such number of members" the words and brackets "such number of members (other than associate members)" shall be substituted.

Amendment
of section 72
of Gaj. VI of
1962.

3. In the principal Act, in section 72, in sub-section (1),—

(1) for the words "Any member" the words and brackets "Any member (other than an associate member)" shall be substituted;

(2) for the words "such number of members" the words and brackets "such number of members (other than associate members)" shall be substituted.



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Separate paging is given to this Part in order that it may be
filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the
Governor on the 31st March, 1983 is hereby published for general information.

K. M. SATWANI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 11 OF 1983.

(First published after having received the assent of the Governor in the
"Gujarat Government Gazette" on the 31st March, 1983).

An Act further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Thirty-fourth Year of the Republic of India
as follows :—

1. (1) This Act may be called the Gujarat Panchayats (Amendment)
Act, 1983.

(2) It shall come into force on such date as the State Government may,
by notification in the *Official Gazette*, appoint.

Short
title and
commen-
ment.

Amend-
ment of
section 169
of Guj. VI
of 1962.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in section 169, in sub-section (3), in clause (a), in the proviso, for the words "one hundred paise" the words "two hundred paise" shall be substituted.

Guj.
VI of
1962.

Amend-
ment of
section 186
of Guj. VI
of 1962.

3. In the principal Act, in section 186, in sub-section (1), for the figures and word "10 percent" the figures and word "20 percent" shall be substituted.

Amend-
ment of
Schedule
III to
Guj. VI
of 1962.

4. In the principal Act, in Schedule III, in Part I, in item 1 relating to the functions in the sphere of sanitation and health, for clause (b), the following clause shall be substituted, namely:—

"(b) provision and maintenance of drinking water supply."



सत्यमेव जयते

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Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the Governor on the 23rd September, 1984 is hereby published for general information.

J. P. VASAVADA,
 Special Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 15 of 1984.

(First published after having received the assent of the Governor in the "Gujarat Governmenton Gazette the 26th September, 1984.)

An Act further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Thirty-fifth year of the Republic of India as follows:--

1. (1) This Act may be called the Gujarat Panchayats (Amendment) Act, 1984.

Short title and commencement.

(2) It shall be deemed to have come into force on the 10th July, 1978.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), for section 11, the following section shall be substituted, namely:—

Substitution of section 11 of Guj. VI of 1962 by new section.

Guj.
VI of
1962

Panchayat
Organi-
sation
and the
exercise of
control
over
panchayats
by State
Government.

"11. (1) The gram panchayats, nagar panchayats, taluka panchayats, district panchayats, gram sabhas, Nyaya Panchayats and conciliation panchas shall constitute the Panchayat Organisation of the State of Gujarat.

(2) The State Government shall exercise its control over the panchayats either directly or through such officer or officers as it may, by general or special order appoint for the purpose."

Amendment
of section
102 of
Guj. VI
of 1962.

3. In the principal Act, in section 102,—

(1) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Subject to the provisions of this Act and the rules made thereunder—

(a) there shall be a Secretary for every gram panchayat and nagar panchayat who shall be appointed in accordance with the rules;

(b) a gram panchayat or, as the case may be, nagar panchayat shall have such other servants as may be determined under section 203. Such servants shall be appointed by such authority and their conditions of service shall be such as may be prescribed:

Provided that the State Government having regard to the population of a gram and income of the panchayat thereof may direct in respect of a group of gram panchayats that such group shall have one Secretary and thereupon there shall be one Secretary for that group;"

(2) in sub-section (3),—

(a) for the words "The servant of the panchayat" the words "The other servants of the panchayat" shall be substituted;

(b) for the words "subject to general or special order, if any, made by the State Government, in this behalf" the words "subject to rules, if any, made in this behalf" shall be substituted.

Amendment
of section
157 of
Guj. VI
of 1962.

4. In the principal Act, in section 157, the proviso to sub-section (3) shall be deleted.

Amendment
of heading
of Chapter
-XI of
Guj. VI
of 1962.

5. In the principal Act, in Chapter XI, for the heading "Provisions relating to Panchayat Service" the heading "Provisions relating to Services" shall be substituted.

Amendment
of section
203 of
Guj. VII
of 1962.

6. In the principal Act, in section 203,—

(1) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) For the purpose of bringing about uniform scales of pay and uniform conditions of service for persons employed in the discharge of functions and duties of panchayats, there shall be constituted a

Panchayat Service in connection with the affairs of panchayats. Such service shall be distinct from the State Service, ”.

(2) in sub-section (2A)—

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

“(a) The cadres referred to in sub-section (2) may consist of district cadres, taluka cadres and local cadres; ”;

(b) after clause (c), the following clause shall be inserted, namely:—

“(d) A servant belonging to a local cadre shall be liable to be posted whether by promotion or transfer to any post in the same gram or, as the case may be, nagar;” ;

(3) in sub-section (2B), for the words “a taluka panchayat or a district panchayat” the words “a panchayat” shall be substituted;

(4) in sub-section (4),—

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

“(a) a provision entitling servants of such cadres in the Panchayat Service to promotion to such cadres in the State Service as may be prescribed;” ;

(b) in clause (b), for the words “classes of posts in the district cadres and the taluka cadres” where they occur at two places, the words “classes of posts” shall be substituted;

(5) in sub-section (6), for the words “The recruitment” the words “The promotion” shall be substituted.

7. In the principal Act, for section 204, the following section shall be substituted, namely:—

Substitution of section 204 of Guj. VI of 1962.

“204. Subject to the rules, which the State Government may make in this behalf, the expenditure towards the pay and allowances of and other benefits available to an officer or servant of the Panchayat Service serving for the time being under any panchayat shall be met by that panchayat from its own fund.”.

Expenditure towards pay allowances etc. of officers and servants in Panchayat Service to be met by panchayats.

8. In the principal Act, in section 206,—

(1) in sub-section (1)—

(a) in clause (i), for the figures and word “157 and 158” the figures and word “157, 158 and 325” shall be substituted;

Amendment of section 206 of Guj. VI of 1962.

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

“(ia) All officers and servants of the municipalities dissolved under section 307 ;”;

(c) in clause (iii), for the words “the district and taluka panchayats” the words “the panchayats” shall be substituted;

(2) in sub-section (2), for the words “such district and taluka panchayats” the words “such panchayats” shall be substituted.

Amendment
of section
203A of
Guj. VI
of 1962.

9. In the principal Act, in section 206A, in sub-section (1), for the words “allotted or transferred to a district panchayat or a taluka panchayat” the words “allotted or transferred to a panchayat” shall be substituted.

Deletion
of section
206AB
and 206AC
of Guj.
VI of 1962.

10. In the principal Act, sections 206AB and 206AC shall be deleted.

Amendment
of section
207 of
Guj. VI
of 1962.

11. In the principal Act, in section 207,—

(1) in sub-section (1),—

(a) For the words “For the purpose of enabling the district and taluka panchayats” the words “For the purpose of enabling the panchayats” shall be substituted;

(b) for the words “allotted or transferred to a district panchayat or, as the case may be, taluka panchayat” the words “allotted or transferred to a panchayat” shall be substituted;

(c) for the words “such district panchayat or, as the case may be, taluka panchayat” the words “such panchayat” shall be substituted;

(2) in sub-section (3), for the words “who was allotted or transferred to a district panchayat or, as the case may be, a taluka panchayat” the words “who was allotted or transferred to a panchayat” shall be substituted;

(3) in sub-section (4), for the words “such district panchayat or taluka panchayat” the words “such panchayat” shall be substituted.

Amendment
of section 210
of Guj. VI of
1962.

12. In the principal Act, in section 210, in sub-section (5), for the words “to advise the district panchayat or the taluka panchayat” the words “to advise the panchayats” shall be substituted.

Amendment
of section
211 of
Guj. VI of
1962.

13. In the principal Act, in section 211, in sub-section (1), for the words “to advise the district and taluka panchayats” the words “to advise the panchayats” shall be substituted.

14. In the principal Act, section 211A shall be deleted.

Deletion of
section 211A
of Guj.
VI of 1962.

15. In the principal Act, in section 287,—

Amendment
of section
287 of Guj.
VI of 1962.

(1) for the words "having distinct territorial jurisdiction and distinct functions to perform" the following portion shall be substituted, namely:—

"having distinct territorial jurisdiction and distinct functions to perform,—

(1) shall form part of the Panchayat Organisation set up for the purpose of securing a greater measure of participation by the people of the State in local and Governmental functions".

(2) for the marginal note, the following marginal note shall be substituted, namely:—

"Panchayats to form part of State-wide Panchayats Organisation and to perform function so as to carry out the State policy."

16. (a) Any recruitment of and any action relating to the condition of service of a secretary to gram panchayat or nagar panchayat converted from a municipality under section 307 of the principal Act, and

Validation.

(b) any appointment of a servant other than a Secretary, made by any gram panchayat or nagar panchayat under the principal Act,

during the period commencing from the 10th July, 1978 and ending immediately before the commencement of this Act, shall be deemed to be valid if such recruitment, action or appointment is approved in accordance with such general or special order as the State Government may make in this behalf, by the District Panchayat to which such gram panchayat or nagar panchayat is subordinate.

Guj.
Ord. V
of
1984.

17. (1) (a) The Gujarat Panchayat (Third Amendment) Act, 1978 and

Repeal and
savings.

(b) the Gujarat Panchayats (Amendment) Ordinance, 1984

are hereby repealed.

(2) Notwithstanding the repeal of the Gujarat Panchayats (Amendment) Ordinance, 1984, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the Governor on the 11th February, 1987 is hereby published for general information.

J. P. VASAVADA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 1 OF 1987

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 13th February, 1987).

AN ACT

further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Thirty-eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Panchayats (Amendment) Act, 1987.

(2) It shall be deemed to have come into force on the 26th September, 1986.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in section 14, in sub-section (4), for the third proviso, the following proviso shall be substituted, namely:-

Short title and commencement.

Amendment of section 14 of Act VI of 1962

"Provided further that—

(i) the seats reserved for the Scheduled Castes and the Scheduled Tribes may be allotted to different constituencies in a taluka in the manner specified in Part I of Schedule IA, and

(ii) the seats reserved for women may be allotted by rotation to different constituencies in a taluka in the manner specified in Part II in the said Schedule."

3. In the principal Act, in section 15, in sub-section (4), for the third proviso, the following proviso shall be substituted, namely:—

"Provided further that—

(i) the seats reserved for the Scheduled Castes and the Scheduled Tribes may be allotted to different constituencies in a district in the manner specified in Part I of Schedule IA, and

(ii) the seats reserved for women may be allotted by rotation to different constituencies in a district in the manner specified in Part II in the said Schedule."

4. In the principal Act, for Schedule I-A, the following shall be substituted, namely:—

"SCHEDULE IA.

(See sections 14 and 15)

PART I

For the purposes of the constitution or reconstitution of a taluka panchayat or district panchayat the manner of allotment of seats reserved for the Scheduled Castes and the Scheduled Tribes amongst different constituencies shall be as under :—

1. A taluka, or as the case may be, district shall be divided into as many single member territorial constituencies as there are total seats to be filled and each constituency shall be named after giving it the name of a town or village having the largest population therein :

Provided that if the area of such town" falls in more than one constituency, the constituencies covered by the area of such town shall be distinguished by adding to their names arithmetical figures. For example if "X" is a town having the largest population and its area extends to more than one constituency, such constituencies shall be distinguished by giving them names as X-1 and X-2 and so on.

Amendment
of section
15 of Guj.
VI of 1982.

Substitu-
tion of
new
Schedule
I-A in Guj
VI of 1982,

2. The names of the constituencies shall be arranged in the English alphabetical order and shall be serially numbered.

3. The constituencies in a taluka or, as the case may be, district named and numbered as provided in paragraphs 1 and 2 shall be given special numbers according to the percentage of the population of the Scheduled Castes in each constituency starting with the highest percentage and the seats reserved for the Scheduled Castes in accordance with provisions of sub-section (4) of section 14, or, as the case may be, sub-section (4) of section 15 shall, subject to paragraph 2 of Part II, be allotted serially to the special numbers given to the constituencies.

4. The constituencies in a taluka, or, as the case may be, district named and numbered as provided in paragraphs 1 and 2 shall be given special numbers according to the percentage of the population of the Scheduled Tribes in each constituency starting with the highest percentage and the seats reserved for the Scheduled Tribes in accordance with provisions of sub-section (4) of section 14, or, as the case may be, sub-section (4) of section 15 shall, subject to paragraph 2 of Part II, be allotted serially to the special numbers given to the constituencies.

PART II

For the purposes of constitution of a Taluka panchayat or district panchayat the manner of allotment of seats reserved for women by rotation amongst different constituencies be as under, namely :-

1. The reserved seats for women shall first be distributed according to the allocation made under sub-section (4) of section 14, or, as the case may be, sub-section (4) of section 15 to the women belonging to the Scheduled Castes, the Scheduled Tribes and to the women not belonging to the Scheduled Castes and the Scheduled Tribes.

2. If there are any seats allocable to the women belonging to the Scheduled Castes, or, as the case may be, Scheduled Tribes, then such seats shall be allotted by rotation serially to the constituencies to which seats reserved for the Scheduled Castes or, as the case may be, Scheduled Tribes are allotted, under paragraphs 3 and 4 of Part I of this Schedule.

3. The seats allocable to the women not belonging to the Scheduled Castes or Scheduled Tribes shall be allotted by rotation serially to the constituencies arranged under paragraphs 2 of Part I excluding therefrom the constituencies corresponding to those to which the reserved seats for Scheduled Castes and Scheduled Tribes are allotted, under paragraphs 3 and 4 of Part I and paragraph 2 of this Part.

PART III

The following provisions shall apply in relation to allotment of seats under provisions of Parts I and II :

1. Where the limits of any territorial constituency of a taluka or district are altered under section 20 for reasons amongst others of the change of the limits of a taluka or, as the case may be, a district or change of population therein and the territorial constituency the limits of which are altered is in the opinion of the State Government substantially the same as the territorial constituency existing before its limits are altered, then for the purposes of the first general election held after the limits of the territorial constituency are so altered, the said territorial constituency shall be ignored for allocation of seats for women by rotation under paragraph 3 of Part II of this Schedule if in the previous general election any seats for women were allotted to it under the said paragraph.

2. In case where a seat for the Scheduled Castes and also for the Scheduled Tribes becomes allocable to the same constituency, such constituency shall have a reserved seat for the Scheduled Castes and the seat for the Scheduled Tribes shall be shifted to the constituency which may be next in the serial order where a seat for the Scheduled Tribes would otherwise have to be reserved.

3. Fractions of a seat of one-half and above shall be counted as one and fraction below one-half shall be ignored.

4. If any question arises as to the constituency to which any seat reserved for women, Scheduled Castes or Scheduled Tribes should be or is capable of being allotted under this Schedule, it shall be competent for the State Government or the Development Commissioner authorised in this behalf by the State Government to decide the same and its or his decision shall be final."

5. (1) The Gujarat Panchayats (Amendment) Ordinance, 1986 is hereby repealed.

Gaj.
Ord. 11
of
1986.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Repeal
and
savings.



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Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor

The following Act of the Gujarat Legislature having been assented to by the Governor on the 31st March, 1989 is hereby published for general information.

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 13 OF 1989

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 31st March, 1989)

AN ACT

further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Fortieth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Panchayats (Amendment) Act, 1989.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In the Gujarat Panchayats Act, 1961, in section 169, in sub-section (3), in clause (a), in the proviso, for the words "two hundred paise", the words "three hundred paise" shall be substituted.

Short
title and
commen-
cement.

Amendment
of section
169 of Guj.
VI of 1962.

Guj. VI
of
1962.



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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 30th September, 1989 is hereby published for general information.

R. M. MEHTA,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 19 OF 1989.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 5th October, 1989)

AN ACT

further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Fortieth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Panchayats (Second Amendment) Act, 1989.

(2) It shall be deemed to have come into force on the 3rd August, 1989.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as 'the principal Act'), in section 17A, clause (c) shall be deleted.

Short title and commencement.

Amendment of section 17-A of Guj. VI of 1961.

Substitution of section 21 of Guj. VI of 1962.

3. In the principal Act, for section 21, the following section shall be substituted, namely :—

List of voters for every electoral division.

“21. (1) For every electoral division, there shall be a list of voters.

(2) The list of voters shall be the same as the electoral roll of the Gujarat Legislative Assembly prepared under the provisions of the Central Law for the time being in force, which shall be published by the competent authority in the prescribed manner

(3) No person shall be entitled to have his name included in the list of voters for more than one electoral division of the same panchayat.

(4) The list of voters for any electoral division published under sub-section (2), shall remain in operation until a new list of voters for that electoral division is published.”

Deletion of sections 21A to 21J of Guj. VI of 1962.

4. In the principal Act, sections 21 A to 21 J (both inclusive) shall be deleted.

Amendment of section 56 of Guj. VI of 1962.

5. In the principal Act, in section 56, in sub-section (1), for the words, letters and figures “an honorarium of Rs. 400 per month”, the words “such honorarium as may be prescribed” shall be substituted.

Amendment of section 63 of Guj. VI of 1962.

6. In the principal Act, in section 63, in sub-section (1), for the words, letters and figures “an honorarium of Rs. 800 per month”, the words “such honorarium as may be prescribed” shall be substituted.

Amendment of section 111 of Guj. VI of 1962.

7. In the principal Act, in section 111, in sub-section (9), in clause (a), for the words “shall be such as may be determined by the panchayat” the words “shall be for such period not exceeding one year as the panchayat may consider necessary” shall be substituted.

Amendment of section 111A of Guj. VI of 1962.

8. In the principal Act, in section 111A, for the words, letters and figures “an honorarium of Rs. 200 per month”, the words “such honorarium as may be prescribed” shall be substituted.

Amendment of section 131 of Guj. VI of 1962.

9. In the principal Act, in section 131,—

(1) in sub-section (1),—

(a) in clause (iv), the word “irrigation” shall be deleted ;

(b) after clause (vi), the following clauses shall be inserted, namely:—

“(v) An Irrigation Committee for performing functions relating to irrigation.

(x) A Committee for Implementation of 20 Point Programme and its review.”;

(2) in sub-section (2), after the words “may constitute” the words “for such period not exceeding one year as it may consider necessary” shall be inserted;

(3) in sub-section (3), in clause (iv), for the words, brackets and figures “in clauses (iv), (v) and (vi)”, the words, brackets and figures “in clauses (iv), (v), (vi), (ix) and (x)” shall be substituted;

(4) in sub-section (7), for clause (b), the following clause shall be substituted, namely :—

“(b) The term of any other committee—

(i) constituted under sub-section (1), shall be two years and on the expiry of the term it shall be reconstituted;

(ii) constituted under sub-section (2), shall not exceed one year.”.

10. In the principal Act, in section 132, in sub-section (1), in clause (a), for the words, letters and figures “an honorarium of Rs. 400 per month”, the words “such honorarium as may be prescribed” shall be substituted.

Amendment of section 132 of Guj. VI of 1962.

11. In the principal Act, in section 133, in sub-section (1), in clause (a), for the words, letters and figures “an honorarium of Rs. 400 per month”, the words “such honorarium as may be prescribed” shall be substituted.

Amendment of section 133 of Guj. VI of 1962.

12. In the principal Act, in section 210,—

(1) in sub-section (1), for the words “three members”, the words “five members” shall be substituted;

Amendment of section 210 of Guj. VI of 1962.

(2) after sub-section (3), the following sub-section shall be inserted, namely :—

“(3A) A member of the Board shall hold office for a term of six years from the date he enters upon his office or until he attains the age of sixty-two years, whichever is earlier and shall be eligible for re-appointment to that office for a further term of six years only ;

Provided that no person appointed as member shall continue to hold his office as such after he attains the age of sixty-two years.”.

13. In the principal Act, in section 323, for sub-section (2B), the following sub-section shall be substituted, namely :—

Amendment of section 323 of Guj. VI of 1962.

“(2B) The power to make rules in respect of matters required to be determined by rules under sub-sections (1) and (4) of section 56, sub-sections (1) and (4) of section 68, sections 111A, 112, 132, 133 and 133A may be exercised either prospectively or retrospectively.”

Repeal
and
savings.

14. (1) The Gujarat Panchayats (Amendment) Ordinance, 1989 is hereby repealed.

Govt.
Ord.
No. 5 of
1989.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXI] FRIDAY, JUNE 29, 1990/ASADHA 8, 1912.

Separate paging is given to this Part in order that it
may be filed as a separate compilation.

P A R T I V

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor**

The following Act of the Gujarat Legislature having been assented to by the
Governor on the 28th June, 1990 is hereby published for general information.

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 9 OF 1990.

(First published, after having received the assent of the Governor in the
"Gujarat Government Gazette" on the 29th June, 1990.)

AN ACT

further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Forty-first Year of the Republic of India as
follows :—

1. This Act may be called the Gujarat Panchayats (Amendment)
Act, 1990.

Short
title.

Amendment of section 210 of Guj. VI of 1962.

2. In the Gujarat Panchayats Act, 1961, in section 210, after sub-section (3A), the following sub-section shall be inserted, namely:—

Guj. VI of 1962.

“(3B) Notwithstanding anything contained in any judgement, decree or order of any court, a member who has held office as such for an aggregate period of twelve years or more from the date he first entered upon his office at any time before the commencement of the Gujarat Panchayats (Amendment) Act, 1990 shall, on such commencement, cease to hold such office.”.

Guj. 6 of 1990.



The Gujarat Government Gazette
EXTRAORDINARY
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Vol. XXXIV] SATURDAY, JANUARY 16, 193 PAUSA 26, 1914

Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 16th January, 1993 is hereby published for general information.

R. M. MEHTA,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 4 OF 1993.

(First published, after having received the assent of the Governor in the *Gujarat Government Gazette* on the 16th January, 1993).

AN ACT

further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Panchayats (Amendment) Act, 1993.
- (2) It shall be deemed to have come into force on the 25th November, 1992.

Short title
and
commence-
ment.

Guj. VI
of 1962.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act)," in section 20, in sub-section (5), for the words "four months", the words "two months" shall be substituted.

Amend-
ment of
section 20
of Guj.
VI of
1962.

Guj. Ord.
2 of 1992.

3. (1) The Gujarat Panchayats (Amendment) Ordinance, 1992 is hereby repealed.

Repeal and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXVI]

FRIDAY, AUGUST 13, 1993/SRAVANA 22, 1915

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 13th August, 1993 is hereby published for general information.

R. H. GORI,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 14 OF 1993.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 13th August, 1993).

AN ACT

further to amend the Gujarat Panchayats Act, 1961

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Panchayats (Second Amendment) Act, 1993.

(2) It shall be deemed to have come into force on the 17th June, 1993.

Guj. VI
 of 1962.

2. In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in section 2, in clause (8A), in sub-clause (c), for the words "the Chief Electoral Officer for the State of Gujarat", the words "an officer not lower in rank than that of Secretary to the Government as the State Government may, by general or special order appoint in this behalf" shall be substituted.

Short
 title and
 commen-
 cement.

Amend-
 ment of
 section 2
 of Guj.
 VI of
 1962.

3. In the principal Act, in section 312, in sub-section (1), for the words "eight grams", the words "eight gram panchayats" shall be substituted.

Amend-
 ment of
 section
 312 of
 Guj. VI
 of 1962.

Repeal and savings.

4. (1) The Gujarat Paschayats (Amendment) Ordinance, 1993 is hereby repealed.

Guj. Ordi. 2 of 1993.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

EXTRAORDINARY

PUBLISHED BY AUTHORITY

FRIDAY, AUGUST 13, 1993

૧૩ ઓગસ્ટ ૧૯૯૩

આજનાં અંકમાં આ કાયદો પ્રસિદ્ધ કરવામાં આવ્યો છે.

PART IV

Act of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor

The Gujarat Paschayats (Amendment) Ordinance, 1993 is hereby repealed with effect from the 13th August, 1993.

સચિવ, ગુજરાત સરકાર
જી. ૧૩, ૧૩-૮-૧૯૯૩

GUJARAT ACT NO 11 OF 1993

સરકારના આજનાં અંકમાં આ કાયદો પ્રસિદ્ધ કરવામાં આવ્યો છે.

AN ACT

to amend the Gujarat Paschayats Act, 1991

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:

1. This Act may be called the Gujarat Paschayats (Amendment) Act, 1993.

(2) It shall be deemed to have come into force on the 13th August, 1993.

2. In the Gujarat Paschayats Act, 1991 (hereinafter referred to as the principal Act), in section 2, in clause (b), the words "and the words 'the local self-government for the State of Gujarat' shall be deemed to have been substituted by the words 'the local self-government for the State of Gujarat' shall be substituted."

3. In the principal Act, in section 11, in sub-section (1), for the words "the local self-government for the State of Gujarat" shall be substituted by the words "the local self-government for the State of Gujarat".



The Gujarat Government Gazette
EXTRAORDINARY
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Vol. XXXIV]

THURSDAY, AUGUST 26, 1993, BHADRA 4, 1915

Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

P A R T I V

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 26th August, 1993 is hereby published for general information.

R. H. GORI,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 18 OF 1993.

(First published, after having received the assent of the Governor in the "*Gujarat Government Gazette*" on the 26th August, 1993).

A Bill to consolidate and amend the law relating to panchayats in the State of Gujarat.

WHEREAS by the Constitution (Seventy-Third Amendment) Act, 1992, Part IX relating to the Panchayats has been inserted in the Constitution ;

AND WHEREAS it is expedient to bring the law relating to panchayats in the State of Gujarat in conformity with the said part IX.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows :—

CHAPTER—I

PRELIMINARY.

1. (1) This Act may be called the Gujarat Panchayats Act, 1993.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once ; and all or any of the remaining provisions of this Act shall come into force in respect of such class of panchayats, in such district and on such date as the State Government may, by notification in the **Official Gazette**, appoint; and different dates may be appointed in respect of different classes of panchayats, different districts and different provisions.

V-87-1.

Short title
 extent and
 commencement.

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

(1) "building" includes a hut, shed or other enclosure whether used as a human dwelling or for any other purpose whatsoever and also includes walls, verandahs, fixed platforms, plinths, doorsteps and the like ;

(2) "cattle" means and includes bulls, bullocks, heifers, cows and their young, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, swine, sheep, ewes, raras, lambs, goats and kids;

Bom. LIX of
1949.

(3) "city" means a city defined in the Bombay Provincial Municipal Corporations Act, 1949 ;

(4) "competent authority" means such Government Officer, panchayat or authority as the State Government may, by notification in the Official Gazette, appoint to perform the functions of a competent authority under such provisions of this Act and in respect of such panchayats as may be specified in the said notifications ;

Explanation :--For the purposes of this clause, a Government Officer includes a Government Officer posted under a panchayat under sections 136, 161 or 232.

(5) "district" means a district constituted from time to time under the Land Revenue Code; except the area over which a district panchayat has no authority under section 6.

(6) "District Development Officer" means such officer as the State Government may appoint to be a District Development Officer for the purposes of this Act ;

(7) "district panchayat" means a district panchayat constituted under this Act.

LXIII of 1948.

(8) "factory" means a factory as defined in the Factories Act, 1948;

(9) "Finance Commission" means the Finance Commission constituted under clause (1) of article 243-1 of the Constitution ;

(10) "general election" means the election held under this Act for the constitution or the reconstitution of a panchayat after the expiry of its term or otherwise ;

(11) "land " includes land which is built upon, or covered with water:

Bom. V of
1879.

(12) "Land Revenue Code" means the Bombay Land Revenue Code, 1879 in force in the State of Gujarat;

(13) "octroi" or "octroi duty" means a tax on the entry of goods into panchayat area, for consumption, use or sale therein ;

(14) "panchayat" means a village panchayat, taluka panchayat or district panchayat;

(15) "Panchayat Functions List" means the list of matters enumerated in Schedules I, II, and III ;

(16) "prescribed" means prescribed by rules;

(17) "public street" means any street--

(a) over which the public have a right of way, or

(b) heretofore levelled, paved, metalled, channelled, served or repaired out of a panchayat fund or other public fund, or

(c) which under the provisions of this Act is declared by a panchayat to be or which under the provisions of this Act becomes a public street ;

(18) "revenue district" or "revenue taluka" means a district or, as the case may be, a taluka or mahal constituted under the Land Revenue Code;

- (19) "rules" means rules made, or deemed to have been made, under this Act;
- (20) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Gujarat under article 342 of the Constitution of India;
- (21) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Gujarat under article 342 of the Constitution of India;
- (22) "Secretary" means a secretary of a panchayat appointed or deemed to be appointed under this Act ;
- (23) "State Election Commission" means the State Election Commission referred to in clause (1) of article 243-K of the Constitution.
- (24) "Street" means any road, footway, square, court, alley or passage accessible whether permanently or temporarily to the public, whether a thoroughfare or not;
- (25) "taluka" means a taluka constituted from time to time under the Land Revenue Code, except the area over which a taluka panchayat has no authority under section 6 ;
- (26) "Taluka Development Officer" means such officer as the State Government may appoint to be a Taluka Development Officer for the purposes of this Act;
- (27) "taluka panchayat" means a taluka panchayat constituted under this Act ;
- (28) "tax" means a tax, cess, rate or other impost leviable under this Act, but does not include a fee;
- (29) "vehicle" includes a bicycle, tricycle, motor car and every wheeled conveyance which is used or capable of being used on a public street ;
- (30) "village panchayat" means a village panchayat constituted under this Act ;
- (31) "ward" means an area into which a village is divided under section 16 ;
- (32) "year" except in the case of the term of panchayat, means the year commencing on the 1st day of April unless another date is specified by the State Government by notification in the Official Gazette;
- (33) the words "gram sabha" "panchayat area" "population" and "village" shall have the meanings respectively assigned to them in Part IX of the Constitution.

CHAPTER II.

ESTABLISHMENT OF PANCHAYATS OF DIFFERENT TIERS

(A) Establishment of panchayats and their area of jurisdiction.

3. For the purposes of this Act, there shall be in each district--

- (1) a village panchayat for each village.
- (2) a taluka panchayat for each taluka and
- (3) a district panchayat for each district.

Establishment
of Panchayats
of different tiers.

4. There shall be a gram sabha for a village for performing such functions as are provided by or under this Act ;

Gram sabha.

Incorporation of Panchayats of different classes.

5. (1) A village panchayat shall be a body Corporate by the name of "The.....Village Panchayat".

(2) A taluka panchayat shall be a body corporate by the name of "The.....Taluka Panchayat".

(3) A district panchayat shall be a body corporate by the name of "The.....District Panchayat".

(4) Every panchayat mentioned in sub-section (1), (2) or (3) shall have perpetual succession and a common seal and may sue and be sued in its corporate name, and subject to the provisions of this Act, shall be competent to acquire and hold property, both movable and immovable, whether within or without the limits of the area over which it has authority, to lease, sell or otherwise transfer any movable or immovable property which may have become vested in it, or have been acquired or constructed by it, to raise loans upon the security of its fund in the manner and subject to the limits and other requirements including guarantees prescribed by rules, and to contract and do all other things necessary for the purpose of this Act,

Explanation :—Where a panchayat, with the previous sanction of the competent authority, creates a remunerative asset, such creation of an asset shall be deemed to be for the purposes of this Act.

Subordination of Panchayats amongs themselves and their powers, functions and duties.

6. (1) A village panchayat, subject to the authority of the taluka panchayat and the district panchayat, have authority for the purposes of this Act over the area for which it is constituted.

(2) A district panchayat and subject to the authority of the district panchayat, a taluka panchayat, shall have authority for the purposes of this Act over the area for which it is constituted, except, that portion of the area which for the time being is within the limits of a city, municipal borough, small urban area, notified area or tantonment constituted under any law for the time being in force;

Provided that a district panchayat or, as the case may be a taluka panchayat shall have also authority over such area outside the area for which it is constituted for such purposes as the State Government may by notification in the **Official Gazette** specify.

(3) subject to the control of the State Government and the competent authority--

(a) a village panchayat shall be subordinate to the taluka panchayat and the district panchayat, and

(b) a taluka panchayat shall be subordinate to the district panchayat.

(4) Subject to the control of the State Government and the competent authority, a district panchayat, a taluka panchayat, and a village panchayat shall exercise such powers, perform such functions and duties and shall have such responsibilities and authority as are provided by or under this Act or any other law for the time being in force.

Recommendation Specification of village.

7. (1) After making such inquiries as may be prescribed, the competent authority may recommend any local area comprising a revenue village, or a group of revenue villages, or hamlets forming part of a revenue village, for being specified a village under clause (g) of article 243 of the Constitution, if the population of such local area does not exceed fifteen thousand.

(2) After consultation with the taluka panchayat, the district panchayat and village panchayat concerned (if already constituted), the competent authority may at any time recommend inclusion within or exclusion from any village any local area or otherwise alteration of limits of any village, or recommend cesser of any local area to be a village, to the Governor for exercise of his powers under clause (g) of article 243 of the constitution.

Panchayat Organisation and the exercise of control over panchayats by State Government.

8. (1) The village panchayats, taluka panchayats, district panchayats and gram sabhas shall constitute the Panchayat Organisation of the State of Gujarat.

(2) The State Government shall exercise its control over the panchayats either directly or through such officer or officers as it may, by general or special order appoint for the purpose.

(B) Constitution of Panchayats and their duration.

9. (1) A village panchayat shall consist of such number of members as provided in sub-section (4);

(2) The members of a village panchayat shall be elected from amongst the qualified voters of the village;

(3) (a) A village Panchayat shall have a Sarpanch and an Upa-Sarpanch.

(b) The Sarpanch shall be elected by ballot by the qualified voters of the village from amongst themselves.

(c) The Upa-Sarpanch shall be elected by the members of the village panchayat from amongst themselves.

(4) A village panchayat of a village having population not exceeding three thousand shall consist of seven members and in case of a village panchayat where the population of the village exceeds three thousand, then for every one thousand or part thereof in excess of three thousand, the said number of seven shall be increased by two.

(5)(a)(i) Seats shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes in every village panchayat in the State and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in that panchayat as the population of the Scheduled Castes in the village or as the case may be of the Scheduled Tribes in that village bears to the total population of that village, and such seats shall be allotted by the State Election Commission by rotation to different wards in that village in the prescribed manner.

(ii) Where in a village there is in the opinion of the State Government population of socially and educationally backward classes, there shall be reserved by the State Government for the socially and educationally backward classes one tenth of the total number of seats in a village panchayat and such seats shall be allotted by the State Election Commission by rotation to different wards in that village in the prescribed manner.

(b) One third of the total number of seats reserved under clause (a) shall, be reserved by the State Government for women belonging to the Scheduled Castes, the Scheduled Tribes or, as the case may be, the socially and educationally backward classes.

(c) One third (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the socially and educationally backward classes) of the total number of seats in a village panchayat shall be reserved by the State Government for women and such seats shall be allotted by the State Election Commission by rotation to different wards in the village in the prescribed manner.

10. (1) A taluka panchayat shall consist of elected members as provided in sub-section (4).

(2) The elected members of a taluka panchayat shall be elected from amongst the qualified voters of the taluka.

(3) A taluka panchayat shall have a president and vice president elected by its elected members from amongst themselves.

(4) A taluka panchayat of a taluka having population not exceeding one lakh shall consist of fifteen members and in case of a taluka panchayat where the population of the taluka exceeds one lakh, then for every twenty-five thousand or part thereof in excess of one lakh, the said number of fifteen shall be increased by two.

V-87-2.

Constitution
of Village pan-
chayats.

Constitution
of taluka
Panchayats.

(5) (a) (i) Seats shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes in every taluka panchayat in the State and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that panchayat as the population of the Scheduled Castes in the taluka or as the case may be, of the Scheduled Tribes in the taluka bears to the total population in the taluka and such seats shall be allotted by the State Election Commission by rotation to different territorial constituencies in that taluka in the prescribed manner.

(ii) One tenth of the total number of seats in a taluka panchayat shall be reserved by the State Government for socially and educationally backward classes and such seats shall be allotted by the State Election Commission by rotation to different territorial constituencies in that taluka in the prescribed manner.

(b) One third of the total number of seats reserved under clause (a) shall be reserved by the State Government for women belonging to the Scheduled Castes, the Scheduled Tribes or as the case may be socially and educationally backward classes.

(c) One third (including the number of seats reserved for women belonging to the Schedule Castes, the Scheduled Tribes and socially and educationally backward classes) of the total number of seats to be filled by direct election in a taluka panchayat shall be reserved by the State Government for women and such seats shall be allotted by the State Election Commission by rotation to different territorial constituencies in taluka in the prescribed manner.

(6) Members of the Gujarat Legislative Assembly elected from any constituency in the taluka or a part thereof, shall be permanent invitees to such taluka panchayat, but such invitees shall not have the right to vote in the meetings of the Taluka panchayat :

Provided that when a person ceases to be a member of the Gujarat Legislative Assembly, he shall cease to be a permanent invitee to the Taluka Panchayat.

Explanation :—For the removal of doubts, it is hereby clarified that status of a permanent invitee shall not be construed to be that of a member of the Taluka Panchayat referred to in clauses (3) and (4) of article 243C of the Constitution of India.

Constitution of
District Pan-
chayats.

11. (1) A district panchayat shall consist of elected members as provided in sub-section (4).

(2) The elected members of a district panchayat shall be elected from amongst the qualified voters of the district.

(3) A district panchayat shall have a president and a vice-president elected by its elected members from amongst themselves.

(4) A district panchayat of a district having population not exceeding four lakhs shall consist of seventeen members and in case of a district panchayat where the population of the district exceeds four lakhs, then for every one lakh or part thereof in excess of four lakhs, the said number of seventeen shall be increased by two.

(5)(a)(i) Seats shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes in every district panchayat in the State and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled in by direct election in that panchayat as the population of the Scheduled Castes in the district or as the case may be the Scheduled Tribes in the district bears to the total population in the district, and such seats shall be allotted by the State Election Commission by rotation to different territorial constituencies in that district in the prescribed manner.

(ii) One tenth of the total number of seats in a district panchayat shall be reserved by the State Government for socially and educationally backward classes and such seats shall be allotted by the State Election Commission by rotation to different territorial constituencies in that district in the prescribed manner.

(b) One third of the total number of seats reserved under clause (a) shall, be reserved by the State Government for women belonging to the Scheduled Castes, the Scheduled Tribes or, as the case may be, the socially and educationally backward classes.

(c) One third (including the number of seats reserved for women belonging to the Schedule Castes, the Scheduled Tribes and socially and educationally backward classes) of the total number of seats to be filled by direct election in a district panchayat shall be reserved by the State Government for women and such seats shall be allotted by the State Election Commission by rotation to different territorial constituencies in the district in the prescribed manner

(6) Members of the Gujarat Legislative Assembly elected from any constituency in the District or a part thereof shall be permanent invitees to the District Panchayat, but such invitees shall not have the right to vote in the meetings of the District Panchayat :

Provided that when a person ceases to be a Member of the Gujarat Legislative Assembly, he shall cease to be a permanent invitee to the District Panchayat.

Explanation: —For the removal of doubts, it is hereby clarified that status of a permanent invitee shall not be construed to be that of a member of the District Panchayat referred to in clauses (3) and (4) of article 243 C of the Constitution of India.

12. (1) The headquarters of a district panchayat and a taluka panchayat shall be located at such place in the district or, as the case may be, taluka as the State Government may by order in writing direct.

Location of head quarters of a district or taluka Panchayat.

(2) Where the headquarters of a district or taluka are located in a city or municipal borough, it shall be lawful for the district panchayat of the district or, as the case may be, the taluka panchayat of the taluka to hold property in such city or, as the case may be, municipal borough notwithstanding that the area within the limits of such city or municipal borough is not included in the district or, as the case may be, municipal borough.

13. (1) Every panchayat, unless sooner dissolved under this Act shall continue for five years from the date appointed for its first meeting and no longer.

Duration of Panchayats and their reconstitution.

(2) An election to constitute a panchayat shall be completed--

- (a) before the expiry of its duration specified in sub-section (1);
- (b) before the expiration of a period of six months from the date of its dissolution :

Provided that where the remainder of the period for which the dissolved panchayat would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the panchayat for such period.

(3) A panchayat constituted upon the dissolution of a panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved panchayat would have continued under sub-section (1) had it not been so dissolved.

CHAPTER III

ELECTION OF MEMBERS OF PANCHAYATS, ELECTION DISPUTES ETC.

14. In this Chapter, unless the context otherwise requires, -

Definition:

- (a) "Assembly" means the Gujarat Legislative Assembly ;
- (b) "Central Act" means the Representation of the People Act, 1950.

43 of 1950.

- (c) "qualifying date" means the 1st day of January of the year in which the list of voters for the purposes of the general election of members for constituting or reconstituting a panchayat is prepared under section 18 or, as the case may be, is revised under the proviso to section 23.

Election.

15.(1) The election of members to a panchayat shall be held on such date as State Election Commission may appoint in that behalf.

Provided that—

- (i) in the case of reconstitution of a panchayat on account of the expiry of its duration of five years such date shall not be earlier than two months or later than fifteen days before the expiry of the duration.
 - (ii) in the case of reconstitution of a panchayat on account of dissolution of a panchayat where the remainder of the period for which the dissolved panchayat would have continued is six months or more than six months such date shall not be later than two months after the date of dissolution of the panchayat.
 - (iii) in the case of reconstitution of a panchayat on account of dissolution of a panchayat where the remainder of the period for which the dissolved panchayat would have continued is less than six months, such date shall not be earlier than two months or later than fifteen days before the expiry of such lesser period, except with the sanction of the State Government which may be given either prospectively or retrospectively.
- (2) such election shall be conducted in the prescribed manner.
 - (3) The superintendence, direction and control of the conduct of such election shall be vested in the State Election Commission
 - (4) The names of the elected members shall be published in the prescribed manner by the State Election Commission.

PROVISIONS RELATING TO ELECTIONS

Electoral divisions.

16. (1) For the purposes of elections of members to a village panchayat, a village shall be divided by the State Election Commission into as many single member wards as the total number of members specified in respect of the village panchayat of that village in sub-section (4) of section 9, and in such manner that as far as practicable the population of all the wards is the same; and one member shall be elected from each such ward.

(2) For the purposes of elections of members to a taluka panchayat, a taluka shall be divided by the State Election Commission into as many single member territorial constituencies as the total number of elected members specified in respect of the taluka panchayat of that taluka in sub-section (4) of section 10 and in such manner that the population of all the territorial constituencies is, as far as practicable, the same and each territorial constituency is so delimited as to include therein as far as practicable whole wards of a village and one member shall be elected from each such constituency.

(3) For the purposes of elections of members to a district panchayat, a district shall be divided by the State Election Commission into as many single member territorial constituencies as the total number of elected members specified in respect of the district panchayat of that district in sub-section (4) of section 11 and in such manner that the population of all the territorial constituencies is as far as practicable the same and each territorial constituency is so delimited as to include therein as far as practicable whole territorial constituencies of a taluka; and one member shall be elected from each such constituency.

(4) At any time not later than two months before the date of the expiry of the duration of a panchayat under section 13 and in the case of a panchayat which is to be constituted or reconstituted under the provisions of this Act otherwise than on the expiry of its duration under section 13, at any such time before it is to be constituted or, as the case may be reconstituted, it shall be lawful for State Election Commission—

(a) to alter, for reasons to be recorded in writing, the limits of any ward of the concerned village, for the purpose of general election in relation to a village panchayat.

(b) to alter, for reasons to be recorded in writing, the limits of any territorial constituency of the concerned taluka or district, for the purpose of general election in relation to a taluka or district panchayat.

(5) Each ward constituted under sub-section (1) and each territorial constituency constituted under sub-sections (2) & (3) shall subject to alteration, if any, made under sub-section (4) be an electoral division.

17. For every electoral division, there shall be a list of voters which shall be prepared and maintained in accordance with the provisions of sections 18 to 22 under the superintendence, direction and control of the State Election Commission.

List of Voters for every electoral divisions.

18. At any time not later than two months before the expiry of the duration of a panchayat under section 13, and in the case of a panchayat which is to be constituted or reconstituted under the provisions of this Act otherwise than on the expiry of its duration under section 13 at any such time as the State Election Commission may after consulting the State Government determine, there shall be prepared for the purpose of the general election of members for constituting or, as the case may be, reconstituting such panchayat, a list of voters for every electoral division in respect of such panchayat as determined under section 16 and in force at the time when such list is prepared.

Preparation of list of Voters.

19. Every person who is entitled to be registered in the relevant part of the electoral roll of the Gujarat Legislative Assembly under the Central Act shall be entitled to be registered as a voter in the list of voters for the electoral division, to be prepared under section 18.

Persons qualified to be registered as voters.

20. (1) The electoral roll of the Gujarat Legislative Assembly prepared under the provisions of the Central Act, for the time being in force for such part of the constituency of the Assembly as is included in the relevant electoral division, shall, subject to any amendment, deletion or addition made under sub-section (3) or any inclusion of any name under sub-section (5), be the list of voters for that electoral division.

List of voters.

(2) Such officer of the State Government as the State Election Commission may specify in this behalf (hereinafter referred to as "the specified officer") shall, subject to superintendence, direction and control of the commission, maintain a list of voters for each electoral division; the list shall be published in the prescribed manner.

(3) If on an application made to him in this behalf or on his own motion the specified officer is satisfied that the list of voters is at variance with the relevant part of the electoral roll of the Gujarat Legislative Assembly on account of any mistake in the list, he shall amend the list so as to bring it in conformity with the said electoral roll and for that purpose may amend, delete or add any entry in that list.

(4) Any person who has become entitled to be registered in the relevant part of the electoral roll of the Gujarat Legislative Assembly under the Central Act, after the qualifying date may apply to the specified officer for inclusion of his name in the list.

(5) Where the specified officer after making such inquiry as he may consider necessary, is satisfied that the applicant is entitled to be registered in the relevant part of the electoral roll of the Gujarat Legislative Assembly under the Central Act, he shall direct the name of the applicant to be included in the list of voters:

Provided that no such direction shall be given if the applicant is disqualified to vote under this Act or any other law for the time being in force.

(6) No amendment, deletion or addition of any entry in the list of voters for an electoral division shall be made under sub-section (3) and no direction for inclusion of a name in that list shall be given under sub-section (5) during the period between such date as the State Election Commission may, by general or special order, notify in this behalf and the date of the completion of any concerned election in the electoral division.

Explanation :-In this section the expression "qualifying date", has the same meaning as in clause (b) of section 14 of the Central Act.

(7) The list of voters shall after it is finally prepared under this section be published in the prescribed manner and shall come into operation immediately upon its final publication.

Name of person not to be included in list of voters for more than one electoral division.

21. No person shall be entitled to have his name included in the list of voters for more than one electoral division of the same panchayat.

Name of person not to be included in list of voters more than once.

22. No person shall be entitled to have his name included in the list of voters for any electoral division more than once.

Period for which a list of voters shall remain in operation.

23. The list of voters for any electoral division which has been published and has come into operation under sub-section (7) of section 20 shall, subject to any revision made under the proviso to this section, remain in operation until a new list of voters for that electoral division is prepared, published and comes into operation :

Provided that the State Election Commission may, after consulting the State Government for reasons to be recorded in writing, direct that such list for any electoral division may be revised in the prescribed manner by reference to the qualifying date, before any bye-election is held to fill a casual vacancy in a seat allotted to that electoral division.

Staff of Panchayat to be made available.

24. Every panchayat shall make available to the State Election Commission such staff as it may require for the performance of any duties in connection with the preparation and revision of a list of voters for an electoral division and conduct of elections in respect of that panchayat.

Jurisdiction of civil courts barred.

25. No civil court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to have his name included in a list of voters; or

(b) to question the legality of any action taken or decision given by or under the authority of the State Election Commission in connection with the preparation, maintenance or revision of any such list.

Making false declaration.

26. If any person makes in connection with—

(a) the preparation, revision or correction of a list of voters, or

(b) the inclusion or exclusion of any entry in or from a list of voters,

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Breach of official duty in connection with the preparation etc. of list of voters.

27(1) If any Government servant, panchayat servant or any other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of a list of voters or the inclusion of any entry in or from that list, is without reasonable cause, act or omission involving breach of such official duty, he shall be punishable with fine which may extend to five hundred rupees.

(2) No suit or other legal proceeding shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No court shall take cognizance of any offence punishable under sub-section (1) except on a complaint made by order of, or under authority from the State Government or the State Election Commission.

Person qualified to vote and be elected.

28. (1) Every person whose name is in the list of voters shall, unless disqualified under this Act or any other law for the time being in force, be qualified to vote at the election of a member for the electoral division to which such list pertains.

(2)(a) Every person who has attained the age of twenty one years and whose name is in the list of voters shall, unless disqualified under this Act or under any other law for the time being in force, be qualified to be elected from any electoral division.

(b) No person whose name is not entered in the list of voters for the village, shall be qualified to be elected from any electoral division thereof.

(3) Subject to any disqualification incurred by a person, the list of voters shall be conclusive evidence for the purpose of determining under this section whether any person is or is not qualified to vote, or as the case may be, to be elected at any election.

29. (1) No person shall, save as expressly authorised by this Act, be a member of two or more panchayats.

Restriction on simultaneous or double membership.

(2) Where a person while being a member of one panchayat, intends to stand as a candidate for membership of another panchayat, he may stand as a candidate for such membership notwithstanding anything contained in sub-section (1);

Provided that if he is chosen for the seat for which he stood as a candidate, the seat already held by him shall become vacant on the date on which he is so chosen unless the seat so held is in another panchayat and the term of that panchayat is to expire within a period of four months from the date on which he is so chosen.

(3) If any person is simultaneously chosen as a member of two or more panchayats, the person shall, within fifteen days from the date or the later of the dates on which he is so chosen, intimate to the competent authority, one of the panchayats in which he wishes to serve and hereupon his seat in the panchayat other than the one in which he wishes to serve, shall become vacant.

(4) Any intimation given under sub-section (3) shall be final and irrevocable.

(5) In default of intimation referred to in sub-section (4) within the aforesaid period, the competent authority shall determine the seat which he shall retain and thereupon the remaining seats from which he was chosen, shall become vacant.

30. (1) No person shall be a member of a panchayat or continue as such who—

XXII of 1955 Bom
XXV of 1949.
Disqualification of

(a) has whether before or after the commencement of this Act, been convicted—

(i) of an offence under the Protection of Civil Rights Act, 1955 or under the Bombay Prohibition Act, 1949, unless a period of five years, or such lesser period as the State Government may allow in any particular case, has elapsed since his conviction; or

(ii) of any other offence and been sentenced to imprisonment for not less than six months, unless a period of five years, or such lesser period as the State Government may allow in any particular case, has elapsed since his release; or

(b) has been adjudged by a competent court to be of unsound mind; or

(c) has been adjudicated an insolvent and has not obtained his discharge; or

(d) has been removed from any office held by him in any panchayat under any provision of this Act or in any panchayat before the commencement of this Act under the Gujarat Panchayats Act, 1961 and a period of five years has not elapsed from the date of such removal, unless he has, by an order of the State Government notified in the Official Gazette been relieved from the disqualification arising on account of such removal from office; or

(e) has been disqualified from holding office under any provision of this Act and the period for which he was so disqualified has not elapsed ; or

(f) holds any salaried office or place of profit in the gift of disposal of any panchayat, other than an office of President or Vice-President of a panchayat or of a Chairman of any Committee of a panchayat, while holding such office or place ; or

(g) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the panchayat, or in any contract with, by or on behalf of, or employment with or under the panchayat; or

(h) has directly or indirectly, by himself or, his partner any share or interest in any transaction of loan of money advanced to or borrowed from any officer or servant of any panchayat ; or

(i) fails to pay any arrears of any kind due by him to the panchayat or any panchayat subordinate thereto or any sum recoverable from him in accordance with Chapter X of this Act, within three months after a special notice in accordance with the rules made in this behalf has been served upon him ; or

(j) is a servant of the Government or a servant of any local authority ; or

(k) has voluntarily acquired the citizenship of a Foreign State or is under any acknowledgement of allegiance or adherence to a Foreign State ; or

(l) is disqualified under any other provision of this Act, and the period for which he was so disqualified has not elapsed.

Explanation 1.—A person shall not be disqualified under clause (g) for membership of a panchayat by reason only of such person—

- (a) having share in any joint stock company or a share or interest in any society registered under any law for the time being in force which shall contract with or be employed by or on behalf of any panchayat ; or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of any panchayat may be inserted ; or
- (c) holding a debenture or being otherwise concerned in any loan raised by or on behalf of any panchayat ; or
- (d) being professionally engaged on behalf of any panchayat as a legal practitioner ; or
- (e) having any share or interest in any lease of immovable property in which the amount of rent has been approved by the taluka panchayat in the case of a village panchayat, or by the taluka panchayat or by the district panchayat in its own case or in any sale or purchase of immovable property or in any agreement for such lease, sale or purchase ; or
- (f) having a share or interest in the occasional sale to the panchayat of any article in which he regularly trades or in the purchase from the panchayat of any article, to a value in either case not exceeding in any year one thousand rupees ; or
- (g) merely being a relative of a person in employment with or under or by or on behalf of the panchayat.

Explanation 2.—For the purpose of clause (i)

- (i) a person shall not be deemed to be disqualified if he has paid the arrears or the sum referred to in clause (i) of this sub-section, prior to the day prescribed for the nomination of candidates ;

- (ii) failure to pay the arrears or the sum referred to in clause (i) of this subsection to the panchayat by a member of an undivided Hindu family or by a person belonging to a group or unit, the members of which are by custom joint in estate or residence, shall be deemed to disqualify all members of such undivided Hindu family or as the case may be, all the members of such group or unit.

Explanation 3.—For the purpose of clause (j) an officiating revenue or police patel or revenue or police patel who is an official or under the Bombay Hereditary Offices Act, 1874, or any other corresponding law for the time being in force, shall be deemed to be a servant of the Government.

Bom. 3 of 1874.

(2) A person who at any time during the term of his office is disqualified under the Gujarat Provision for Disqualification of Members of Local Authorities for Defection Act, 1986 for being a member of a taluka panchayat or, as the case may be a district panchayat shall cease to hold office as such member.

Guj. 23 of 1986.]

31. (1) If the validity of any election of a member of a panchayat is brought in question by any person contesting the election or by any person qualified to vote at the election to which such question relates, such person may, at any time within fifteen days after the date of the declaration of the results of the election, present an election petition to the Civil Judge (Junior Division), and if there be no Civil Judge (Junior Division) then to the Civil Judge (Senior Division), (hereinafter referred to as "the Judge") having ordinary jurisdiction in the area within which the election has been or should have been held, for the determination of such question.

Determination of validity of election, inquiry by Judge and procedure.]

(2) A petitioner shall not join as respondents to his election petition persons except those mentioned in the following clauses, namely :—

- (a) where the petitioner in addition to challenging the validity of the election of all or any of the returned candidates, claims a further relief that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner and where no such further relief is claimed, all the returned candidates, and
- (b) any other candidate against whom allegations of any corrupt practice are made in the election petition.

(3) An inquiry shall thereupon be held by the Judge and he may after such inquiry as he deems necessary, pass an order, confirming or amending the declared result, or setting the election aside. For the purposes of the said inquiry, the said Judge may exercise all the powers of a civil court, and his decision shall be conclusive.

(4) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under section 274 or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

Explanation.—The expression "error" in this sub-section does not include any breach of or any omission to carry out or any non-compliance with the provisions of this Act or the rules made thereunder whereby the result of the election has been materially affected.

(5) All election petitions received under sub-section (1)—

- (a) in which the validity of the election of members to represent the same electoral division is in question, shall be heard by the same Judge, and
- (b) in which the validity of the election of the same member elected to represent the same electoral division is in question, shall be heard together.
- (6) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit—
- (a) any petition to be compromised or withdrawn, or
- (b) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is bona fide and not collusive.

V of 1908.

(7) (a) If on the holding of such inquiry the Judge finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (8) he shall declare the candidate disqualified for the purpose of that election and of such fresh election as may be held under section 33 and shall set aside the election of such candidate if he has been elected.

(b) If, in any case to which clause (a) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected;

Provided that for the purpose of such computation, no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person known or unknown, in giving or obtaining it;

Provided further that after such computation if any equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidate or candidates, as the case may be, selected by lot drawn in the presence of the Judge in such manner as he may determine.

(8) A person shall be deemed to have committed a corrupt practice-

(a) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury to any person, or

(b) who, with a view to inducing any person to stand or not to stand or to withdraw or not to withdraw from being a candidate at an election, offers or gives any money or valuable consideration or holds out any promise of individual profit or holds out any threat of injury to any person, or

(c) who hires or procures whether on payment or otherwise, any vehicle or vessel for the conveyance of any voter (other than the person himself, the members of his family or his agent) to and from any polling station;

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint cost for the purpose of conveying him or them to or from any such polling station shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power;

Provided further that the use of any public transport vehicle or vessel or any tram car or railway carriage by any voter at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

Explanation—1. A corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation—2. "A promise of individual profit" does not include a promise to vote for or against any particular measure which may come before a panchayat for consideration, but subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

Explanation—3. The expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise.

32. (1) If any member of a panchayat,—

- (a) who is elected, as such, was subject to any of the disqualifications mentioned in section 30 at the time of his election,
- (b) during the term for which he has been elected, incurs any of the disqualifications, mentioned in section 30,

Disability from continuing as members.

he shall be disabled from continuing to be a member, and his office shall become vacant.

(2) In every case, the question whether a vacancy has arisen, shall be decided by the competent authority. The competent authority may give its decision either on an application made to it by any person, or on its own motion. Until the competent authority decides that the vacancy has arisen, the member shall not be disabled under subsection (1) from continuing to be a member. Any person aggrieved by the decision of the competent authority may, within a period of fifteen days from the date of such decision, appeal to the State Government and the orders passed by the State Government in such appeal shall be final ;

Provided that no order shall be passed under this sub-section by the competent authority against any member without giving him a reasonable opportunity of being heard.

33. If the election of any member is set aside under section 31 or if his office becomes vacant under section 32 a fresh election for the vacancy so caused shall, as soon as may be, be held in accordance with the provisions of this Act.

Fresh election if election is invalid.

34. Every panchayat shall make available to the State Election Commission such members of its staff as such Commission may require for the performance of any duties in connection with an election and every such member shall carry out such directions as may be issued to him by such Commission or any competent officer in relation to such election.

Power of State Election Commission to require services of panchayat staff for election.

ELECTION OFFENCES

35. (1) No person shall, on the date or dates on which a poll is taken in any polling station, commit any of the following acts within the polling station, or in any public or private place within a distance of one hundred meters of the polling station, namely :—

Prohibition of canvassing in or near polling station.

- (a) canvassing for votes ;
- (b) soliciting the vote of any voter ;
- (c) persuading any voter not to vote at the election ;
- (d) persuading any voter not to vote for any particular candidate ;
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provision of sub-section (1) shall, on conviction, be punished with fine which may extend to one thousand rupees.

(3) An offence punishable under this section shall be cognizable.

36. (1) No person shall, on the date or dates on which a poll is taken at any polling station:—

Penalty for disorderly conduct in or near polling station.

- (a) use or operate, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or
- (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to one thousand rupees.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section he may direct any police officer to arrest such person and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps and use such force as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention.

Penalty for misconduct at Polling station.

37. (1) Any person who during the hour fixed for the poll at any polling station, misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall, on conviction be punished with fine which may extend to one thousand rupees.

(4) An offence punishable under sub-section (3) shall be cognizable.

Maintenance of secrecy of voting.

38. (1) Where an election is held by ballot, every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(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 three months or with fine or with both.

Officers etc. at elections not to act for candidates or influence voting.

39. (1) No person who is a returning officer, or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall in the conduct of the management of the election do any act (other than the giving of his vote) for the furtherance of the prospects of the elections of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour--

- (a) to persuade any person to give his vote at an election, or
- (b) to dissuade any person from giving his vote at an election, or
- (c) to influence the voting of any person at an election in any manner.

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

Breaches of official duty in connection with elections.

40. (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to two thousand rupees.

(2) No suit or other legal proceeding shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the returning officers, presiding officers, polling officers and any other persons appointed to perform any duty in connection with the maintenance of the list of voters, the receipt of nominations or withdrawal of candidatures or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

41. (1) Any person who, at any election, fraudulently takes or attempts to take a ballot paper out of a polling station or wilfully aids or abets the doing of any such act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

Removal of ballot papers from polling station to be offence.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer;

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

42. (1) A person shall be guilty of an offence, if, at any election he—

Other offences and penalties therefor.

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(d) without due authority supplies any ballot paper to any person; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an offence under this section shall,—

(a) if he is a returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years or with fine or with both;

(b) if he is any other person, on conviction be punished with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under clause (b) of sub-section (2) shall be cognizable.

Prosecution in certain offences.

43. No court shall take cognizance of an offence punishable under section 39 or under section 40 or under clause (a) of sub-section (2) of section 42 except on a complaint made by an order of, or under authority from the State Election Commission.

REQUISITIONING OF PREMISES FOR THE PURPOSES OF ELECTION.

Requisitioning of premises, vehicles etc. for election purposes.

44. (1) If it appears to an official authorised by the State Government in this behalf (for conduct of elections under this Act) (hereinafter referred to as "the requisitioning authority") that in connection with an election under this Act,—

(a) any premises are needed or are likely to be needed for being used as a polling station or for the storage of ballot boxes after a poll has been taken, or

(b) any vehicle, vessel or animal is needed or likely to be needed for the purpose of transport of ballot boxes to or from any polling station or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election,

the requisitioning authority may by order in writing requisition such premises, or as the case may be, such vehicle, vessel or animal and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning:

Provided that, no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section, until, the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property, and such order shall be served in the manner prescribed by rules made by the State Government under this Act, on the person to whom it is addressed.

(3) Wherever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

(4) In this section—

(a) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b) "vehicle" means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise.

Payment of compensation.

45. (1) Whenever in pursuance of section 44 the requisitioning authority requisitions any premises, the panchayat shall pay to the persons interested compensation the amount of which shall be determined by the requisitioning authority by taking into consideration the following factors, that is to say—

(i) the rent payable, in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if in consequence of the requisition of premises, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine;

Provided further that, where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the requisitioning authority to an arbitrator appointed in this behalf by the requisitioning authority for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression "person interested" means a person who was in actual possession of the premises requisitioned under section 44 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 44, the requisitioning authority requisitions any vehicle, vessel or animal, the purchaser shall pay to the owner thereof compensation the amount of which shall be determined by the requisitioning authority on the basis of facts of rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that, where the owner of such vehicle, vessel or animal being requisitioned by the amount of compensation so determined makes an application within the time specified by rules made by the State Government to the requisitioning authority for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine:

Provided further that, where immediately before the requisitioning, the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the requisitioning authority in this behalf may decide.

46. The requisitioning authority may, with a view to requisitioning any property under section 44 or determining the compensation payable under section 45 by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

Power to obtain information.

47. (1) Any person authorised in this behalf by the requisitioning authority may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so, in what manner, an order under section 44 should be made in relation to such premises, vehicles, vessel or animal, or with a view to securing compliance with any order made under that section.

Power of entry into and inspection of premises etc.

(2) In this section, the expressions "premises" and "vehicles" have the same meaning as in section 44.

48. (1) Any person remaining in possession of any requisitioned premises in contravention of an order made under section 44 may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

Eviction from requisitioned premises.

(2) Any officer so empowered may after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

49. (1) When any premises requisitioned under section 44 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any right in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

Release of premises from requisition.

(2) Where the person to whom possession of any premises requisitioned under section 44 is to be given under sub-section (1) cannot be found or is

not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the **Official Gazette**.

(3) When a notice referred to in sub-section (2) is published in the **Official Gazette** the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the requisitioning authority or the panchayat shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

Penalty for contravention of any order regarding requisition.

50. If any person contravenes any order made under section 44 or section 46, he shall on conviction, be punished with imprisonment for a term which may extend to one year or with fine, or with both.

CHAPTER—IV

PROVISIONS RELATING TO PRESIDING OFFICERS OF PANCHAYATS AND MEMBERS OF PANCHAYATS.

PART—I.

Village Panchayats

First meeting of panchayat and election of Sarpanch and Upa-Sarpanch.

51. (1) On the constitution of a village panchayat or on its reconstitution under section 13 or under any other provision of this Act, there shall be called the first meeting thereof for the election of Upa-Sarpanch from amongst the members of the panchayat.

(2) (a) The offices of sarpanch of village Panchayats in the State shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes and the number of the offices of Sarpanch of village panchayats in the State so reserved shall bear as nearly as may be, the same proportion to the total number of offices of Sarpanch of village panchayat in the State as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State. There shall be reserved by the State Government for socially and educationally backward classes ten percent of the offices of Sarpanch of village panchayats in the State,

(b) (i) One third of the total number of offices of Sarpanch of village panchayats in the State reserved under clause (a) and

(ii) One third of the total number of offices of Sarpanch of village panchayats in the State, not so reserved,

shall be reserved by the State Government, for women.

(3) The number of offices reserved under sub-section (2) shall be allotted by the State Government by rotation to different village panchayats in the State in the prescribed manner.

(4) The meeting shall be held on such day within four weeks from the date on which the names of members elected at the general election are published under section 15 as may be fixed by the competent authority ;

Provided that where no day is fixed within the aforesaid period of four weeks, the competent authority shall report the fact to the State Government or an officer or authority authorised by the State Government and the meeting shall be held on such day as the State Government or the said officer or authority as the case may be, may specify.

(5) In the case of village panchayat, where there has been a failure to elect a Sarpanch or where the elected Sarpanch is not willing to take office, the first meeting of such village panchayat shall be presided over by such officer as the competent authority may by order appoint in that behalf.

Such officer shall have such powers and follow such procedure as may be prescribed but shall not have the right to vote.

(6) At the first meeting of the village panchayat no business other than the election of the Upa-Sarpanch shall be transacted.

(7) If at the election under this section there is an equality of voters, the result of the election shall be decided by lot drawn in the presence of the presiding officer in such manner as he may determine.

(8) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section, the dispute shall be referred within a period of thirty days from the date of the declaration of the result of the election to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.

52. (1) On the election of a new Sarpanch or Upa-Sarpanch it shall be the duty of the retiring Sarpanch or, as the case may be, Upa-Sarpanch, to hand over to him charge of his office and deliver to him the record and property belonging to the panchayat and in his custody.

Duty of retiring Sarpanch, etc. to hand over charge of office.

(2) The provisions of the sub-section (1) shall apply *mutatis mutandis* to a retiring member in the matter of handing over charge of his office.

53. Save as otherwise provided in this Act, the term of office of—

- (a) the members of a village panchayat, and
- (b) the Sarpanch and Upa-Sarpanch of a village panchayat,

Term of office of members of village panchayats and of Sarpanch etc. thereof.

shall be co-extensive with the duration of the panchayat.

54. (1) The Sarpanch may resign from his office by tendering his resignation in writing to the competent authority but the resignation shall not take effect until it is accepted by the competent authority.

Resignation of members Sarpanch or Upa-Sarpanch.

(b) The Upa-Sarpanch may resign from his office by tendering his resignation in writing to the panchayat but the resignation shall not take effect until it is accepted by the panchayat.

(2) Any other member of the panchayat may resign from his office by tendering his resignation to the Sarpanch and the resignation shall take effect on the date on which it is accepted by the Sarpanch.

(3) If any dispute regarding any resignation arises, it shall be referred for decision to such officer, as the State Government may, by general or special order, appoint in that behalf and the decision of such officer be final.

Provided that no such dispute shall be entertained after the expiry of a period of thirty days from the date on which the resignation takes effect.

55. (1) Save as otherwise expressly provided by or under this Act, the executive power, for the purpose of carrying out the provisions of this Act and the resolutions passed by a village panchayat shall vest in the Sarpanch thereof who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this Act. In the absence of the Sarpanch his powers and duties shall, save as may be otherwise prescribed by rules, be exercised and performed by the Upa-Sarpanch.

Executive functions of Sarpanch, or Upa-Sarpanch.

(2) Without prejudice to the generality of the foregoing provision:—

- (a) the Sarpanch shall—
 - (i) preside over and regulate the meetings of the panchayat;
 - (ii) exercise supervision and control over the acts done and actions taken by all officers and servants of the panchayat;
 - (iii) incur contingent expenditure upto fifty rupees at any one occasion;
 - (iv) operate on the fund of the panchayat including authorisation of payment, issue of cheques and refunds;
 - (v) be responsible for the safe custody of the fund of the panchayat,

- (vi) cause to be prepared all statements and reports required by or under this Act;
 - (vii) exercise such other powers and discharge such other functions as may be conferred or imposed upon him by this Act or rules made thereunder.
- (b) the Upa-Sarpanch shall -
- (i) in the absence of the Sarpanch preside over and regulate the meetings of the panchayat ;
 - (ii) exercise such of the powers and perform such of the duties of the Sarpanch as the Sarpanch may, from time to time delegate to him ;
 - (iii) in case the Sarpanch has been continuously absent from the village for more than fifteen days or is incapacitated to exercise the powers and perform the duties of the Sarpanch.
- (3) In the absence of both the Sarpanch and the Upa-Sarpanch, every meeting of the panchayat shall be presided over by such one of the members present as may be chosen by the meeting to be Chairman for the occasion.
- (4) Notwithstanding anything contained in clause (iv) of sub-section (2), no money shall be withdrawn from the fund of the panchayat except with the signature of the Sarpanch and any one of the two other members of the panchayat authorised in that behalf by the panchayat.

Motion of
no-confidence.

56. (1) Any member who intends to move a motion of no confidence against the Sarpanch or the Upa-Sarpanch may give notice thereof in the prescribed form to the panchayat concerned. If the notice is supported by one half of the total number of members of the panchayat concerned, the motion may be moved.

(2) Where in the case of the Sarpanch or, as the case may be, the Upa-Sarpanch, the motion is carried by a majority of not less than two-thirds of the total number of the members of the panchayat, the Sarpanch or, as the case may be, the Upa-Sarpanch, shall cease to hold office after a period of three days from the date on which the motion is carried unless he has resigned and the resignation has become effective earlier ; and thereupon the office held by him shall be deemed to have become vacant.

(3) Notwithstanding anything contained in this Act or the rules made thereunder a Sarpanch or, as the case may be, an Upa-Sarpanch, shall not preside over a meeting in which a motion of no confidence is discussed against him, but he shall have a right to speak or otherwise to take part in the proceedings of such a meeting (including the right to vote).

(4) When the offices of both the Sarpanch and Upa-Sarpanch become vacant simultaneously, such Officer as the Taluka Development Officer may authorise in this behalf shall, pending the election of the Sarpanch, exercise all the powers and perform all the functions and duties of Sarpanch but he shall not have the right to vote in any meetings of the panchayat.

(5) (a) Notwithstanding anything contained in section 91 or 95 a meeting of the panchayat for dealing with a motion of no confidence under this section shall be called within a period of fifteen days from the date on which the notice of such motion is received by the panchayat;

(b) If the Sarpanch fails to call such meeting, the Secretary of the panchayat shall forthwith make a report thereof the competent authority and thereupon the competent authority shall call a meeting of the panchayat within a period of fifteen days from the date of the receipt of the report.

Removal from
office.

57. The competent authority may remove from office any member of the panchayat, the Sarpanch or, as the case may be, the Upa-Sarpanch, thereof, after giving him an opportunity of being heard and giving due notice in that behalf to the panchayat and after such inquiry as it deems necessary, if such member, Sarpanch or, as the case may be, Upa-Sarpanch has been

guilty of misconduct in the discharge of his duties or of any disgraceful conduct or abuses his powers or makes persistent default in the performance of his duties and functions under this Act or has become incapable of performing his duties and functions under this Act, The Sarpanch or, as the case may be, the Upa-Sarpanch, so removed may at the discretion of the competent authority also be removed from the membership of the panchayat.

(2) The competent authority may, after following the procedure laid down in sub-section (1) disqualify for a period not exceeding five years any person who has resigned his office as a member, Sarpanch or Upa-Sarpanch, or otherwise ceased to hold any such office and has been guilty of misconduct specified in sub-section (1) or has been incapable of performing his duties and functions;

Provided that an action under this sub-section shall be taken within six months from the date on which the person resigns or ceases to hold any such office.

(3) Any person aggrieved by an order of the competent authority under sub-section (1) or (2) may, within a period of thirty days from the date of the communication of such order, appeal to the State Government.

58. (1) Any member of a village panchayat who, during his term of office—

Leave of absence.

(a) is absent for more than three consecutive months from the village unless leave not exceeding four months so to absent himself has been granted by the panchayat; or

(b) absents himself for four consecutive months from the meetings of the panchayat without the leave of the said panchayat;

shall cease to be a member and his office shall be vacant and thereupon the panchayat shall as soon as may be inform him that the vacancy has occurred.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the competent authority whose decision shall be final;

Provided that such reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (1) the member as to the vacancy.

(3) Whenever leave is granted under sub-section (1) to a member who is an Upa-Sarpanch, another member shall, subject to the conditions to which the election of the Upa-Sarpanch so absenting himself was subject, be elected to perform all the duties and exercise all the powers of an Upa-Sarpanch during the period for which such leave is granted,

59. (1) The District Development Officer may suspend from office the Sarpanch or the Upa-Sarpanch of a village panchayat against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the panchayat under section 30 or who has been detained under any law relating to preventive detention for the time being in force.

Suspension of Sarpanch or Upa-sarpanch.

(2) Where any Sarpanch or Upa-Sarpanch, has been suspended under sub-section (1), another member of the village panchayat shall, subject to the conditions to which the election of the Sarpanch or Upa-Sarpanch, so suspended was subject, be elected to perform all the duties and exercise all the powers of a Sarpanch or Upa-Sarpanch, during the period for which such suspension continues.

(3) An appeal shall lie against an order passed under sub-section (1) to the State Government. Such appeal shall be made within a period of thirty days from the date of the order.

60. A member of a village panchayat whose office has become vacant under section 32 or under section 58, shall, if his disqualification or disability has ceased, be eligible for re-election.

Eligibility of certain members for re-election.

Filling up of vacancies.

61. (1) Any vacancy in the office of a Sarpanch, or Upa-Sarpanch, or member of a panchayat of which notice has been given to the competent authority in the prescribed manner shall be filled by the election of a Sarpanch, Upa-Sarpanch, or as the case may be, member, who shall hold office so long only as the Sarpanch, Upa-Sarpanch or member, in whose place he has been elected, would have held office if the vacancy had not occurred.

Provided that if vacancy of a member occurs within four months preceding the date on which the duration of the panchayat expires under section 13, it shall not be filled.

(2) The meeting for the election of the Sarpanch or Upa-Sarpanch of a village panchayat under sub-section (1) shall be convened by the competent authority on such date as it may fix and the election shall be held in the same manner in which the election of a Sarpanch or Upa-Sarpanch is held under section 51 and the provisions of that section shall, so far as may be, apply in respect of such election.

Acts and proceedings of panchayat and Committee not vitiated by dis-qualification, etc. of members thereof.

62. (1) No disqualification of or defect in the election of any person acting as a member, Sarpanch, or Upa-Sarpanch or Chairman or member of a committee constituted under this Act or defect in the appointment of a presiding authority of the first general meeting shall be deemed to vitiate any act or proceeding of the panchayat or of any such committee, as the case may be, in which the person has taken part wherever the majority of persons parties to such act or proceeding were entitled to act.

(2) No resolution of a panchayat or of any committee constituted under this Act, shall be deemed invalid on account of any irregularity in the service of notice upon any member, provided that the proceedings of the panchayat or committee were not prejudicially affected by such irregularity.

(3) Untill the contrary is proved, every meeting of a panchayat or of a committee constituted under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(4) During any vacancy in a panchayat or committee thereof the continuing members may act as if no vacancy had occurred.

PART II

TALUKA PANCHAYATS

First meeting of panchayat and election of President and Vice-President.

63. (1) On the constitution of a taluka panchayat or on its reconstitution under section 13 or under any other provisions of this Act there shall be called the first meeting thereof for the election of its President and Vice-President from amongst its elected members.

(2) (a) The offices of the President of Taluka Panchayats in the State shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes and the number of offices of President of the Taluka Panchayats in the State so reserved shall bear as nearly as may be, the same proportion to the total number of offices of President of Taluka Panchayats in the State as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State. There shall be reserved by the State Government for socially and educationally backward classes ten percent of the offices of the President of Taluka Panchayats in the State;

(b) (i) One third of the total number of offices of President of Taluka Panchayats in the State reserved under clause (a) and

(ii) One third of the total number of offices of President of Taluka Panchayats in the State, not so reserved.

shall be reserved by the State Government for women.

(3) The number of offices reserved under sub-section (2) shall be allotted by the State Government by rotation to different Taluka Panchayats in the State in the prescribed manner.

(4) The meeting shall be held on such day within four weeks from the date on which the names of members elected at the general election are published under section 15 as may be fixed by the competent authority—;

Provided that where no day is fixed within the aforesaid period of four weeks, the competent authority shall report the fact to the State Government or an officer or authority authorised by the State Government and the meeting shall be held on such day as the State Government or the said officer or authority, as the case may be, may specify.

(5) The first meeting shall be presided over by such officer as the competent authority may by order appoint in that behalf. Such officer shall, have such powers and follow such procedure as may be prescribed but shall not have the right to vote.

(6) No business other than the election of the President and Vice-President shall be transacted at the meeting.

(7) If at the election under the section, there is an equality of votes, the result of the election shall be decided by lot drawn in the presence of the presiding officer as he may determine.

(8) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section, the dispute shall be referred within a period of thirty days from the date of the declaration of the result of the election to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.

64. (1) On the election of a new President of Vice-President, it shall be the duty of the retiring President or, as the case may be, Vice-President to hand over to him charge of his office and deliver to him the record and property belonging to the panchayat and in his custody.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* to a retiring member in the matter of handing over charge of his office.

65. (1) Subject to the provisions of this Act, the taluka panchayat shall pay to its President an honorarium at such rate as may be prescribed.

(2) (a) The President shall be entitled without payment of rent, to the use of a residence, in the headquarters of the panchayat or with the previous sanction of the State Government at any other place in the taluka throughout his term of office and for a period of fifteen days immediately there after, or in lieu of such residence, a house allowance at such rate as the State Government may determine by a general or special order.

(b) No charge shall fall on the President personally in respect of the maintenance of any residence provided under this sub-section.

(3) During the leave or absence of the President, the Vice-President shall be paid such honorarium and allowances as may be prescribed.

(4) The President, Vice-President and a member of the panchayat shall be entitled to travelling allowances while touring on public business at such rates and upon such conditions as may be determined by rules made either prospectively or retrospectively.

66. (1) Subject to the provisions of sub-section (2), where the President of a taluka panchayat remains absent or is on leave for a continuous period exceeding fifteen days, he shall not be entitled to any honorarium under sub-section (1) of section 65 for such period.

(2) Where the president remains absent on ground of illness duly certified by such medical authority as the State Government may by general or special order specify, the president shall be entitled to an honorarium under sub-section (1) of section 65 during the period of such absence in so far as such period does not exceed ninety days during any year.

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Duty of retiring President etc. to handover charge of office.

Honorarium allowances etc. to President and Vice-President and travelling allowances to members.

Handwritten notes in Gujarati script, possibly indicating administrative instructions or amendments.

Payment of honorarium to President during leave or absence

(3) Nothing in sub-section (1) shall apply to the absence of the President on account of his touring on public business.

Term of office of members, President and Vice-President.

67. Save as otherwise provided in this Act, the term of office of members, President and Vice-President of a taluka panchayat shall be co-extensive with the duration of the panchayat.

Resignation.

68. (1) The President may resign from his office by tendering his resignation in writing to the competent authority but the resignation shall not take effect until it is accepted by the competent authority.

(2) The vice-President may resign from his office by tendering his resignation in writing to the panchayat but the resignation shall not take effect until it is accepted by the panchayat.

(3) Any other member of the panchayat may resign by tendering his resignation to the president and the resignation shall take effect on the date on which it is received by the President.

(4) If any dispute regarding any resignation arises it shall be referred for decision to such officer as the State Government may by general or special order appoint in that behalf and the decision of such officer shall be final ;

Provided that no such dispute shall be entertained after the expiry of a period of thirty days from the date on which the resignation takes effect.

Powers and functions of President and Vice-President.

69. (1) (a) The President shall-

(i) convene, preside at, and conduct meetings of the taluka panchayat ;

(ii) have access to the records of the panchayat ;

(iii) discharge all the duties imposed, and exercise all the powers conferred on him by or under this Act ;

(iv) watch over the financial and executive administration of the panchayat and submit to the panchayat all questions connected therewith which shall appear to him to require its orders; and

(v) exercise administrative supervision over the Taluka Development Officer for securing implementation of resolutions or decisions of the panchayat or of any committee thereof.

(b) The President may in cases of emergency direct the execution or suspension or stoppage of any work or the doing of any act which requires the sanction of the panchayat or any authority thereof, and immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public and may direct that the expense of executing such work or doing such act shall be paid from the Taluka Fund:

Provided that, he shall report forthwith the action taken under this subsection, and the reasons therefor, to the Executive Committee or any appropriate Standing Committee at its next meeting.

(2) The Vice-President shall-

(a) in the absence of the President, preside at the meetings of the panchayat ;

(b) exercise such of the powers and perform such of the duties of the President as the President from time to time may, subject to the rules made by the State Government in this behalf, delegate to him by an order in writing ; and

(c) pending the election of President, or during the absence of the President, exercise the powers and perform the duties of the President.

Motion of no confidence.

70. (1) Any member who intends to move a motion of no confidence against the President or Vice-President may give a notice thereof in the prescribed form to the panchayat. If the notice is supported by such number of members as may be prescribed, the motion may be moved.

(2) If the motion is carried by a majority of not less than two-thirds of the total number of the then members of the panchayat, the President or the Vice-President, as the case may be, shall cease to hold office after a period of three days from the date on which the motion is carried, unless he has resigned earlier; and thereupon the office held by such President or Vice-President shall be deemed to be vacant.

(3) Notwithstanding anything contained in this Act or the rules made thereunder a President or Vice-President shall not preside over a meeting in which a motion of no confidence is discussed against him; but he shall have a right to speak or otherwise to take part in the proceedings of such a meeting (including the right to vote).

(4) (a) Notwithstanding anything contained in section 122, a meeting of the panchayat for dealing with a motion of no confidence under this section shall be called within a period of fifteen days from the date on which a notice of such motion is received by the panchayat.

(b) If the President of the panchayat fails to call such meeting, the Secretary of the panchayat shall make a report thereof to the competent authority and thereupon the competent authority shall call a meeting of the panchayat within a period of fifteen days from the date of the receipt of the report.

71. (1) The competent authority may remove from office any member of a panchayat or any President or Vice-President thereof after giving him an opportunity of being heard and giving due notice in that behalf to the panchayat and after such inquiry as it deems necessary, if such member, President or Vice-President has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or abuses his powers or makes persistent default in the performance of his duties and functions under this Act or has become incapable of performing his duties under this Act. The President or as the case may be, the Vice-President so removed may at the discretion of the competent authority also be removed from the membership of the panchayat.

Removal from office.

(2) The competent authority may, after following the procedure laid down in sub-section (1), disqualify for a period not exceeding five years, any person who has resigned his office as a member, President or Vice-President or otherwise ceased to hold any such office and has been guilty of misconduct specified in sub-section (1) or has been incapable of performing his duties:

Provided that an action shall be taken within six months from the date on which the person resigns, or ceases to hold, any such office.

(3) Any person aggrieved by an order of the competent authority under sub-section (1) or (2) may within a period of thirty days from the date of the communication of such order appeal to the prescribed authority.

72. (1) Any member of a panchayat who during his term of office :—

Leave of absence.

- (a) is absent for more than three consecutive months from the taluka unless leave not exceeding four months so to absent himself has been granted by the panchayat, or
- (b) absents himself from four consecutive meetings of the panchayat without the leave of the said panchayat,

shall cease to be a member and his office shall be vacant and thereupon the panchayat shall, as soon as may be, inform him that the vacancy has occurred.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the competent authority, whose decision shall be final :

Provided that such reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (1) the member as to the vacancy.

(3) Whenever leave is granted under sub-section (1) to a member who is Vice-President another member shall subject to the condition to which the election of the Vice-President so absenting himself was subject, be elected to perform all the duties and exercise all the powers of a Vice-President during the period for which such leave is granted.

Suspension of
President or
Vice-President.

73. (1) The competent authority may suspend from office any President or Vice-President against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted, or who has been detained in a prison during trial for any offence or who is under going such sentence of imprisonment as would not disqualify him from continuing as a member of the panchayat under section 30 or who has been detained under any law relating to preventive detention for the time being in force.

(2) Where any President or Vice-President has been suspended under sub-section (1) another member shall, subject to the conditions to which the election of the President or, as the case may be, Vice-President so suspended was subject, be elected to perform all the duties and exercise all the powers of a president or a Vice-President during the period for which such suspension continues.

(3) An appeal shall lie against an order passed under sub-section (1) to the State Government. Such appeal shall be made within a period of thirty days from the date of the order.

Eligibility of
certain members
for re-election.

74. A member of a panchayat whose office has become vacant under section 32 or under section 72, shall, if his disqualification or disability has ceased, be eligible for re-election.

Filling up of
vacancies.

75. (1) Any vacancy in the office of a President, Vice-President or a member of a panchayat of which notice has been given to the competent authority in the prescribed manner shall be filled, by the election of a President or Vice-President or a member who shall hold office so long only as the President, Vice-President or member in whose place he has been elected would have held office if the vacancy had not occurred ;

Provided that if the vacancy of a member occurs within four months preceding the date on which the duration of the panchayat expires under section 13, it shall not be filled.

(2) The meeting for the election of a President or Vice-President under sub-section (1) shall be convened by the competent authority on such date as it may fix and the election shall be held in the same manner in which the election of a President or Vice-President is held under section 62 and the provisions of that section shall, so far as may be, apply in respect of such election.

Acts and
proceedings of
panchayat and
committee not
vitiated by dis-
qualification, etc.
of members
thereof.

76. (1) No disqualification of or defect in the election of any person acting as a member, President, or Vice-President or Chairman or member of a committee constituted under this Act or defect in appointment of presiding authority of the first general meeting shall be deemed to vitiate any act or proceeding of the panchayat or of any such committee, as the case may be, in which the person has taken part, wherever the majority of persons, parties to such act or proceeding, were entitled to act.

(2) No resolution of a panchayat or of any committee constituted under this Act shall be deemed invalid on account of any irregularity in the service of notice upon any member, provided that the proceedings of the panchayat or committee, were not prejudicially affected by such irregularity.

(3) Until the contrary is proved, every meeting of a panchayat or of a committee constituted under this Act in respect of proceedings where of a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified ; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(4) During any vacancy in a panchayat or committee thereof the continuing members may act as if no vacancy had occurred.

PART III

DISTRICT PANCHAYATS.

77. (1) On the constitution of a district panchayat or on its reconstitution under section 13 or under any other provisions of this Act there shall be called the first meeting thereof for the election of its president and the Vice-President from amongst its elected members.

First meeting of district panchayat and election of President and Vice-President.

(2) (a) The offices of President of District Panchayats in the State shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes and the number of offices of President of the District Panchayats in the State so reserved shall bear as nearly as may be, the same proportion to the total number of offices of President of District Panchayats in the State as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State. There shall be reserved by the State Government for socially and educationally backward classes ten percent of the offices of the President of District Panchayats in the State ;

(b) (i) One third of the total number of offices of President of District Panchayats in the State reserved under clause (a) and—

(ii) One third of the total number of offices of President of District Panchayats in the State, not so reserved.

shall be reserved by the State Government for women.

(3) The number of offices reserved under sub-section (2) shall be allotted by the State Government by rotation to different District Panchayats in the State in the prescribed manner.

(4) The meeting shall be held on such day within four weeks from the date on which the names of members elected at the General election are published under section 15, as may be fixed by the competent authority :

Provided that where no day is fixed within the aforesaid period of four weeks, the competent authority shall report the fact to the State Government or officer or authority authorised by the State Government and the meeting shall be held on such day as the State Government or the said officer or authority, as the case may be, may specify.

(5) The first meeting shall be presided over by such officer as the competent authority may by order appoint in that behalf. Such officer shall, have such powers and follow such procedure as may be prescribed but shall not have the right to vote.

(6) No business other than the election of the President and the Vice-President shall be transacted at the meeting.

(7) If at the election under this section, there is an equality of votes, the result of the election shall be decided by lot drawn in the presence of the presiding officer in such manner as he may determine.

(8) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section, the dispute shall be referred within a period of thirty days from the date of the declaration of the result of the election to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.

78. (1) On the election of a new President or Vice-President it shall be the duty of the retiring President or, as the case may be, Vice-President to hand over to him charge of his office and to deliver to him the record and property belonging to the panchayat and in his custody.

Duty of retiring President etc. to handover charge.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* to a retiring member in the matter of handing over charge of his office.

79. (1) subject to the provisions of this Act, the district panchayat shall pay to its President an honorarium at such rate as may be prescribed.

Honorarium and allowance etc. to President and Vice President and travelling allowances to members.

25.
300
1000
rules

(2) (a) The President shall be entitled, without payment of rent, to the use of a residence, in the headquarters of the panchayat or with the previous sanction of the State Government at any other place in the district throughout his term of office and for a period of fifteen days immediately thereafter, or in lieu of such residence house allowance at such rate as the State Government may determine by a general or special order.

(b) No charge shall fall on the President personally in respect of the maintenance of any residence provided under this sub-section.

(3) During the leave or absence of the President, the Vice-President shall be paid such honorarium and allowances as may be prescribed.

(4) The President of the panchayat shall be paid a conveyance allowance or permanent travelling allowance or both at such rates and upon such conditions as the State Government may by order determine from time to time.

(5) The Vice-President, and members of the panchayat shall be entitled to travelling allowance while touring on public business at such rates and upon such conditions, as may be determined by rules made either prospectively or retrospectively.

Payment of honorarium to President during leave or absence.

80. (1) subject to the provisions of sub-section (2), where the President of a district panchayat remains absent or is on leave for a continuous period exceeding fifteen days, he shall not be entitled to any honorarium under sub-section (1) of section 79 of for such period.

(2) Where the president remains absent on ground of illness duly certified by such medical authority as the State Government may by general or special order specify, the President shall be entitled to an honorarium under sub-section (1) of section 79 during the period of such absence in so far as such period does not exceed ninety days during any year.

(3) Nothing, in sub-section (1) shall apply to the absence of the President on account of his touring on public business.

Term of office of members of district panchayat and of President and Vice President.
Resignation.

81. Save as otherwise provided in this Act, the term of office of members, President and Vice-President of a district panchayat shall be co-extensive with the duration of the Panchayat.

82. (1) The President may resign from his office by tendering his resignation in writing to the competent authority but the resignation shall not take effect until it is accepted by the competent authority.

(2) The Vice-President may resign from his office by tendering his resignation in writing to the panchayat but the resignation shall not take effect until it is accepted by the panchayat.

(3) Any other member of the panchayat may resign by tendering his resignation to the President and the resignation shall take effect on the date on which it is accepted by the President.

(4) If any dispute regarding any resignation arises it shall be referred for decision to such officer as the State Government may by general or special order appoint in that behalf and the decision of such officer shall be final ;

Provided that no such dispute shall be entertained after the expiry of a period of thirty days from the date on which the resignation takes effect.

Powers and functions of President and Vice-President.

83. (1)(a) The President shall-

(i) convene, preside at and conduct meetings of the district panchayat;

(ii) have access to the records of the panchayat ;

(iii) discharge all duties imposed, and exercise all the powers conferred on him by or under this Act ;

(iv) watch over the financial and executive administration of the panchayat and submit to the panchayat all questions connected therewith which shall appear to him to require its orders; and

(v) exercise administrative supervision over the District Development officer for securing implementation of resolutions or decisions of the panchayat or of any Committee thereof.

(b) The President may in cases of emergency direct the execution or suspension or stoppage of any work or the doing of any act which requires the sanction of the panchayat or any authority thereof, and immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expenses of executing such act shall be paid from the District Fund ;

Provided that, he shall report forthwith the action taken under this subsection, and the reasons therefor to the Executive Committee or any appropriate Standing Committee at its next meetings.

(2) The Vice-President shall:-

(a) in the absence of the President, preside at the meetings of the panchayat ;

(b) exercise such of the powers and perform such of the duties of the President, as the President from time to time may, subject to the rules made by the State Government in this behalf, delegate to him by an order in writing ; and

(c) pending the election of President, or during the absence of the President, exercise the powers and perform the duties of the President.

84. (1) Any member who intends to move a motion of no confidence against the President or Vice-President may give notice thereof in the prescribed form to the panchayat. If the notice is supported by such number of members as may be prescribed, the motion may be moved.

Motion of
No Confidence.

(2) If the motion is carried by a majority of not less than two-thirds of the total number of the then members of the panchayat, the President or Vice-President, as the case may be, shall cease to hold office, after a period of three days from the date on which the motion was carried unless he has resigned earlier; and thereupon the office held by such President or Vice-President shall be deemed to be vacant.

(3) Notwithstanding anything contained in this Act or the rules made thereunder, a President or Vice-President shall not preside over a meeting in which a motion of no confidence is discussed against him; but he shall have a right to speak or otherwise to take part in the proceedings of such a meeting (including the right to vote).

(4) (a) Notwithstanding anything contained in section 144, a meeting of the panchayat for dealing with a motion of no confidence under this section shall be called within a period of fifteen days from the date on which a notice of such motion is received by the panchayat.

(b) If the President of the panchayat fails to call such meeting, the Secretary of the panchayat shall make a report thereof to the competent authority and thereupon the competent authority shall call a meeting of the panchayat within a period of fifteen days from the date of the receipt of the report.

Removal from
office.

85. (1) The competent authority may remove from office any member of a panchayat or a President or Vice-President thereof after giving him an opportunity of being heard and giving due notice in that behalf to the panchayat and after such enquiry as it deems necessary, if such member, President or Vice-President has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or abuses his powers or makes persistent default in the performance of his duties and functions under this Act or has become incapable of performing his duties under this Act. The President or as, the case may be, the Vice-President so removed may, at the discretion of the competent authority, also be removed from the membership of the panchayat.

(2) The competent authority may, after following the procedure laid down in sub-section (1), disqualify for a period not exceeding five years, any

person who has resigned from his office of member, President or Vice-President or otherwise ceases to hold any such office and has been guilty of misconduct as specified in sub-section (1), or has been incapable of performing his duties ;

Provided that such action shall be taken within six months from the date on which the person resigns or ceases to hold any such office.

(3) Any person aggrieved by an order of the competent authority under sub-section (1) or (2) may, within a period of thirty days from the date of communication of such order, appeal to the prescribed authority.

Leave of absence.

86. (1) Any member of a panchayat who, during his term of office--

(a) is absent for more than three consecutive months from the district, unless leave not exceeding four months so to absent himself has been granted by the panchayat, or

(b) absents himself from four consecutive meetings of the panchayat without the leave of the said panchayat,

shall cease to be a member and his office shall be vacant and thereupon the panchayat shall, as soon as may be, inform him that the vacancy has occurred.

(2) Any dispute as to whether a vacancy has or has not occurred under this section, shall be referred for decision to the competent authority, whose decision shall be final ;

Provided that such reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (1) to the member as to the vacancy.

(3) Whenever leave is granted under sub-section (1) to a member who is Vice-President, another member shall, subject to the conditions to which the election of the Vice-President, so absenting himself was subject, be elected to perform all the duties and exercise all the powers of a Vice-President during the period for which such leave is granted.

Suspension of President or Vice-President or Chairman of Education Committee.

87. (1) The competent authority may suspend from office any President or Vice-President or Chairman of Committee against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the panchayat under section 30, or who has been detained under any law relating to preventive detention for the time being in force.

(2) Where any President or Vice-President or Chairman has been suspended under sub-section (1), another member shall, subject to the condition to which the election of the President, Vice-President or, as the case may be Chairman suspended, was subject be elected to perform all the duties and exercise all the powers of a President or a Vice-President or a Chairman, as the case may be, during the period for which such suspension continues.

(3) An appeal shall lie against an order passed under sub-section(1) to the State Government. Such appeal shall be made within a period of thirty days from the date of the order.

Eligibility of certain members for re-election.

88. A member of a panchayat whose office has become vacant under section 32 or under section 86 shall, if his disqualification or disability has ceased, be eligible for re-election.

Filling of vacancies.

89. (1) Any vacancy in the Office of a President, Vice-President or member of a panchayat of which notice has been given to the competent authority in the prescribed manner shall be filled by the election of a President or Vice-President or member who shall hold office so long only as the President, Vice-President or member, in whose place he has been elected would have held office if the vacancy had not occurred ;

Provided that if the vacancy of a member occurs within four months preceding the date on which the duration of the panchayat expires under section 13, it shall not be filled.

(2) The meeting for the election of a President or Vice-President under sub-section (1), shall be convened by the competent authority on such date as it may fix and the election shall be held in the same manner in which the election of a President or Vice-President is held under section 77 and the provisions of that section shall, so far as may be apply in respect of such election.

90. (1) No disqualification of or defect in the election of any person acting as a member, President or Vice-President or Chairman or member of a committee constituted under this Act, or in the appointment of a presiding authority of the first general meeting, shall be deemed to vitiate any act or proceeding of the panchayat or of any such committee, as the case may be, in which the person has taken part, wherever the majority of person, party to such act or proceedings were entitled to act.

Acts and proceedings of panchayat and Committee not vitiated by dis-qualifications etc. of members thereof.

(2) No resolution of a panchayat or of any committee constituted under this Act, shall be deemed invalid on account of any irregularity in the service of notice upon any members, provided that the proceedings of the panchayat or committee were not prejudicially affected by such irregularity.

(3) Until the contrary is proved, every meeting of a panchayat or of a committee appointed under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(4) During any vacancy in a panchayat or committee thereof the continuing members may act as if no vacancy had occurred.

CHAPTER V

CONDUCT OF BUSINESS, ADMINISTRATIVE POWERS AND DUTIES, PROPERTY AND FUND AND ACCOUNTS ETC. OF PANCHAYATS.

PART—I

Provisions relating to village panchayats.

(A) Conduct of business.

91. The meeting of a village panchayat shall be held at such intervals as may be prescribed;

Meeting of Panchayats.

Provided that the Sarpanch for any sepecified reason may, and upon the written request of not less than one third of the members shall call a meeting of the panchayat at any other time.

92. (1) A village panchayat may constitute an Executive Committee for performing such of its functions and duties (not being those pertaining to its Social Justice Committee) as the panchayat may assign to it.

Village Panchayat Committees, their constitution, Powers, functions and duties.

(2) The Executive Committee shall consist of five members to be elected by the panchayat from amongst its members, out of whom one shall belong to a Scheduled Caste or a Scheduled Tribe and one shall be a woman.

(3) A village panchayat shall constitute a committee called the Social Justice Committee for performing such functions as are essential for securing social justice to the weaker sections of the society including persons belonging to the Scheduled Castes and the Scheduled Tribes, as may be prescribed, and the constitution of such committee shall be such as may be prescribed.

(4) In addition to the aforesaid committees, a village panchayat may with the previous approval of the State Government constitute one or more committees consisting of such members of the panchayat and other residents of the village as the panchayat may determine, or appoint any of its members,

to execute any work or scheme decided upon by the panchayat or to inquire into and report to the panchayat on matters which the panchayat may refer to such committee or member. The panchayat may make regulations for the procedure to be followed by any such committee.

(5) Where any committee is constituted under this section the members of the committee shall elect from amongst themselves the Chairman of the committee.

Provided that—

(a) where the Sarpanch and Upa-Sarpanch both are members of any such committee, the Sarpanch shall be the *ex-officio* Chairman of such committee and if he declines to hold the office the Upa-Sarpanch shall be the *ex-officio* Chairman of the committee, unless he also declines to hold the office, and

(b) where only one of them is a member thereof he shall be the *ex-officio* Chairman of the committee, unless he declines to hold the office.

(6) (a) The term of each of the committee other than the Executive Committee and the Social Justice Committee shall be such as may be determined by the panchayat.

(b) The term of the Executive Committee shall be two years and on the expiry of its term, the committee may be reconstituted ; and the term of the Social Justice Committee shall be co-extensive with the duration of the panchayat :

Provided that where the unexpired part of the duration of the panchayat, during which the Executive Committee is constituted or reconstituted is less than two years, the term of the Executive Committee shall be co-extensive with the unexpired part of the duration of the panchayat.

(7) A member once elected to a committee shall be eligible for re-election.

(8) A member or Chairman may resign from membership or chairmanship of a committee by tendering his resignation to the panchayat.

(9) Any vacancy occurring in a committee shall be filled in as soon as possible.

(10) The committees constituted under this section shall in the performance of their functions exercise such powers and discharge such duties of a village panchayat as may be assigned to them by the panchayat.

(11) Such of the powers, functions and duties of the panchayat as are not assigned to any committee shall be exercised and performed by the panchayat.

(12) The panchayat may at any time withdraw from any committee other than the Social Justice Committee any of the powers, functions and duties assigned to it and may assign the same to any other committee other than the Social Justice Committee.

(13) A committee shall conform to any instructions that may from time to time be given to it by the panchayat ; the panchayat may at any time call for any extract from any proceedings of any committee and for any return, statement, account or report in connection with any matter with which any committee has been authorised or directed to deal, every such requisition, shall without unreasonable delay, be complied with by the committee so called upon.

(14) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof,—

(a) any person aggrieved by a decision of a committee other than the Social Justice Committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat, and

(b) any person aggrieved by the decision of the Social Justice Committee may prefer an appeal to the Social Justice Committee of the taluka panchayat.

within a period of sixty days from the date of such decision and the panchayat or, as the case may be, the Social Justice Committee of the taluka panchayat may after giving an opportunity to the appellant to be heard confirm, modify or reverse the decision appealed against and pass such order as it may think proper.

93. (1) There shall be held at least two ordinary meetings of the gram sabha every year on such date, at such time and place, as may be prescribed but in no case the intervening period between two ordinary meetings shall be less than three months.

Meeting of
Gram Sabha.

Provided that the Sarpanch may, at any time on his own motion, and shall, if required by the taluka panchayat or district panchayat call an extraordinary meeting of the gram sabha.

(2) Any officer authorised in this behalf by the taluka panchayat or district panchayat by general or special order shall have the right to speak in, and otherwise to take part in, the proceedings of a meeting of a gram sabha, but shall not be entitled to vote.

(3) Unless otherwise provided in this Act, the Sarpanch, and in the absence of the Sarpanch, the Upa-Sarpanch shall preside over every meeting of the gram sabha. In the absence of the Sarpanch and Upa-Sarpanch, the members of the gram sabha shall elect one of the members of the panchayat present to preside.

(4) If any dispute arises as to whether a person is entitled to attend a meeting of a gram sabha, such dispute shall be decided by the person presiding, regard being had to the entry in the list of voters for the whole of the village or ward thereof, as the case may be, and his decision shall be final.

94. (1) The first meeting of the gram sabha in every year shall be held within two months from the commencement of that year, and the village panchayat shall place before such meeting-

Panchayat to
place before
gram sabha state-
ment of accounts
etc. and duties
of gram sabha.

(i) the annual statement of accounts;

(ii) the report on the administration in the preceding financial year;

(iii) the development and other programme of work proposed for the current financial year;

(iv) the last audit note and replies (if any) made thereto ;

(v) any other matter which the taluka panchayat and district panchayat requires to be placed before such meeting.

(2) It shall be open to the gram sabha to discuss any or all of the matters placed before it under sub-section (1) and the panchayat shall consider suggestions, if any, made by the gram sabha.

(3) A gram sabha shall carry out any other functions as may be prescribed.

95. Save as provided in this Act, the time and place of a meeting of a panchayat or a committee thereof, the quorum for such meeting, the procedure for calling such meeting and the procedure at such meeting, shall be such as may be prescribed.

Procedure in
respect of
meetings.

96. All questions before a meeting of a panchayat or committee thereof or of a gram sabha shall be decided by a majority of votes of the members present and unless otherwise provided in this Act, the presiding officer of the meeting shall have a second or casting vote in all cases of equality of votes :

Questions to be
decided by
majority of
votes.

Provided that in such circumstances and subject to such conditions as may be prescribed, a decision on any question before a panchayat or committee thereof may be taken by circulating the propositions therefor for the vote of members.

97. No resolution of a panchayat shall be modified amended, varied or cancelled by a panchayat within a period of three months from the date of the passing thereof, except by a resolution supported by two-thirds of the whole number of members of such panchayat.

Modification or
cancellation
of resolutions.

Invitees at meetings of panchayat.

98. (1) Notwithstanding anything contained in this Act, it shall be lawful for a village panchayat to invite at its meeting not more than two persons.

(2) An invitee at a meeting of the panchayat shall have the right to speak or otherwise take part in the proceedings of the meeting but shall not be entitled to vote.

(b) Administrative powers and duties.

Administrative powers of panchayats.

99. Subject to the provisions of this Act it shall be the duty of each panchayat to make in the area within its jurisdiction, and so far as the fund at its disposal will allow, reasonable provisions in regard to all or any of the matters specified in Schedule I.

Other functions of Panchayats.

100. (1) A panchayat may with the previous sanction of the district panchayat, incur expenditure on education or medical relief outside its jurisdiction if its finances permit.

(2) A panchayat may also make provision for carrying out in the areas, within the limits of its jurisdiction any other work or measure which is likely to promote,—

(a) the health, safety, comfort or convenience,

(b) social, economic or cultural well being and

(c) education including secondary education of the inhabitants of the areas.

(3) A panchayat may, by resolution passed at its meeting and supported by two-thirds of the whole number of members make provision for any public reception, ceremony or entertainment in the area within its jurisdiction or may make contribution towards an annual gathering or such other gathering of panchayats in the district or the State or towards the fund of any institution which is established with the object of promoting the spirit of community, self-help and mutual aid among village folk and suggesting ways and means for the efficient administration of panchayats and which is recognised by the State Government :

Provided that except with the previous sanction of the panchayat to which it is subordinate under section 6, the panchayat shall not incur expenditure exceeding one hundred rupees on any such reception, ceremony, entertainment or gathering.

(4) If in respect of any land it comes to the notice of a panchayat that on account of the neglect of the occupant or superior holder thereof or dispute between him and his tenant, the cultivation of the land has seriously suffered the panchayat may bring such fact to the notice of the competent authority.

(5) A panchayat shall, in regard to the measures for the amelioration of the condition of Scheduled Castes and Scheduled Tribes and other backward classes, and in particular, in the removal of untouchability, carry out the directions or orders given or issued in this regard from time to time by the State Government or the competent authority and in case the panchayat fails to carry out any direction or order so given or issued, it shall be lawful for the State Government to withhold the payment to the panchayat of all or any of the grants payable under Chapter XI after the panchayat has been given a reasonable opportunity of being heard.

(6) A panchayat shall perform such other duties and functions as are entrusted to it by or under any other law for the time being in force.

(7) It shall be lawful for a panchayat to render financial or other assistance to any person for carrying on in the village panchayat any activity which is related to any of the matters specified in Schedule I.

Power to compromise.

101. (1) A village panchayat may compromise in respect of any suit instituted by or against it, or in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient :

Provided that if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compromising any claim or demand arising out of such contract.

(2) The panchayat may give compensation out of its fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it and its officers and servants under this Act.

102. It shall be the duty of every village panchayat to enquire and report in any of the following cases namely :—

(a) any case where a magistrate has directed that a previous local investigation be made by a village panchayat under section 202 of the Code of Criminal Procedure, 1973 and the words "such other person" in sub-section (1) of the said section shall be deemed to include a village panchayat ;

(b) any case in which a magistrate making an inquiry under section 125 of the Code of Criminal Procedure, 1973, may require from the village panchayat in whose jurisdiction either the wife or child for whose maintenance the application is made or the husband or parents respectively of such wife or child resides. reports as to the amount of maintenance which, having regard to the circumstances of the parties, should be payable and such report shall be evidence in such inquiry.

Provided that no member of the village panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence. but the magistrate may, in his discretion, call for a further report.

103. In the case of any institution managed by a taluka panchayat or district panchayat, or of any work to be done out of the fund of a taluka panchayat or district panchayat, the taluka panchayat or, as the case may be, the district panchayat may, if the village panchayat so agrees entrust to the village panchayat, the management of such institutions or the execution of such work :

Provided that in every such case, the fund necessary for such management or execution shall be placed at the disposal of the panchayat by the taluka panchayat, or district panchayat.

104. (1) No person shall erect or re-erect or commence to erect or re-erect within the limits of the village, any building without the previous permission of the panchayat.

(2) Permission shall be presumed to have been granted if the panchayat fails to communicate its sanction or refusal in respect thereof within one month from the date of receipt of the application for the permission. In case of refusal, the panchayat shall communicate to the applicant the reasons thereof, and an appeal shall lie against any such order of refusal to the taluka panchayat :

Provided that no such appeal shall be entertained if it is made after the expiry of thirty days from the date on which the refusal is communicated to the applicant.

(3) No person, who becomes entitled under sub-section (1) or (2) to proceed with any intended work of erection or re-erection shall commence such work after the expiry or one year from the date on which he became entitled to proceed therewith unless he shall have again become so entitled by a fresh compliance with the provisions of sub-section (1) or (2) as the case may be.

(4) Whoever erects or re-erects or commences to erect or re-erect any building without such permission or in any manner contrary to the provisions of sub-section (1) or any bye-law in force, or any conditions imposed by the panchayat shall, on conviction be punished with fine, which may extend to two hundred rupees and in the case of a continuing contravention, he shall be liable to an additional fine which may extend to twenty rupees for each day during which such contravention continues after conviction for the first such contravention.

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Local inquiry and reports by village panchayat.

II of 1974.

Powers of panchayat to manage institutions or execute work transferred to it by taluka or district panchayat.

Control on erection of buildings.

(5) Without prejudice to the penalty prescribed in sub-section (4) the panchayat may--

(a) direct that the erection or re-erection be stopped,

(b) by written notice require such erection or re-erection to be altered or demolished, as it may deem necessary,

and, if the requirement under clause (b) is not complied with within the time fixed in the notice, the panchayat may cause the alteration or demolition to be carried out by its officers and all the expenses incurred by the panchayat therefor, shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter X :

Provided that when a notice for bringing any action against any direction for the alteration or demolition of any erection or re-erection issued under this sub-section has been given under sub-section (2) of section 270, alteration or demolition shall not be caused to be carried out until the expiry of the period of such notice and a further period of seven days.

(6) Nothing contained in this section shall apply to any building which is used or required for public service or for any public purpose, and if the property of the State or Central Government or any local authority, or is to be erected or re-erected by the State or Central Government or the local authority but reasonable notice of the proposed construction shall be caused to be given to the panchayat, and the objections or suggestions of the panchayat, if any shall be considered.

Explanation:—The expression "erect" of "re-erect" with reference to a building in this section includes-

- (a) any material alteration, or enlargement of or in any building ;
- (b) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation;
- (c) such alteration of a building as would effect a change in the drainage or sanitary arrangement or materially affect its security;
- (d) the addition of any rooms, buildings, outhouses, or other structures to any building ;
- (e) the conversion by any structural alteration into a place of religious worship or into a sacred building of any place or building, not originally meant or constructed for such purpose ;
- (f) roofing or covering an open space between walls and buildings as regards the structure which is formed by roofing or covering such space;
- (g) conversion into a stall, shop, warehouse, or godown of any building not originally constructed for use as such or vice versa ;
- (h) construction in a wall adjoining any street or land not vested in the owner of the wall, of a door opening on such street or land.

Obstruction and encroachment upon public streets and open sites.

105. (1) Whoever, within the limits of a village-

- (a) builds or sets up any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or structure or thing or any other encroachment, or obstruction, or—
- (b) deposits, or causes to be placed or deposited, any box, bale, package or merchandise, or any other thing, or
- (c) without written permission given to the owner or occupier of a building by a panchayat, puts up, so as to project from an upper storey thereof any verandah, balcony, room or other structure or thing,

in or over any public street or place, or in or upon any open drain, gutter, sewer or aqueduct in such street or place, or contravenes any conditions subject to which any permission as aforesaid is given or the provisions of any bye-law made in relation to any such projections or cultivates or makes any unauthorised use of any grazing land, not being private property, shall on conviction, be punished with fine, and with further fine which may extend to twenty five rupees for each day on which such obstruction, deposit, projection, cultivation or unauthorised use continues after the date of first conviction for such offence.

(2) The panchayat may remove any such obstruction or encroachment and remove any crop unauthorisedly cultivated, on grazing land or any other land not being private property, and may remove any unauthorised obstruction or encroachment of the like nature in any open site not being private property, whether such site is vested in the panchayat or not:

Provided that if the site be vested in the State Government, the permission of the Collector or any officer authorised by him in this behalf, shall have first been obtained the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable under Chapter X :

Provided further that when before the removal of any such encroachment or projection a notice for bringing action in that behalf has been given under sub-section (2) of section 270, no action for the removal of the encroachment or projection shall be taken until the expiry of the period of such notice and further period of seven days.

(3) Nothing in sub-section (2) shall prevent the panchayat from permitting any construction referred to in clause (a) or clause (c) of sub-section (1) to stand on such terms and conditions as may be prescribed.

(4) The power under sub-section (2) may be exercised in respect of any obstruction, encroachment, or projection referred to there in whether or not such obstruction, encroachment, or projection has been made before or after the village is specified as such under clause (g) of article 243 of the Constitution or before or after the property is vested in the panchayat,

(5) Whoever not being duly authorised in that behalf removes earth, sand or other material from, or makes any encroachment in or upon any open site which is not private property, shall, on conviction, be punished with fine and, in the case of an encroachment, with further fine which may extend to twenty five rupees for every day on which the encroachment continues after the date of first conviction.

(6) Nothing contained in this section shall prevent the panchayat from allowing any temporary occupation of or erection in, any public street on occasions of festivals and ceremonies, of the piling of fuel in by-lanes and sites for not more than seven days, and in such manner as not to inconvenience the public or any individual or from allowing any temporary erection on or putting projection over, or temporary occupation of, any such public street or place, or any other purpose in accordance with the bye-laws made under this Act.

(7) Where the panchayat finds it difficult to remove any obstruction or encroachment or any crop unauthorisedly cultivated on grazing lands as referred to in sub-section (2), it shall inform the Taluka Development Officer accordingly and the Taluka Development Officer shall on receipt of such information exercise the powers of the panchayat under sub-section (2) and take action to remove the obstruction, encroachment or, as the case may be, the crop.

(8) The Taluka Development Officer may, take action referred to in sub-section (7) *suo-motu* or whenever it is reported to him that though the panchayat was moved to take action under sub-section (2) it has not taken any action for three months:

Provided that before taking action *suo motu* he shall direct the village panchayat to take action and if the panchayat fails to do so within a specified time, the Taluka Development Officer may thereafter take action.

Numbering of
permises.

106. (1) The panchayat may, from time to time by written notice, require the owner of any premises or part thereof, either to put up, by means of a metal plate a number or sub number on such premises, or part thereof in such position and manner as may be specified in such notice, or to signify in writing his desire that such work shall be executed under the orders of the panchayat.

(2) Any person who destroys, pulls down or defaces any such number or sub-number or puts any number or sub-number different from that put up by order of the panchayat and any owner of any premises or part thereof, who does not at his own expense keep such number or sub-number in good order after it has been put up thereon, shall on conviction, be punished with fine which may extend to one hundred rupees.

(3) Where a number or sub-number is put upon any premises or part thereof, under the orders of the panchayat in accordance with sub-section (1), the expenses of such work shall be payable by the owner of such premises or part thereof, as the case may be.

(4) In this section "premises" means a house, outhouse, stable, shed, hut or other structure whether of masonry, bricks, wood, mud, metal or any other material whatsoever whether used as a human dwelling or otherwise.

Powers of Taluka
Development Offi-
cer to require
owner to provide
water closet or pri-
vy accommoda-
tion.

107. (1) where any premises in any village are, in the opinion of the Taluka Development Officer, without adequate and suitable water closet or privy accommodation in accordance with the rules or bye-laws made under this Act in that behalf, the Taluka Development Officer, may, by written notice, require the owner of such premises to provide such water or privy accommodation in accordance with the rules or bye-laws made under this Act in that behalf, within such time as may be specified in such notice and if the owner fails to comply with such requirement, within the time so specified or within such time as may, on the application of the owner, be extended by the Taluka Development Officer for any reasonable cause, it shall be lawful for the Taluka Development Officer to make such provision from the taluka fund and where such fund is inadequate, with the permission of the district panchayat, from the District Development Fund. The expenses incurred by the Taluka Development Officer in making such provision shall, on demand by the Taluka Development Officer, be payable by the owner and if not paid by him on demand, such expenses shall be recoverable by the Taluka Development Officer in accordance with provisions of section 215.

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

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

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

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

Explanation—For the purposes of this section, “water closet” means a closet used as a privy in which discharge are pushed in or carried off by water, and includes an acqua privy, gas plant, latrine attached with gas plant, a closet of type known as P. R. A. I. (Planning Research Action Institute) type, septic tank type, band flush type, bore hole type, clap trap type or any other type which the State Government may, by notification in the **Official Gazette**, specify.

(C) Property and Funds :

108. (1) For the purpose of this Act, the State Government may subject to such conditions and restrictions as it may think fit to impose, vest in a panchayat open sites, waste, vacant or grazing lands or public roads, streets, bridges, ditches, dikes and fences, wells, river-beds, tanks, streams, lakes, nallas, canals, water-courses, trees or any other property in the village vesting in the Government.

Government may vest certain lands in panchayat.

(2) Subject to any conditions and restrictions imposed by the State Government under sub-section (1) and with the previous sanction of the Collector, a panchayat may discontinue or stop up any such public road or street vested in it by the State Government, but which is no longer required as public road or street and may lease or sell any such land theretofore used for the purposes of such public road or street:

Provided that one month before it is decided to stop up or discontinue such public road or street, the Sarpanch shall, by notice signed by him and affixed in the part of the public road or street which is proposed to be discontinued or stopped up, and published in such other manner as is prescribed, inform the residents of the village of the said proposal and consider any objections in writing made thereto, The notice shall indicate the alternative route, if any, which it is proposed to provide or which may already be in existence.

(3) Whenever any public road or street or any part thereof has been so discontinued or stopped up, reasonable compensation shall be paid to every person who was entitled to use such road or street or part thereof, other wise than as a mere member of the public, as a means of access to or from his property and has suffered damage from such discontinuance or stopping up, and the provisions in the Bombay Highways Act, 1955 in relation to the assessment, apportionment, and payment of compensation shall, *mutatis mutandis*, apply thereto as they apply in relation to the closure of a highway under section 52 of that Act.

Bom. I.V of 1955.

(4) Where any open site or waste, vacant or grazing land vesting in Government, has been vested by Government in a panchayat whether before or after the commencement of this Act, then it shall be lawful for the State Government to resume at any time such site or land, if it is required by it for any public purpose :

Provided that in case of any improvement of such site or land made by the panchayat or any other person, the panchayat or person, as the case may be, shall be entitled to compensation equal to the value of such improvement and such value shall be determined in accordance with the provisions of the Land Acquisition Act, 1894.

109. (1) A taluka panchayat or the district panchayat may from time to time direct that any property vesting in it shall vest in a village panchayat and thereupon notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908, such property shall vest in the village panchayat.

I of 1894 Other property of village panchayat.

IV of 1882
XVI of 1908.

(2) Every work constructed by a panchayat out of its fund, or with Government assistance or people's participation shall vest in the panchayat.

110. (1) Subject to the provisions of sub-section (2) no lease, sale or other transfer of any immovable property vesting in, or acquired by a panchayat shall be valid unless such lease, sale or other transfer has been made with the previous sanction of the competent authority.

Limitation on power of panchayat to transfer immovable property.

(2) In the case of a lease of immovable property other than the property vesting the panchayat under section 108, no such previous sanction shall be necessary, if the period of lease does not exceed three years.

Village fund.

111. (1) There shall be in each village a fund to be called the village fund.

(2) The following shall be paid into and form part of the fund, namely ;

(a) the proceeds of any tax or fee imposed by or assigned to the panchayat under this Act ;

(b) all sums ordered by a court to be paid as compensation ;

(c) all other sums ordered by a court to be placed at the credit of the village fund ;

(d) the sale proceeds of all dust, dirt, dung, refuse, or carcasses of animals, except in so far as any person is entitled to the whole or a portion thereof ;

(e) sums contributed to the fund by the State Government or the taluka panchayat or the district panchayat ;

(f) all sums received by way of loans from the State Government or the taluka panchayat or the district panchayat or out of the District Development Fund or otherwise ;

(g) all sums received by the panchayat by way of gift or contribution ;

(h) the income or proceeds of any property vesting in the panchayat ;

(i) the net proceeds (after deducting the expenses of assessment and collection) of the cess authorised by section 203 ;

(j) all sums, realised by way of rent or penalty otherwise than as the amount of any fine in a criminal case ;

(k) all sums realised as pound fees after deducting the expenses.

Application of fund.

112. (1) All property vested in a panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law for the time being in force, shall be applied subject to the provisions and for the purposes of this Act and all such funds and sums shall be kept in such custody as may be prescribed.

(2) Any surplus funds in the hands of a panchayat which may not be required for current charges, may be invested in such manner as may be prescribed.

(3) In the case of any loan taken by a panchayat, the payment of the principal or instalment thereof and the payment of interest thereon shall be a first charge on its fund.

Decision on claims to property by or against village panchayat.

113. (1) In any revenue village where any property of any right in or over any property is claimed by or on behalf of the panchayat or by any person against the panchayat, it shall be lawful for the Collector, after formal enquiry of which due notice has been given, to pass an order deciding the claim.

(2) Any suit instituted in any Civil Court after the expiration of one year from the date of the communication of any order passed by the Collector under sub-section (1), or if one or more appeals have been made against such order within the period of limitation, than, from the date of communication of any order passed by the final appellate authority as determined according to section 204 of the Land Revenue Code,

V of 1879.

shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside, such order or if the relief claimed is inconsistent with such order, provided that the plaintiff has received due notice of such order.

(3) (a) The powers conferred by this section on the Collector may be exercised also by an Assistant or Deputy Collector or by a Survey Officer or such other officer appointed under the said Code.

(b) The formal inquiry referred to in this section shall be conducted in accordance with the provisions relating to such enquiry under the said Code.

(c) A person shall be deemed to have had due notice of any inquiry or order under this section if notice thereof has been given in the prescribed manner.

D. Officers and servants of panchayats.

114. (1) Subject to the provisions of this Act and the rules made thereunder—

Secretary and servants of panchayats.

(a) there shall be a Secretary for every village panchayat who shall be appointed in accordance with the rules ;

(b) a village panchayat shall have such other servants as may be determined under section 227. Such servant shall be appointed by such authority and their conditions of service shall be such as may be prescribed ;

Provided that the State Government having regard to the population of a village and income of the panchayat thereof may direct in respect of a group of village panchayats that such group shall have one Secretary and thereupon there shall be one Secretary for that group.

(2) A Secretary of a village panchayat shall subject to the control of the Sarpanch..

(a) keep in his custody the records and registers of the panchayat,

(b) issue receipts under his signature for sums of money received by him on behalf of the panchayat,

(c) prepare all statements and reports required under this Act, and

(d) perform such other functions and duties under this Act as may be prescribed.

(3) The other servants of the panchayat shall perform such functions and duties and exercise such powers under this Act as may be imposed or conferred on them by the panchayat, subject to rules, if any, made in this behalf.

(E) Contribution to District Development Fund.

115. Every village panchayat shall contribute every year to the District Development Fund constituted under section 223 a sum equal to such percentage not exceeding ten per cent of its income from such sources as may be prescribed ;

Contribution to District Development Fund.

Provided that where any village panchayat fails in any year to make a contribution under this section, it shall be lawful for the State Government to deduct such amount from the grant payable to the panchayat under section 219 in the next succeeding year as may be sufficient to make the contribution and credit the same to the district Development Fund on behalf of the village panchayat.

(F) Budget Estimates

116. (1) Every village panchayat shall have prepared annually on or before the 15th December of the current year or such date not later than 31st December of the current year as may be approved by the taluka Panchayat, in such form and manner as may be prescribed in this behalf a budget estimate of its income and expenditure for the next year and forward the budget estimate to the taluka panchayat on or before—

Annual Budget Estimates.

(a) the 31st December of the current year where the budget estimate is prepared on or before the 15th December of the Current year, or

(b) the 15th January of the current year where the budget estimate is prepared on or before the approved date ;

Provided that the budget estimate shall be so prepared that at the end of the year the panchayat shall have at its credit a balance of not less than such minimum amount as may be prescribed in that behalf.

(2) The taluka panchayat shall scrutinize the budget estimates and return to the panchayat within two months of its receipt with such observations and recommendations as it may make in respect of the budget estimate.

(3) The panchayat shall thereupon approve the budget estimate on or before the 31st March of the current year with such modifications as it may think fit having regard to the observations and recommendations made by the taluka panchayat under sub-section (2).

(4) Where any village panchayat has failed to comply with the provisions of sub-section (3), it shall be lawful for the State Government to form an opinion that the panchayat is incompetent to perform the duties imposed on it or functions entrusted to it under the provisions of this Act.

Explanation :--A village panchayat shall not be deemed to have failed to comply with the provisions of sub-section (3). if such failure has resulted on account of non compliance by the taluka panchayat of provisions of sub-section (2).

Revised or supplementary budget or reappropriation of funds.

117. (1) A taluka panchayat may at any time during the year for which any budget estimate has been approved cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary budget shall be considered and approved by the panchayat in the same manner as if it were an original annual budget estimate :

Provided that the taluka panchayat shall scrutinise the budget and return to the panchayat within one month of its receipt.

(2) Reappropriation of fund in a budget estimate may be made from time to time subject to the same approval as is required for the budget estimates.

Except in emergency no sum to be expended unless it has been included in budget estimates.

118. (1) Save in the case of a pressing emergency, no sum shall be expended by or on behalf of a village panchayat unless such sum is included in some budget estimate approved under section 116 or 117 and in force at the time of incurring the expenditure.

(2) If on a pressing emergency, any sum is expended otherwise than in accordance with sub-section (1), the circumstances shall be forthwith communicated in writing to the taluka panchayat, with an explanation of the way in which it is proposed by the panchayat to cover such extra expenditure.

Accounts of income and Expenditure.

119. Accounts of the income and expenditure of every panchayat shall be kept in such form and manner as may be prescribed and shall be balanced annually on the 1st day of every year.

Annual administration report

120. (1) The Secretary of every panchayat shall prepare the annual report of the administration of the panchayat and shall place the accounts and report for approval before the panchayat.

(2) The annual statement of the accounts together with the annual report, shall be sent to the district panchayat through the taluka panchayat on or before such date and in such form as may be prescribed.

(G) Audit of the accounts of village panchayats.

Audit of Accounts of Panchayat.

121. (1) The audit of the accounts of a panchayat shall, be carried out under the provisions of the Gujarat Local Fund Audit Act, 1963 and a copy of the audit note shall be forwarded to the panchayat and to the taluka panchayat within one month of the completion of the audit.

(2) On receipt of the audit note referred to in sub-section (1). the panchayat shall, either remedy any defects or irregularities which may have been pointed out in the audit note and send to the taluka panchayat within

three months an intimation of its having done so, or shall, within the said period supply any further explanation in regard to such defects or irregularities as it may wish to give.

(3) On receipt of such intimation or explanation, the taluka panchayat may, in respect of all or any of the matters discussed in the audit note,—

(a) accept the intimation or explanation given by the panchayat and recommend to the Collector to withdraw the objection,

(b) direct that the matter be investigated at the next audit or at any earlier date, or

(c) hold that the defects or irregularities pointed out in the audit note or any of them have not been removed or remedied.

(4) The taluka panchayat shall send a report of its decision to the Collector within one month of the date of receipt by it of the intimation or explanation referred to in sub-section (2), or in the event of the panchayat failing to give such intimation or explanation on the expiry of the period of three months referred to in the said sub-section (2), and shall forward a copy of such report to the panchayat. If the taluka panchayat holds that any defects or irregularities have not been removed or remedied, it shall state in the report whether in its opinion the defects or irregularities can be regularised and if so by what method and if they do not admit of being regularised, whether they can be condoned, and if so, by what authority. The taluka panchayat shall also state whether the amounts to which the defects or irregularities relate should in its opinion be surcharged as hereinafter provided.

(5) The Collector may, after considering the report of the taluka panchayat and after making such further enquiry as he considers necessary disallow any item which appears to him contrary to law and surcharge the same on the person making or authorising the making of the illegal payment, and

(a) if the person on whom the surcharge is made be a member, proceed against him in the manner described in sub-sections (2) and (3) of section 267 ; and

(b) If the person on whom the surcharge is made is not a member, then after taking his explanation direct by order in writing that such person shall pay to the panchayat the amount surcharged, and if the amount be not so paid within one month, the Collector shall recover it as an arrears of land revenue and credit it to the village fund.

(6) Any person aggrieved by any order of surcharge made by the Collector under this section may, within one month from the receipt by him of the decision of the Collector, apply to the District Court to modify or set aside such order and that court after taking such evidence as it thinks necessary, may confirm, modify or remit such surcharge and make such order as to costs as it thinks proper in the circumstances.

(7) The taluka panchayat may by order in writing direct that all or any of its functions under sub-sections (3) and (4) may also be performed by one of its committees.

PART—II

Provisions relating to Taluka Panchayats

(A) Conduct of business

122. The meeting of a taluka panchayat shall be held normally every three months :

Meeting of
Taluka Panchayat at

Provided that the President for any specified reason may, and upon the written request of not less than one-third of the members shall, call the meeting of the taluka panchayat at any other time.

123. (1) A taluka panchayat shall constitute the following committees, namely :—

Taluka Panchayat
committees, their
constitution.

powers, functions
and duties.

- (i) An Executive Committee, for exercising such powers and performing such functions and duties of the taluka panchayat (not being functions pertaining to its Social Justice Committee), as the taluka panchayat may assign to it :

Provided that it shall be lawful for the Executive Committee to appoint not more than two sub-committees from amongst its members but the sub-committee so appointed shall not be competent to take any final decision on any matter.

- (ii) A Social Justice Committee for performing such functions as are considered essential for securing social justice to the weaker sections of the society including persons belonging to the Scheduled Castes and the Scheduled Tribes as may be prescribed.

(2) In addition to the committees referred to in sub-section (1), a taluka panchayat may, with the previous approval of the State Government, constitute a committee or committees consisting of such number of members of the panchayat as the panchayat may determine, to execute any work or scheme decided upon by the taluka panchayat or to inquire into the report to the taluka panchayat on matters which the panchayat may refer to such committee or committees. The taluka panchayat may make regulations for the procedure to be followed by any such committee.

(3) No committee other than the Executive Committee shall consist of more than five members and the Executive Committee shall consist of not more than nine members.

(4) The constitution of the Social Justice Committee shall, subject to sub-section (3), be such as may be prescribed.

(5) The members of Committee constituted under this section shall be elected by the panchayat from amongst its members :

Provided that the taluka panchayat may appoint, in accordance with any rules made in this behalf, any of the qualified voters of the taluka on a committee mentioned in sub-section (2) or sub-section (4) and the qualified voters so appointed shall have the right to speak or otherwise to take part in the proceedings of a meeting of the committee but shall not, except in the case of a committee mentioned in sub-section (4), be entitled to vote.

(6) Where any committee is constituted under this section, the members of the committee shall elect from amongst themselves the Chairman of the committee :

Provided that —

(a) Where the President and Vice-President both are members of any such committee, the President shall be the **ex-officio** Chairman of such committee and if he declines to hold the office, the Vice-President shall be the **ex-officio** Chairman of the Committee, unless he also declines to hold the office,

(b) where only one of them is a member thereof he shall be the **ex-officio** Chairman of the committee, unless he declines to hold the office and

(c) a person who is not a member of the panchayat shall not be eligible to be the Chairman of any committee.

(7) (a) No member of the panchayat shall be a member of more than two committees constituted under this section,

(b) If any member is simultaneously or otherwise elected as a member of more than two committees, the member shall, within ten days from the date or the later of the dates on which he is so elected, intimate to the President two of the committees in which he wishes to serve and thereupon his seat in the committee or committees other than the aforesaid two committees shall become vacant,

(c) Any intimation given under clause (b) shall be final and irrevocable,

(d) Where a member commits default in giving intimation under clause (b), within the period prescribed therein, the panchayat shall determine the two committees in which such member shall retain his seat and thereupon his seat in the committee or committees other than the committees so determined, shall become vacant.

(8) A member once elected to a committee, shall be eligible for re-election.

(9) (a) The term of each of the committees other than the Executive Committee and the Social Justice Committee shall be for such period not exceeding one year as may be determined by the panchayat.

(b) The term of the Executive Committee shall be two years and on the expiry of its term, the committee shall be reconstituted and the term of the Social Justice Committee shall be co-extensive with the duration of the panchayat :

Provided that where the unexpired part of the duration of the panchayat, during which the Executive Committee is constituted, or reconstituted is less than two years, the term of the Executive Committee shall be co-extensive with the unexpired part of the duration of the panchayat.

(10) A member or Chairman may resign from membership or Chairmanship of a Committee by tendering his resignation to the taluka panchayat.

(11) Any vacancy occurring in a committee shall be filled in as soon as possible.

(12) The Committee constituted under this section shall, in the performance of their functions, exercise such powers and discharge such duties of the taluka panchayat as may be assigned to them by the panchayat.

(13) A taluka panchayat may, at any time withdraw from any committee other than the Social Justice Committee, any of the powers, functions and duties assigned to it and assign the same to any other committee other than the Social Justice Committee.

(14) Such of the powers, functions and duties of the panchayat as are; not assigned to any committee shall be exercised and performed by the taluka panchayat.

(15) A committee shall conform to any instructions that may, from time to time, be given to it by the panchayat.

The panchayat may at any time, call for any extract from any proceedings of any committee and for any return, statement, account or report in connection has been authorised or directed to deal.

Every such requisition, shall without unreasonable delay, be complied with by the committee so called upon.

(16) Notwithstanding the assignment of any powers, functions and duties of panchayat to a committee thereof-

(a) any person aggrieved by the decision of a committee other than the Social Justice Committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat, and

(b) any person aggrieved by the decision of the Social Justice Committee (not being a decision in appeal) may prefer an appeal to the Social Justice Committee of the district panchayat, within a period of sixty days from the date of such decision and the panchayat, or, as the case may be, the Social Justice Committee, may, after giving an opportunity to the appellant to be heard confirm, modify or reverse the decision appealed against and pass such order as it may think proper.

124. The Chairman of the Social Justice Committee of a taluka panchayat shall be entitled to an honorarium at such rate as may be prescribed.

Honorarium to
Chairman of
Social Justice
Committee.

Travelling allowance to members of committee who are not members of a taluka panchayat.

125. The members of any committee of a taluka panchayat constituted under section 123 who are not the members of such panchayat, shall be entitled to traveling allowance while touring for the purpose of attending a ~~meeting~~ of the committee or any business relating to the committee at such ~~rates~~ and subject to such conditions as may be determined by rules made either prospectively or retrospectively.

Procedure in respect of meetings.

126. Save as provided in this Act, the time and place of a meeting of a taluka panchayat or committee thereof, the quorum for such meeting, the procedure for calling such meeting and the procedure at such meeting, shall be such as may be prescribed.

Questions to be decided by majority of votes.

127. All questions before a meeting of a taluka panchayat or committee thereof, shall be decided by a majority of votes of the members present and unless otherwise provided in this Act, the presiding officer of the meeting shall have a second or casting vote in all cases of equality of votes :

Provided that in such circumstances and subject to such conditions as may be prescribed, a decision on any question before a committee may be taken by circulating the propositions therefor for the votes of members.

Modification or cancellation of resolutions.

128. No resolution of a taluka panchayat shall be modified, amended, varied or cancelled by a panchayat within a period of three months from the date of the passing thereof, except by a resolution supported by two-thirds of the total number of members of such panchayat.

Invitees at meetings of taluka panchayat and its committees.

129. (1) Notwithstanding anything contained in this Act, it shall be lawful for a taluka panchayat or any of its committees, to invite at its meeting, not more than four experts or specialists in the subject matter under consideration at the meeting out of persons, who, in the opinion of such panchayat or, as the case may be, committee-

- (a) have a degree in engineering, medicine, commerce, or such other subject of any University established by law in India and experience of not less than five years in the field of activity pertaining to the subject, and
 - (b) are not disqualified to be members of the panchayat under any of the clauses (f), (g) and (h) of Section 30.
- (2) An invitee at a meeting of the panchayat or its committee, shall have the right to speak or otherwise take part in the proceedings of the meeting but shall not be entitled to vote.

(B) Administrative Powers and Duties

Administrative powers of panchayats.

130. Subject to the provisions of this Act, it shall be the duty of each taluka panchayat to make in the area within its jurisdiction and so far as the fund at its disposal will allow, reasonable provision in regard to all or any of the matter specified in Schedule II.

Other functions of panchayats.

131. (1) A taluka panchayat may, with the previous sanction of the district panchayat, incur expenditure on education or medical relief outside its jurisdiction, if its finances permit.
- (2) A taluka panchayat may, subject to rules, grant loans to panchayats subordinate to it, for the purposes of this Act.
 - (3) A taluak panchayat may also make provision for carrying out in the taluka any other work, measure, scheme or project which is likely to promote :
 - (a) the health, safety, comfort or convenience,
 - (b) social, economic or cultural well-being and
 - (c) education including secondary education of the inhabitants of the taluka or part thereof.
 - (4) A taluka panchayat may, by resolution passed at its meeting and supported by two-thirds of the whole number of members, make

provision for any public reception, ceremony or entertainment within the taluka or may make contribution towards an annual gathering or such other gathering of panchayats in the district or the State or towards the fund of any institution which is established with the object of promoting the spirit of community, self-help and mutual aid among village folk and suggesting ways and means for the efficient administration of panchayats and which is recognised by the State Government :

Provided that except with the previous sanction of the district panchayat, the panchayat shall not incur expenditure exceeding two hundred rupees on any such reception, ceremony, entertainment or gathering.

- (5) If in respect of any land it comes to the notice of a taluka panchayat, that, on account of the neglect of the occupant or superior holder thereof or dispute between him and his tenant, the cultivation of the land has seriously suffered, the panchayat may bring such fact to the notice of the competent authority.
- (6) A taluka panchayat shall, in regard to the measures of amelioration of the condition of Scheduled Castes and Scheduled Tribes and other backward classes, and, in particular, in the removal of untouchability, carry out the directions or orders given or issued in this regard from time to time by the State Government or the competent authority.
- (7) A taluka panchayat shall perform such other duties and functions as are entrusted to it by or under any other law for the time being in force.
- (8) It shall be lawful for a taluka panchayat to render financial or other assistance to any person for carrying on in the taluka any activity which is related to any of the matters specified in Schedule II.

(9) (a) A taluka panchayat may compromise in respect of any suit instituted by or against it or in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient :

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compromising any claim or demand arising out of such contract.

(b) The panchayat may make compensation out of its funds to any person sustaining any damage by reason of the exercise of any of the powers vested in it and its officers and servants under this Act.

132. In the case of any institution managed by a district panchayat or of any work to be done out of the fund of a district panchayat, the district panchayat may, if the taluka panchayat so agrees, entrust to the taluka panchayat the management of such institution or the execution of such work.

Entrustment of work etc. to taluka panchayat by district panchayat.

(C) PROPERTY AND FUND

133. (1) In addition to the movable or immovable property acquired by a taluka panchayat, the following shall vest in the taluka panchayat, namely.

Property of taluka panchayat.

(a) every road, building or other work constructed by a taluka panchayat out of the taluka fund with or without the Government assistance or people's participation ;

(b) any land or property vesting in the State Government when transferred to a taluka panchayat by the State Government for local public purposes ;

(c) any land or property which vesting in any other panchayat when vested in the taluka panchayat by that panchayat for the purpose of this Act :

Provided that any land or property transferred to a taluka panchayat under clause (b) shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the panchayat but shall vest in it, subject to the terms and conditions of the transfer and in the circumstances specified in such terms or conditions, the land or property with all things, if any, attached thereto including all fixtures and structures thereon shall revert in the State Government and it shall be lawful for the State Government to resume possession thereof.

(2) Notwithstanding that any immovable property vest in taluka panchayat, no lease, sale or other transfer thereof shall be valid unless it has been made with the previous sanction of the competent authority :

Provided that in the case of a lease of immovable property other than the property referred to in clause (b) of sub-section (1), no such previous sanction shall be necessary if the period of lease does not exceed three years.

Taluka fund.

134. (1) There shall be in each taluka a fund which shall be called a taluka fund.

(2) The following shall be paid into and form part of the taluka fund namely :

(a) the proceeds of any tax or fee imposed by or assigned to the panchayat under this Act ;

(b) the sale proceeds of all dust, dirt, dung, refuse or carcasses of animals, except in so far as any person is entitled to the whole or a portion thereof ;

(c) sums contributed to the taluka fund by the State Government or the district panchayat ;

(d) all sums received by way of loans from the State Government or the district panchayat or otherwise ;

(e) all sums received by way of gift or contributions by the taluka panchayat ;

(f) the income or proceeds of any property vesting in the taluka panchayat ;

(g) the net proceeds (after deducting the expenses of assessment and collection) of the stamp duty authorised by section 207 ;

(h) all sums realised by way of rent or penalty otherwise than as the amount of any fine in a criminal case.

Application of
taluka fund,

135. (1) All property vested in taluka panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and sums accruing to it under the provisions of any law for the time being in force, shall be applied subject to the provisions and for the purposes of this Act and all such sums and funds shall be kept in such custody as may be prescribed.

(2) Any surplus funds in the hands of a panchayat which may not be required for current charges, may be invested in such manner as may be prescribed.

(3) In the case of any loan taken by a panchayat, the payment of the principal or instalment thereof and the payment of the interest thereon shall be a first charge on its fund.

(D) OFFICERS AND SERVANTS

136. (1) Subject to the provisions of this Act and the rules made thereunder--

Secretary, Officers and servants of taluka panchayats.

(a) there shall be a Secretary for every taluka panchayat,

(b) the Taluka Development Officer who shall be an officer belonging to the State Service and posted under the panchayat, shall be the ex-officio Secretary of the panchayat,

(c) a taluka panchayat shall have such other officers and servants as may be determined under Section 227.

(2) The officers and servants referred to in clause(c) of sub section (1), shall be appointed by such authority and their conditions of service shall be such as may be prescribed.

(3) The officers and servants appointed under sub section (2), shall, in the discharge of their functions and duties, exercise such powers as may be conferred on them by the panchayat, subject to rules, if any, made in this behalf.

137. (1) Save as otherwise expressly provided by or under this Act, the executive power of a taluka panchayat for the purpose of carrying out the provisions of this Act, shall vest in the Taluka Development Officer who shall subject to the orders, if any, of the President or of the taluka panchayat, as the case may be :

Powers and functions of Taluka Development Officer.

(a) perform all the functions and exercise all the powers specifically imposed or conferred upon him by or under this Act, or under any law for the time being in force ; and

(b) lay down the duties of all officers and servants of the taluka panchayat.

(2) Subject to the provisions of this Act and the rules made thereunder the Taluka Development Officer shall—

(a) be entitled to—

(i) attend the meetings of the taluka panchayat, or any of its committees ;

(ii) call for any information, return, statement, account or report from any officer or servant of or holding office under the taluka panchayat ;

(iii) grant leave of absence for a period not exceeding two months to such class of officers as may be prescribed by rules ;

(iv) call for an explanation from any officer or servant of or holding office under the taluka panchayat,

(b) subject to the control of the taluka panchayat, discharge duties and perform functions, in respect of matters which by or under this Act, are not expressly imposed or conferred on any committee, presiding officer or any officer of the taluka panchayat ;

(c) appoint such class of officers and servants as may be prescribed ;

(d) supervise and control the execution of all activities of the taluka panchayat.

(e) take necessary measures for the speedy execution of all works and development schemes of the taluka panchayat ;

(f) have custody of all papers and documents connected with the proceedings of meetings of the taluka panchayat and of its committees;

(g) assess and give his opinion confidentially every year on the work of the officers holding office under the taluka panchayat ; forward them to such authorities as may be prescribed by the State Government and lay down the procedure for writing such reports about the work of officers and servants under the taluka panchayat ;

(h) draw and disburse money out of the fund ;

(i) exercise supervision and control over the acts of officers and servants holding office under the taluka panchayat in matters of executive administration and those relating to accounts and records of the taluka panchayat ; and

(j) exercise such other powers and perform such other functions as may be prescribed by the State Government.

(3) Subject to the other provisions of this Act, the Taluka Development Officer shall be under the general control of the taluka panchayat.

(E) BUDGET ESTIMATES

Annul budget estimates.

138. (1) Every taluka panchayat shall have prepared annually on or before the 15th December of the current year or such date not later than 31st December of the current year as may be approved by the District Panchayat, in such form and manner as may be prescribed in this behalf a budget estimate of its income and expenditure for the next year and forward it to the district panchayat on or before—

(a) the 31st December of the current year where the budget estimate is prepared on or before the 15th December of the current year, or

(b) the 15th January of the current year where the budget estimate is prepared after the 15th December of the current year but on or before the said approved date :

Provided that the budget estimate shall be so prepared that at the end of the year the panchayat shall have at its credit a balance of not less than such minimum amount as may be prescribed in that behalf.

(2) The district panchayat shall scrutinise the budget estimate and return it to the panchayat within two months of its receipt with such observations and recommendations as it may make in respect of the budget estimate.

(3) The taluka panchayat shall thereupon approve the budget estimate on or before the 31st March of the current year with such modifications as it may think fit having regard to the observations and recommendations made by the panchayat under sub-section (2).

(4) Where any taluka panchayat has failed to comply with the provisions of sub-section (3) it shall be lawful for the State Government to form an opinion that the panchayat is incompetent to perform the duties imposed on it or functions entrusted to it under the provisions of this Act.

Explanation : A taluka panchayat shall not be deemed to have failed to comply with the provisions of sub-section (3) if such failure has resulted on account of non-compliance by the district panchayat of provisions of sub-section (2).

Revised or supplementary budget and reappropriation of fund.

139. (1) A taluka panchayat may, at any time during the year for which any budget estimate has been approved cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary budget shall be considered and approved by the panchayat in the same manner as if it were an original annual budget estimate.

Provided that the district panchayat shall scrutinise the budget and return to the panchayat within one month of its receipt.

(2) Reappropriation of fund in the budget estimate may be made from time to time subject to the same approval as is required for the budget estimate.

140. (1) Save in the case of a pressing emergency no sum shall be expended by or on behalf of a taluka panchayat unless such sum is included in some budget estimate approved under section 138 or 139 and in force at the time of incurring the expenditure.

Except in emergency no sum to be expended unless it has been included in budget.

(2) If on a pressing emergency any sum is expended otherwise than in accordance with sub-section (1) the circumstances shall be forthwith communicated in writing by the President of the Panchayat to the competent authority with an explanation of the way in which it is proposed by the panchayat to cover such extra expenditure.

141. Accounts of the income and expenditure of every panchayat shall be kept in such form and manner as may be prescribed and shall be balanced annually on the 1st day of every year.

Accounts of income and expenditure.

142. (1) The Secretary of every panchayat shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat.

Annual Administration Report.

(2) The annual statement of the accounts together with the annual report shall be sent to the competent authority through the district panchayat on or before such date and in such form as may be prescribed.

(F) AUDIT OF THE ACCOUNTS OF PANCHAYATS

143. The Gujarat Local Fund Audit Act, 1963 shall apply to the auditing of the accounts of taluka panchayats.

Audit of accounts.

PART III

PROVISIONS RELATING TO DISTRICT PANCHAYAT

(A) CONDUCT OF BUSINESS

144. The meeting of a district panchayat shall be held normally every three months :

Meetings of district panchayat.

Provided that the President of the panchayat, may for any specified reason, and shall, upon the written request of not less than one-third of the members, call the meeting of the district panchayat at any other time.

145. (1) A district panchayat shall constitute the following committees, namely :—

District panchayat Committees, their constitution powers, functions and duties

(i) An Executive Committee for performing functions pertaining to finance, home guards and village defence and such other functions and duties of the panchayat as are not assigned to any other committee :

Provided that it shall be lawful for the Executive Committee to appoint not more than two sub-committees from amongst its members but the sub-committee so appointed shall not be competent to take any final decision in any matter.

(ii) A Social Justice Committee for performing such functions as are considered essential for securing social justice to the weaker sections of the society including persons belonging to the Scheduled Castes and Scheduled Tribes as may be prescribed :

Provided that it shall be lawful for the Social Justice Committee to appoint one or more sub-committees from amongst its members to inquire into cases of any discrimination against members of backward class including Scheduled Castes and Scheduled Tribes, in the matter of use of wells, tanks, bathing ghats, roads and places of public resort, maintained wholly or partly out of the State or panchayat funds or dedicated to the use of the general public.

(iii) An Education Committee for performing the functions and duties pertaining to education and such other literary and cultural activities as the panchayat may assign to it.

(iv) A Public Health Committee for performing functions pertaining to public health, hospitals, health centres, sanitation, water supply, vaccination and family planning.

(v) A Public Works Committee for performing functions pertaining to public works, communications, buildings, rural housing and relief against natural calamities.

(vi) An appeal Committee under Section 241.

(vii) A Committee for implementation and review of twenty point programme.

(2) In addition to the committees referred to in sub-section (1), a district panchayat may with the prior approval of the State Government constitute a committee or committees to execute any work or scheme decided upon by the district panchayat or to inquire into and report to the district panchayat on matters which the panchayat may refer to such committee or committees. The district panchayat may make regulations for the procedure to be followed by any such committee.

✓(3) No committee other than the Executive committee and the Education Committee shall consist of more than five members and the Executive Committee and the Education Committee shall consist of not more than nine members.

✓(4) The constitution of the Education Committee and the Social Justice Committee shall, subject to sub-section (3), be such as may be prescribed.

✓(5) The members of a committee constituted under this section shall be elected by the panchayat from amongst its members:

✓ Provided that the panchayat may appoint in accordance with rules made in this behalf any of the qualified voters of the district on a committee mentioned in clauses (ii) and (iii) of sub-section (1) and the qualified voters so appointed shall have the right to speak or otherwise take part in the proceedings of a meeting of the committee but shall not be entitled to vote.

(6) The members of each committee shall elect from amongst themselves the Chairman of the committee :

Provided that -

(a) where the President and Vice-President both are members of any such committee, the President, shall be the **ex-officio** Chairman of such committee and if he declines to hold the office, the Vice-President shall be the **ex-officio** Chairman of the committee, unless he also declines to hold the office, and

(b) where only one of them is a member thereof he shall be the **ex-officio** Chairman of the committee, unless he declines to hold the office.

(c) a person who is not a member of the panchayat shall not be eligible to be Chairman of any committee,

Provided further that where the person so elected as Chairman of the Education Committee is also the President of the panchayat or at any time after his election as Chairman is elected as such President, he shall not be eligible to continue as the Chairman of the committee, unless he chooses to vacate the office of such President and accordingly vacates that office.

(7) (a) No member of the panchayat shall be a member of more than two committees constituted under this section.

(b) If any member is simultaneously or otherwise elected as a member of more than two committees, the member shall within ten days from the date or the later of the dates on which he is so elected intimate to the President, two of the committees in which he wishes to serve and thereupon his seat in the committee or committees other than the aforesaid two committees shall become vacant.

- (c) Any intimation given under clause (b) shall be final and irrevocable.
- (d) Where a member commits default in giving intimation under clause(b), within the period prescribed therein, the panchayat shall determine the two committees in which such member shall retain his seat and thereupon his seat in the committees other than the committees so determined shall become vacant.

(8) A member once elected to a committee shall be eligible for re-election.

(9) (a) The term of the Social Justice Committee and that of the Education Committees shall be co-extensive with the duration of the district panchayat.

(b) (i) The term of the other committees constituted under sub-section (1), shall be two years and on the expiry of the term it shall be reconstituted :

Provided that where the unexpired part of the duration of the panchayat, during which the committee is reconstituted is less than two years, the term of the committee shall be co-extensive with the unexpired part of the duration of the panchayat.

(ii) The term of the committee constituted under sub-section (2), shall not exceed one year.

(10) A member or Chairman may resign from membership or chairmanship of a committee by tendering his resignation to the panchayat.

(11) Any vacancy of an elected member occurring in the constitution of a committee shall be filled in by election.

✓ (12) The Education Committee shall, in the discharge of its functions exercise all the powers and discharge all the duties of the panchayat:

Provided that where the Education Committee, exercises the powers and discharges the duties and functions of the District School Board vested in the District Panchayat under the Bombay Primary Education Act, 1947, the Committee shall notwithstanding anything contained in the said Act, exercise those powers and discharge those duties subject to the control of the District Panchayat.

✗ (13) The committees, other than the Education Committee constituted under this section shall, in the performance of their functions, exercise such powers and discharge such duties of the district panchayat as may be assigned to them by the Panchayat.

(14) A district Panchayat may at any time, withdraw from-

(a) any committee other than the Social Justice Committee and the Education Committee, any of the powers, functions and duties assigned to it.

(b) the Education Committee, any of the powers, functions and duties, not falling in Part-II of Schedule--III, and

assign the same to any other committee other than the Social Justice Committee.

(15) Such of the powers, functions and duties of the panchayat as are not assigned to any committee, shall be exercised and performed by the district panchayat.

(16) A Committee shall conform to any instructions that may from time to time, be given to it by the panchayat, The panchayat may at any time call for any extract from any proceedings of any committee and for any return, statement, account or report in connection with any matter with which any committee has been authorised or directed to deal. Every such requisition, shall without unreasonable delay, be complied with by the committee so called upon.

(17) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof-

- (a) Any person aggrieved by the decision of a committee other than the Social Justice Committee in such classes of cases as may be prescribed, may prefer an appeal to the panchayat and,
- (b) any person aggrieved by the decision of the Social Justice Committee (not being a decision in appeal), may prefer an appeal to the State Government.

within a period of sixty days from the date of such decision and the panchayat or, as the case may be, the State Government, may, after giving an opportunity to the appellant to be heard, confirm, modify, or reverse the decision appealed against and pass such order as it may think proper.

9
Removal of
Chairman of
Education
Committee.

✓ 146. (1) any member of the Education Committee who intends to move a motion of no confidence against the Chairman of Education Committee, may give a notice thereof in the prescribed form to the Committee.

(2) If the motion is carried by a majority of not less than two third of the total number of the than members of the committee, the Chairman shall cease to hold office, after a period of three days from the date on which the motion is carried unless he has resigned earlier and therupon the office held by such Chairman shall be deemed to be vacant.

(3) Notwithdranding anything contained in this Act or the rules made thereunder, a Chairman shall not preside over a meeting in which a motion of no confidence is discussed against him but he shall have a right to speak or otherwise to take part in the proceedings of such a meeting (including the right to vote).

(4) (a) A meeting of the Committee for dealing with a motion of no confidence under this section shall be called within a period of seven days from the date on which a notice of such motion is received by the committee,

(b) If the Chairman of the committee fails to call meeting, the Secretary of the committee shall make a report thereof to the competent authority and there upon the competent authority shall call a meeting of the committee within a period of seven days from the date of the receipt of the report.

Honorarium etc.
to Chairman,
Education
Committee.

147. (1) The Chairman of the Education Committee of a District Panchayat shall be entitled-

- (a) to an honorarium at such rate as may be prescribed,
- (b) without payment of rent, to use of a residence in the Headquarters of the panchayat or with the sanction of the State Government, at any other place in the district throughou this term of office and for a period of fifteen days thereafter or in lieu of such residence a house allowance at such rate as the State Government may, by general or special order determine.

(2) No charge shall fall on the Chairman personally in respect of the maintenance of any residence provided under sub-clause (b) of sub-section (1).

(3) During the leave or absence of the Chairman, the functions of the Chairmen shall be performed by such member of the Education Committee as may be elected by that Committee, The member so elected for performing the functions, shall be paid honorarium and allowance at such rate as may be prescribed.

Honorarium, etc.
to Chairman,
Social Justice
Committee.

148. (1) The Chairman of the Social Justice Committee of a district Panchayat shall be entitled. —

- (a) to an honorarium at such rate as may be prescribed,
- (b) without payment of rent, to use of a residence in the headquarters of the panchayat or with the sanction of the State Government,

at any other place in the district, throughout his term of office and for a period of fifteen days thereafter or in lieu of such residence, a house allowance at such rate as the State Government may by general or special order, determine.

(2) No charge shall fall on the Chairman personally in respect of the maintenance of any residence provided under sub-clause (b) of sub-section(1).

(3) During the leave or absence of the Chairman, the functions of the Chairman shall be performed by such member of the Committee as may be elected by that Committee. The member so elected for performing such functions shall be paid honorarium and allowance at such rate as may be prescribed.

149. The member of any committee of a district panchayat constituted under section 145, who are not members of such panchayat, shall be entitled to travelling allowance while touring for the purpose of attending a meeting of the committee or any business relating to the committee at such rates and subject to such conditions as may be determined by rules made either prospectively or retrospectively.

Travelling Allowance to members of a committee who are not members of district panchayat.

150. Save as provided in this Act, the time and place of a meeting of a district panchayat or committee thereof, the quorum for such meeting, the procedure for calling meeting and the procedure at such meeting shall be such as may be prescribed.

Procedure in respect of meetings.

151. All questions before a meeting of a district panchayat or committee thereof shall be decided by a majority of votes of the members present and unless otherwise provided in this Act, the Presiding Officer of the meeting shall have a second or casting vote in all cases of equality of votes.

Questions to be decided by majority of votes.

Provided that in such circumstances and subject to such conditions as may be prescribed, a decision on any question before a committee may be taken by circulating the propositions thereof for the votes of members.

152. No resolution of a district panchayat shall be modified, amended, varied or cancelled by a panchayat within a period of three months from the date of the passing thereof, except by a resolution supported by two-third of the total number of members of such panchayat.

Modification or cancellation of resolution.

153. (1) Notwithstanding anything contained in this Act, it shall be lawful for a district panchayat or any of its committees to invite at its meeting not more than five experts or specialists in the subject matter under consideration at the meeting, out of persons who, in the opinion of such panchayat or, as the case may be, committee-

Invitees at meeting of district panchayats and committees.

(a) have a degree in engineering, medicine, commerce or such other subject of any University established by law in India and experience of not less than five years in the field of activity pertaining to the subject, and

(b) are not disqualified to be members of the panchayat under any of the clauses (f), (g) and (h) of section 30.

(2) An invitee at any such meeting of the panchayat or its committee shall have the right to speak or otherwise take part in the proceedings of the meeting but shall not be entitled to vote.

(B) Administrative Powers and Duties

154. Subject to the provisions of this Act, it shall be the duty of each district panchayat to make in the area within its jurisdiction and so far as the fund at its disposal will allow, reasonable provision in regard to all or any of the matters specified in Schedule III.

Administrative Powers of Panchayats.

155. (1) A district Panchayat may, with the previous sanction of the State Government, incur expenditure on education or medical relief outside its jurisdiction, if its finances permit.

Other functions of Panchayats.

(2) A district panchayat may also make provision for carrying out in the area within the limits of its jurisdiction, any other work or measure which is likely to promote-

(a) the health, safety, comfort or convenience and

(b) social, economic or cultural well-being of the inhabitants of the areas

(3) A district panchayat may, by resolution passed at its meeting and supported by two-third of the whole number of members, make provisions for any public reception, ceremony or entertainment within the district or may make contribution towards an annual gathering or such other gathering of panchayats in the district or the State or towards the fund of any Institution which is established with the object of promoting the spirit of community, self-help and mutual aid among village folk and suggesting ways and means for the efficient administration of panchayats and which is recognised by the State Government.

(4) A district panchayat may, subject to rules, grant a loan out of its fund to a panchayat subordinate to it, for the purposes of this Act,

(5) A district panchayat shall in regard to the measures for the amelioration of the condition of Scheduled Castes and Scheduled Tribes and other backward classes, and, in particular, in the removal of untouchability carry out the directions or orders given or issued in this regard from time to time by the State Government or the competent authority.

(6) A district panchayat shall perform such other duties and functions as are entrusted to it by or under any other law for the time being in force.

(7) It shall be lawful for the district panchayat to render financial or other assistance to any person for carrying on in the district any activity which is related to any of the matters specified in Schedule III.

(8) (a) A district panchayat may compromise in respect of any suit instituted by or against it, or in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient :

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compromising any claim or demand arising out of such contract.

(b) The panchayat may make compensation out of its fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it and its officers and servants under this Act.

Powers of District Panchayat to undertake works, etc. on behalf of Government to give technical advice.

156. (1) It shall be lawful for a district panchayat to undertake upon such terms and conditions as may be agreed upon, the construction, maintenance or repair of any work or the management of any institution on behalf of Government, any local authority, any Corporation incorporated under any law for the time being in force and owned or controlled by Government or the Court of Wards.

(2) It shall be lawful for a district panchayat to give, on such terms and conditions as may be agreed upon, technical advice and guidance to a local authority in respect of the construction of any work undertaken by such local authority.

(C) Property and fund

Property of District Panchayat,

157. (1) In addition to the movable or immovable property acquired by a district panchayat, the following shall vest in the district panchayat, namely :—

- (a) every road, building or other work constructed by a district panchayat out of the district fund with or without the Government assistance or people's participation ;
- (b) any land or property vesting in the State Government when transferred to a district panchayat by the State Government for local public purpose;
- (c) any land or other property vesting in any other panchayat, when vested in the district panchayat by that panchayat for the purposes of this Act:

Provided that any land or property transferred to a district panchayat under clause(b) shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the panchayat but shall vest in it subject to the terms and conditions of the transfer and in the circumstances specified in such terms and conditions, the land or property with all things, if any, attached thereto including all fixtures and structures thereon shall revert in the State Government and it shall be lawful for the State Government to resume possession thereof.

(2) Notwithstanding that any immovable property vests in a district panchayat, no lease, sale or other transfer thereof shall be valid unless it has been made with the previous sanction of the competent authority :

Provided that in the case of a lease of immovable property other than the property referred to in clause(b) of sub-section (1), no such previous sanction shall be necessary, if the period of lease does not exceed three years.

158. (1) There shall be in each district a fund which shall be called a district fund.

District Fund.

(2) The following shall be paid into and form part of the district fund, namely :—

- (a) the proceeds of any tax or fee imposed under this Act ;
- (b) the sale proceeds of all dust, dirt, dung, refuse, or carcasses of animals, except in so far as any person is entitled to the whole or a portion thereof ;
- (c) sums contributed to the district fund by the State Government ;
- (d) all sums received by way of loans from the State Government or otherwise ;
- (e) all sums received by way of gift or contributions by the district panchayat ;
- (f) the income or proceeds of any property vesting in the district panchayat ;
- (g) the net proceeds (after deducting the expenses of assessment and collection) of the cess authorised by section 191.
- (h) all sum realised by way of rent or penalty otherwise than as the amount of any fine in a criminal case.

159. (1) All property vested in a district panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law for the time being in force, shall be applied subject to the provisions and for the purposes of this Act and all such sums and funds shall be kept in such custody as may be prescribed :

Application of District Fund.

Provided that out of the net proceeds of the cess referred to in clause (g) of sub-section (2) of section 158, a portion calculated at the rate of eight paise on every rupee of every sum on which the cess is levied under section 191, shall be applied by a district panchayat for the purpose of primary education in the district.

(2) Any surplus funds in the hands of a panchayat which may not be required for current charges may be invested in such manner as may be prescribed.

(3) In the case of any loan taken by a panchayat, the payment of the principal or instalment thereof and the payment of interest thereon shall be a first charge on its fund.

160. (1) Notwithstanding anything contained in sections 158 and 159, in each district, there shall be established by the district panchayat a fund to be called the District Family Welfare Fund which shall consist of—

District Family Welfare Fund.

- (a) all the sums received by way of gifts or contribution from the State Government or the Central Government or any person for the purpose of family welfare programme ;

(b) the proceeds of entertainment programme arranged by the panchayat ;

(c) the same proceeds of family welfare seals.

(2) The Fund shall be applied by the panchayat for the purpose of family welfare programmes in the District.

(3) Any sum in the fund which may not be required for the current expenditure, may be invested in such manner as may be prescribed.

(D) Officers and Servants

Secretary and
Officers and
Servants of
District
Panchayat.

161. (1) Subject to the provisions of this Act and the rules made thereunder—

(a) there shall be a secretary for every district panchayat ;

(b) a District Development Officer posted under the panchayat, shall be Ex-Officio Secretary of the Panchayat ;

(c) a district panchayat shall have such other officers and servants as may be determined under section 227.

(2) The officers and servants referred to in clause (c) of sub-section (1) shall be appointed by such authority and their conditions of service shall be such as may be prescribed.

(3) The officers and servants appointed under sub-section (2) shall in the discharge of their functions and duties, exercise such powers as may be conferred on them by the panchayat subject to rules, if any, made in this behalf

Powers and
functions of
District
Development
Officer.

143 162. (1) Save as otherwise expressly provided by or under this Act, the executive powers of a district panchayat for the purpose of carrying out the provisions of this Act, shall vest in the District Development Officer who shall subject to the orders, if any, of the President or of the district panchayat, as the case may be—

(a) perform all the functions and exercise all the powers specifically imposed or conferred upon him by or under this Act, or under any law for the time being in force ; and

(b) lay down the duties of all officers and servants of the district panchayat,

(2) Subject to the Provisions of this Act and the rules made thereunder the District Development Officer shall—

(a) be entitled to—

(i) attend the meetings of the district panchayat, or any of its committee ;

(ii) call for any information, return, statement, account or report from any officer or servant of or holding office under, the district panchayat ;

(iii) grant leave of absence to such class of officers as may be prescribed by rules ;

(iv) call for an 'explanation from any officer or servant of or holding office under the district panchayat ;

(b) subject to the control, of the district panchayat, discharge duties and perform function, in respect of matters which by or under this Act are not expressly imposed or conferred on any committee, presiding officer or any officer of the district panchayat ;

(c) appoint such class of officers and servants as may be prescribed;

(d) supervise and control, the execution of all activities of the district panchayat ;

(e) take necessary measures for the speedy execution of all works and development schemes of the district panchayat ;

(f) have custody of all papers and documents connected with the proceedings of meetings of the district panchayat and of its committees;

(g) assess and give his opinion confidentially every year on the work of the officers holding office under the district panchayat ; forward them to such authorities as may be prescribed by the State Government and lay down the procedure for writing such reports about the work of officers and servants under the district panchayat ;

(h) draw and disburse money out of the fund ;

(i) exercise supervision and control over the acts of officers and servants holding office under the district panchayat in matters of executive administration and those relating to accounts and records of the district panchayat ; and

(j) exercise such other powers and perform such other functions as may be prescribed by the State Government.

(3) (a) Save as provided in clause (b), the District Development Officer may subject to such conditions as he may think fit to impose, delegate any of his power and functions to any officer or servant holding office under the district panchayat, provided such officer or servant is not below such rank as may be prescribed.

(b) Notwithstanding anything contained in sub-section (2), the power to draw and disburse money out of the fund referred to in clause (h) of the said sub-section shall, in so far as such drawing and disbursement of money is in respect of any matter specified in Part II of Schedule III or, dealt with under the Bombay Primary Education Act, 1947, be deemed to be delegated to and be exercised by the Administrative Officer appointed for the District Panchayat under section 21 of the Bombay Primary Education Act, 1947.

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(4) Subject to the other provisions of this Act, the District Development Officer shall be under the general control of the district panchayat.

(E) Budget Estimates

163. (1) Every district panchayat, shall have prepared annually on or before the 15th February of the current year or such date not later than the month of February of the current year as may be approved by the competent authority, in such form and manner as may be prescribed in this behalf, a budget estimate of its income and expenditure for the next year:

Budget
Estimates of
District
Panchayat and
Re-appropriation
of Fund.

Provided that the budget estimate shall be so prepared that the end of the year the panchayat shall have at its credit a balance of not less than such minimum amount as may be prescribed in that behalf.

(2) The district panchayat shall, as soon as may be after the said date consider the budget estimate so prepared and approve the same on or before the 31st March of the current year with or without modifications as it shall think fit.

(3) Where any district panchayat has failed to comply with the provisions of sub-section (2), it shall be lawful for the State Government to form an opinion that the panchayat is incompetent to perform the duties imposed on it or functions entrusted to it under the provisions of this Act.

(4) The district panchayat may, if necessary, at any time during the year for which a budget estimate has been approved, cause a revised or supplementary budget estimate to be prepared and shall consider and approve the same in the manner as if it were an original annual budget estimate.

(5) Re-appropriation of funds in a budget estimate may be made from time to time subject to the same approval as is required for the budget estimate.

Copy of Budget estimate to be forwarded to competent authority.

164. A copy of every budget estimate and a statement of every re-appropriation as finally approved under section 163 shall be forwarded by the President of the district panchayat without delay to the competent authority: a copy of the annual budget estimate shall be forwarded not later than the 31st March.

Except on pressing emergency no sum to be expended unless it has been included in budget estimate.

165. (1) Save in the case of pressing emergency, no sum shall be expended by, or on behalf of any district panchayat unless such sum is included in some budget estimate approved under section 163 and is in force at the time of incurring the expenditure.

(2) If on a pressing emergency any sum is expended otherwise than in accordance with sub-section (1) the circumstances shall forthwith be communicated in writing by the President of the district panchayat to the competent authority with an explanation of the way in which it is proposed by the district panchayat to cover such extra expenditure.

Accounts and Audit.

166. (1) Accounts of the income and expenditure of every district panchayat shall be kept in such form and manner as may be prescribed and shall be balance annually on the 1st day of every year.

(2) The Gujarat Local Fund Audit Act, 1963 shall apply to the auditing of the accounts of the district panchayat.

Annual reports.

167. (1) The Secretary of the district panchayat shall prepare the annual report of administration of the panchayat and shall place the accounts and the report for approval before the panchayat.

(2) The annual statement of the accounts together with the annual report shall be sent to the competent authority before such date and in such form as may be prescribed.

CHAPTER VI

PROVISION AS TO TRANSFER OF CERTAIN FUNCTIONS UNDER ANY ENACTMENT TO PANCHAYAT

(A) Transfer of functions relating to recovery of land revenue and cesses under the Land Revenue Code and the law relating to collection of cesses.

Recovery of Land Revenue by panchayats.

168. The State Government shall, notwithstanding anything contained in the Bombay Land Revenue Code, 1879 or any law relating to the collection of any cess, for the time being in force in the State, by notification in the Official Gazette, entrust to every village panchayat, any or all of the functions and duties of a village accountant or Patel or other similar functions of any other person, by whatever name called, in relation to the collection of land revenue (including cesses) and dues recoverable as arrears of land revenue which is levied and assessed by or under the Land Revenue Code, or law relating to the collection of any cess for the time being in force in the State and all other functions and duties of a village accountant under the Code.

Responsibility of the panchayats.

169. The panchayat so entrusted under section 168 shall be responsible for the recovery and collection of the land revenue (including cesses) and other dues of the village in accordance with the provisions of the Land Revenue Code and the rules, instructions and orders made or issued thereunder and the law relating to the collection of such cesses.

Conferment of powers and duties for collection of land revenue on panchayats.

170. Where a panchayat has been entrusted with the functions and duties relating to the collection of land revenue (including cesses) and other dues under section 168, the State Government shall by notification in the Official Gazette, confer on such panchayat, subject to such conditions as may be specified in the notification all or any of the powers of the Collector, for the realisation of land revenue and other dues recoverable as arrears of land revenue under the Land Revenue Code and for the collection of cesses under the law relating thereto, and it shall be competent for the panchayat so empowered to exercise all or any of the powers so conferred in this behalf.

171. (1) Notwithstanding anything contained in this Act and the Land Revenue Code, a District Development Officer, a Taluka Development Officer and such revenue officers not below the rank of a Deputy Collector as may be posted under a district panchayat and designated by the State Government in this behalf shall be deemed for the purposes of this Chapter to be revenue officers within the meaning of the Land Revenue Code and for the purposes of this Chapter it shall be lawful for the State Government to define the area within which any such officer shall exercise jurisdiction and to confer on such officer all or any of the powers exercisable by the Collector or any other revenue officer under the Land Revenue Code.

Certain class of officers posted under panchayat to be revenue officers and their powers.

(2) Where in the case of any such officer the area of his jurisdiction has been defined and the powers are so conferred, such officer shall have and exercise the like authority over a village panchayat functioning in such area and exercising the powers conferred on it and discharging the functions entrusted to it under this Chapter as the corresponding revenue officer appointed under the Land Revenue Code has over the village accountant or patel or other similar functionary under the Land Revenue Code.

172. Notwithstanding anything contained in the provision hereinbefore the right of the State Government to collect land revenue and any cess, shall remain unaffected, and if in the opinion of the State Government a panchayat exceeds or abuses its powers under this chapter or fails to exercise the same or is incompetent, to perform or makes persistent default in the performance of the duties imposed or persistently disobeys any of the orders of the Collector with regard to the exercise of any of the said powers, the State Government may, after consultation with the district panchayat and after giving the panchayat an opportunity to render an explanation, by order in the Official Gazette withdraw all the powers conferred on the panchayat under this Chapter and direct its revenue officers to recover the and revenue or, as the case may be, the cesses.

Right of State Government to collect land revenue unaffected.

173. On the withdrawal under section 172 of the powers conferred on a panchayat, the Collector, shall appoint an officer to take charge of the accounts, records and other papers and articles, in connection with the recovery of land revenue or collection of cesses, in the village.

Collector to appoint officer on suspension of powers of panchayat.

(B) Delegation of the functions under the Gujarat Co-operative Societies Act, 1961.

174. (1) Notwithstanding anything contained in the Gujarat Co-operative Societies Act, 1961 the State Government, having regard to the Panchayat Functions List may subject to such conditions as it may think fit to impose, by an order published in the Official Gazette, delegate to a district panchayat and the taluka panchayats subordinate to it, such powers, functions and duties of the Registrar or any other authority under the said Act may be specified in the order.

Delegation of powers of Registrar of Co-operative Societies to panchayats.

(2) In particular, such order may provide for the delegation of powers relating to -

- (a) the registration of co-operative societies ;
- (b) the approval of amendment to the byelaws of co-operative societies,
- (c) appeals arising out of non-admission of members in a co-operative society ;
- (d) maintenance of register of co-operative societies,
- (e) change in the name or classification of a co-operative society;
- (f) permission to co-operative societies to enter into partnership;
- (g) the calling of, or extending the period for the calling of annual general meetings of co-operative societies ;
- (h) the calling of a special general meeting of a co-operative society ;
- (i) the disposal of surplus assets of co-operative societies in the event of their winding up ;

- (j) direction for giving possession of books and papers of the co-operative societies to the successor chairman thereof.
- (c) Transfer of functions of State Government to Panchayats.

Transfer of functions of State Government to Panchayat.

175. (1) Notwithstanding anything contained in any law for the time being in force, the State Government may, subject to such conditions as it may think fit to impose, transfer by an order published in the Official Gazette to a district panchayat any such powers, functions and duties relating to any matter as are exercised or performed by the State Government or any officer of Government under any enactment which the State Legislature is competent to enact, or otherwise in the executive power of the State, and appear to relate to matters arising within a district and to be of an administrative character and shall on such transfer, allot to the district panchayat such fund and personnel as may be necessary to enable the district panchayat to exercise the powers and discharge the functions and duties so transferred.

(2) Without prejudice to the generality of the provisions of sub-section (1) the State Government may transfer to the district panchayats such powers, functions and duties as are exercised or performed by the following departments of the State namely :—

- (1) Agriculture
- (2) Animal husbandry;
- (3) Public Health & Medical Relief;
- (4) Public Works Department activities in the district;
- (5) Social Welfare;
- (6) Land Department;
- (7) Prohibition Department so far as prohibition propoganda is concerned;
- (8) Co-operative Department ;
- (9) Cottage Industries and Small Scale Industries ;
- (10) District Statistical Officer.

(3) On the transfer of any powers, functions and duties under Sub-sections (1) and (2) the district panchayat shall, if the state Government so directs and with the previous approval of the State Government, may delegate to any panchayat subordinate to it any of the functions, powers and duties so transferred and allot to such panchayat such fund and staff as may be necessary to enable the panchayat to exercise the powers and discharge the functions and duties so delegated.

(4) Where any powers, functions and duties conferred by or under any enactment are so transferred or delegated, that enactment shall have effect as if this section had been incorporated in that enactment.

(5) The matters in respect of which the functions and duties are transferred or delegated under this section shall be deemed to be included in the Panchayat Functions List.

Transfer of rights & liabilities in respect of property- transferred to panchayat.

176. In transferring to a district panchayat any powers, functions and duties, relating to any matter, exercised by the State Government or any of its officers, it shall be lawful for the State Government to transfer to the district panchayat any property belonging to the State Government and connected with such matter together with the rights and liabilities (including rights and liabilities arising out of any contract) of the State Government in respect of the property and thereupon the rights and liabilities which accrued before such transfer or which may accrue thereafter shall be the rights and liabilities of the district panchayat.

Obligation of liability of servants transferred under section 175 not affected.

177. The transfer or allotment of any servant to a panchayat under section 175 shall not affect -

- (a) any obligation or liability incurred or default committed before such transfer or allotment by such servant while acting or purporting to act in the discharge of his duties as such servant ; and.

- (b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto before such transfer or allotment by such authority as the State Government may by general or special order specify in this behalf.

178. Notwithstanding the transfer of any powers, functions and duties in respect of any matter to a district panchayat under section 175 or under section 157 or 158 of the Gujarat Panchayats Act, 1961, the State Government on a proposal from the district panchayat in that behalf or where it is satisfied that by reason of a change in the nature of the matter, the matter has ceased to be a matter in the Panchayat Functions List and that it is VI of 1962, necessary to withdraw from the district panchayat the powers, functions or duties in respect of such matter, may, after consultation with the State Council for panchayats, by notification in the **Official Gazette**, withdraw such powers, functions and duties with effect from the date specified in the notification and make such incidental and consequential orders as may be necessary to provide for matters including the taking over of the property, rights and liabilities, if any, vesting in the panchayat under section 176 and of the staff, if any which may have been transferred to the panchayat under section 175.

Withdrawal of powers, functions etc from district panchayat

VI of 1962.

CHAPTER VII

Provision as to devolution of powers and responsibilities upon panchayats with respect to development plans and implementation of certain schemes.

179. (1) Every village panchayat shall prepare every year in such form as may be prescribed, a development plan for the village for the next year and submit the same before such date as may be prescribed, to the taluka panchayat to which the village panchayat is subordinate.

Preparation of development plans by panchayat.

(2) Every taluka panchayat shall prepare every year in such form as may be prescribed a development plan for the taluka for the next year having regard to the development plans submitted to it by the village panchayats in the taluka and submit the same before such date as may be prescribed, to the district panchayat to which the taluka panchayat is subordinate.

(3) Every District Panchayat shall prepare every year in such form as may be prescribed a development plan for the district for the next year having regard to the development plans submitted to it by the taluka panchayats in the district, and submit the same before such date as may be prescribed, to such authority as the State Government may, by order in writing specify :

Explanation : For the purposes of this section a development plan means a development plan for economic development and social justice in relation to matters with respect to which the executive power vests in the State Government.

180. (1) (a) Notwithstanding anything contained in any law for the time being in force, the State Government may subject to such conditions as it may think fit to impose entrust by an order published in the **Official Gazette** to a district panchayat implementation of such schemes of economic development and social justice as it thinks fit:

Entrustment of schemes to panchayats for implementation.

Provided that no scheme shall be so entrusted unless--

- (i) it is competent to the State Government to implement the scheme in exercise of its executive power, and
- (ii) the scheme appears to the State Government to be pertaining to the district.

(b) Where the State Government entrusts a scheme under clause (a) to a district panchayat, it shall allot to the district panchayat such fund and personnel as may be necessary to enable the district panchayat to implement the scheme.

(2) Without prejudice to the generality of the provisions of sub-section (1) the State Government may entrust to a district panchayat schemes for economic development and social justice in relation to the following matters, namely :—

- (1) Agriculture, including agricultural extension.
- (2) Land Improvement, implementation of land reforms, land consolidation and soil conservation.
- (3) Minor irrigation, water management and watershed development.
- (4) Animal husbandry dairying and poultry.
- (5) Fisheries
- (6) Social forestry and farm forestry
- (7) Minor forest produce
- (8) Small scale industries, including food processing industries
- (9) Khadi, village and cottage industries
- (10) Rural housing
- (11) Drinking water
- (12) Fuel and fodder
- (13) Roads, culverts, bridges, ferries, waterways and other means of communication.
- (14) Rural electrification, including distribution of electricity
- (15) Non-conventional energy sources
- (16) Poverty alleviation programme
- (17) Education including primary and secondary schools
- (18) Technical training and vocational education
- (19) Adult and non-formal education
- (20) Libraries
- (21) Cultural activities
- (22) Markets and fairs
- (23) Health and sanitation, including hospitals, primary health centres and dispensaries
- (24) Family welfare
- (25) Women and child development
- (26) Social welfare, including welfare of the handicapped and mentally retarded
- (27) Welfare of the weaker sections, and in particular of the Scheduled Castes and the Scheduled Tribes
- (28) Public distribution system
- (29) Maintenance of community assets.

(3) The district panchayat shall if the State Government so directs, and may with the previous approval of the State Government, entrust to a taluka panchayat subordinate to it any scheme entrusted to it under sub-sections (1) and (2) and allot to such panchayat such fund and personnel as may be necessary to enable the panchayat to implement the scheme so entrusted.

(4) The matters in respect of which the scheme is entrusted to the district panchayat under sub-section (1) for (2) or to a taluka panchayat under sub-section (3) shall be deemed to be included in the relevant Panchayat Functions List.

CHAPTER VIII

CATTLE POUNDS

181. In any local area which is declared to be a village, the provisions of the Cattle Trespass Act, 1871 or any law corresponding to that Act in force in any part of the State shall cease to apply in relation to such local area ;

Cattle Trespass Act to cease to apply 1 of 1871.

Provided that--

(a) nothing in this section shall affect the liability of any person to any penalty under any law so ceasing to be in force ;

(b) any appointment, notification order, rule made or issued under any such law in respect of any cattle pounds within the limits of such village shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under this Act and continue in force until superseded by any notification, order or rule made under this Act ;

(c) any cattle pound in the local area established under any law so ceasing to be in force shall be deemed to be vested in the village panchayat within whose limits it is situate and shall be maintained and managed by the panchayat in accordance with the provisions of this act.

182. (1) Notwithstanding anything contained in any law for the time being in force, every village panchayat, within the limits of its jurisdiction shall from time to time, appoint such places as it thinks fit to be public pounds, and may appoint to be keepers of such pounds such persons as may be approved by the Taluka Development Officer. The duties of pound keepers shall be such as may be prescribed.

Power to establish cattle ponds and appoint pound keepers.

(2) Every pound keeper so appointed shall, in the performance of his duties, be subject to the direction and control of the panchayat by which he is appointed.

183. (1) Whoever, within the limits of a village, allows any cattle which are his property or in his charge to stray in any street or to trespass upon any private or public property shall, on conviction, be punished--

Penalty for allowing cattle to stray in street or to trespass upon private or public property.

(i) for the first offence, with imprisonment for a term which may extend to one month or with fine which may extend to three hundred rupees, or with both ;

(ii) for a second or subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both :

Provided that in absence of adequate and special reasons to the contrary to be mentioned in the judgment of the Court,—

(i) for a first offence, such fine shall not be less than one hundred rupees, and

(ii) for a second or subsequent offence, such fine shall not be less than two hundred and fifty rupees.

(2) The Magistrate trying the offence under sub-section (1), may order,—

(a) that the accused shall pay such compensation not exceeding two hundred fifty rupees as the Magistrate considers reasonable, to any person for any damage proved to have been caused to his property or to the produce of land, by the cattle under the control of the accused, trespassing on his land ; and also,

(b) that the cattle in respect of which the accused is convicted shall be forfeited to the State Government.

(3) Any compensation awarded under sub-section (2) may be recovered as if it were a fine imposed under this section.

(4) An offence under this section shall be cognizable.

(5) Nothing contained in sub-section (1) shall render any person liable to any punishment provided in that sub-section, if in the opinion of the Court, the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Impounding cattle.

184. (1) It shall be the duty of every Police Officer and a Watch and Ward appointed by the panchayat, and it shall be lawful for any other person, to seize and take to any such public pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property within the limits of the village.

(2) Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, and whoever removes the same after seizure, either from a pound or from any person taking or about to take them to a pound, shall on conviction, be punished with imprisonment for a term not exceeding six months or with fine not exceeding five hundred rupees or with both.

Delivery of cattle claimed and consequences of failure to pay pound fees and expenses etc.

185. (1) If the owner of cattle which are impounded under section 184 or his agent appears and claims the cattle, the pound keeper shall deliver them to him on payment of the pound fees and expenses chargeable in respect of such cattle under section 187 and on depositing the amount of security, if any, prescribed under section 189.

(2) If the owner or his agent appears but refuses to pay the fees and expenses as required under sub-section (1) on the ground that the seizure was illegal and that the owner is about to make a complaint under section 188, then upon the deposit of the fees and expenses incurred in respect of the cattle, the cattle shall be delivered to him.

(3) If on any complaint referred to in sub-section (2), the seizure is declared to be lawful or if the owner or his agent fails to make such complaint within a period of four weeks from the date of delivery of the cattle to him and the provisions of section 189 are applicable, the pound-keeper shall require the owner or his agent to make a declaration and to deposit the amount of security as required by that section. If the owner or his agent fails to make such declaration or to deposit such amount, the cattle delivered to him under sub-section (2) shall be seized again for the purposes of sub-section (4).

(4) If the owner or his agent appears and refuses or omits to pay the pound-fees and expenses under sub-section (1) or to deposit the pound-fees and expenses under sub-section (2) or to deposit the amount of security and to make a declaration as required by sub-section (3), the cattle or as many of them as may be necessary shall be sold by public auction by such officer at such place and time and subject to such conditions as are referred to in section 186. The amount of pound-fees leviable and the expenses of feeding and watering together with the expenses of sale, if any, and the amount of security, if any, as prescribed under section 189 shall be deducted from the proceeds of the sale.

Sale of cattle not claimed.

186. (1) If within seven days after any cattle have been impounded, no person appearing to be the owner of such cattle offers to pay the pound-fee and expenses chargeable under section 187 such cattle shall be forthwith sold by auction in the prescribed manner and the surplus remaining after deducting the fee and expenses aforesaid from the proceeds of the sale, shall be paid to any person who, within fifteen days after the sale, proves to the satisfaction of such officer as the panchayat authorises in this behalf that he was the owner of such cattle and shall in any other case, form part of the village fund.

(2) No Police Officer, or officer, member or servant of the panchayat including the pound-keeper shall, directly or indirectly, purchase any cattle at a sale under sub-section (1).

187. (1) The pound-fees chargeable shall be such as the State Government may from time to time by notification in the **Official Gazette** specify for each kind of cattle.

Pound fees and expenses chargeable to be fixed.

(2) The expenses chargeable shall be at such rates for each day during any part of which any cattle is impounded, as shall from time to time be fixed by the panchayat with previous approval of the District Panchayat.

188. (1) Any person whose cattle have been seized under this Act or having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure make a complaint to the Magistrate of the first class.

Complaints of illegal seizure or detention.

(2) The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. If the Magistrate on examining the complainant or his agent sees reasons to believe the complaint to be well founded, he shall summon the person complained against, and make an inquiry into the case.

(3) If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant for the loss caused by the seizure or detention reasonable compensation not exceeding one hundred rupees to be paid by the person who made the seizure or detained the cattle, together with all fees paid and expenses incurred by the complainant in procuring the release of the cattle, and, if the cattle have not been released the Magistrate shall besides awarding such compensation order their release, and direct that the fees and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

(4) The compensation, fees and expenses mentioned in this section may be recovered as if they were fines imposed by the Magistrate.

189. (1) In any village to which the State Government may, by notification in the **Official Gazette** apply this section, every pound-keeper shall before releasing any impounded cattle, require the owner of the impounded cattle or his agent to make, in the prescribed form a declaration regarding the ownership of such cattle and to deposit by way of security such sum as may be prescribed. Progressively increasing scales may be prescribed in respect of cattle belonging to or kept by the same person according to the number of cattle impounded at a time and the number of times the cattle are impounded and different scales may be prescribed for different villages.

Security in respect of impounded cattle.

(2) If any cattle belonging to such owner are impounded within a period of six months from the date on which the security is deposited, and if the seizure is not adjudged illegal, the amount of deposit or a part thereof, as may be directed by the State Government by rules made in this behalf, shall stand forfeited to the State Government. If cattle are not impounded as aforesaid, the amount of security deposit shall on an application made by or on behalf of the depositor be refunded to him on the expiry of that period.

190. (1) If in any local area to which the State Government may, by notification in the **Official Gazette**, apply this section, a Mamlatdar or Mahalkari is satisfied,

Removal of cattle to specified places.

- (i) that the grazing land set apart for the use of cattle of one or more villages in the taluka, or mahal under his jurisdiction is insufficient for the cattle belonging to the permanent residents of such village or villages ;
- (ii) that the crops or grass standing on any agricultural land or grazing land so set apart are likely to be damaged by cattle belonging to persons who are not residents of such village or villages and who own more than twenty head of cattle, he may-

- (a) in any case referred to in clause (i) direct any such resident owner, by special or general order, to remove or cause to be removed all or any dry or useless cattle belonging to him to such place or places within the State and within such period as may be specified in the order, and

- (b) in any case referred to in clause (ii) direct any such non-resident owner, by special or general order, to remove or cause to be removed all or any of his cattle to such place or places within the State and within such period as may be specified in the order.
- (2) If the owner of the cattle fails to remove the cattle as directed under sub-section (1), the Mamalatdar or Mahalkari, as the case may be, may direct a Police Officer not below the rank of a Head-Constable to remove or cause to be removed such cattle to the place or places specified in the order.
- (3) If the Mamlatdar or Mahalkari is satisfied that the order issued by him under sub-section (1) is contravened by any owner or keeper of cattle, he may impose a fine not exceeding five thousand rupees, Any fine so imposed may on failure of such owner or keeper to pay the same within the specified time, be recovered by sale of all or any of the cattle ordered to be removed under sub-section (1).

CHAPTER IX

Taxation

Part I

Taxation by the State Government

Levy of fifty paise cess on every rupee of land revenue.

191. (1) The State Government shall levy, on the conditions and in the manner hereinafter described, a cess at the rate of fifty paise on every rupee of-

- (a) every sum payable to the State Government as ordinary land revenue except sums payable on account of any of the charges mentioned in sub-section (2) and except sums payable on account of any charge which may be notified by the State Government in this behalf ;
- (b) every sum which would have been payable as land revenue by a small holder as defined in the Explanation to section 45 of the Bombay Land Revenue Code, 1879, in respect of the land held by him for the time being for the purpose of agriculture, had land revenue been payable in respect of such land under the said section by such small holder ; and
- (c) every sum which would have been assessable on any land as land revenue had there been no alienation of the land revenue :

Provided that no cess shall be levied under this section on sums less than twenty five paise :

Provided further that the amount of cess shall, if not a multiple of five paise be increased to the next highest multiple of five paise.

- (d) every sum which would have been payable as land revenue in respect of any land leased by the Government as if land revenue is leviable on such land, notwithstanding that no land revenue is leviable on such land under the terms of such lease.
- (2) The following sums shall not be taken into account for the purposes of sub-section (1), namely :—

Bom. V of 1897.

- (i) penalties and fines, including any charge imposed under section 148 of the Land Revenue Code, as penalty or interest in case of default, but not including any fine levied under section 65 of the said Code on grant of permission to use land for a purpose unconnected with agriculture ;
- (ii) occasional fixed payments, in commutation of all claims of the State Government in respect of succession to or transfer of inams, payable on each succession or transfer of inams;

(iii) land revenue on service inam land, recovered from inferior village servants for periods of unauthorised absence from service, and all other such charges of assessment on inams and watans for broken periods and past years ;

(iv) fees for grazing when charged per head of cattle.

- (3) (a) If it appears to a district Panchayat that for the purposes of its functions under Schedule III an additional provision of funds is necessary, it may by a resolution passed at its meeting apply to the State Government to increase in relation to its district, the rate of cess levied under sub-section (1) to such extent and for such period as may be specified in the resolution ;

Provided that by such increase the rate of cess shall not exceed three hundred paise on every rupee on which such cess is leviable under sub-section (1).

- (b) On receipt of an application under clause (a) State Government may, by notification in the **Official Gazette** increase the rate of the cess as proposed by the district panchayat and thereupon sub-section (1) shall have effect as if for the rate specified therein the rate as so increased has been substituted.

192. In the assessment of the said cess on villages alienated as defined in the Bombay Land Revenue Code, 1879 ;—

Rules for
Assessment.

- (a) if the village has been surveyed and assessed in the manner laid down in the said Code and the rules made thereunder, the cess shall be fixed on the total amount of assessment of the village as fixed under the said Code or the rules made thereunder ;

- (b) if the village has come under summary settlement under the Exemptions from Land Revenue (No.-1) Act, 1863, or the Exemptions from Land Revenue (No.-2) Act, 1863 and clause (a) of this section does not apply, the cess shall be fixed on the total annual assessment as settled for the purpose of summary settlement: and

Bom.II of 1863
Bom. VII
of 1863.

- (c) in villages to which neither of clause (a) or (b) of this section applies, the cess shall be fixed on the old or kammal rate recorded in the books of the Collector; and if no such rate is recorded or if the rate so recorded is objected to by the holder or proprietor of the alienated village, the cess may be fixed as agreed upon by the Collector in agreement with the district panchayat which, shall pass a special resolution to that effect and such holder or proprietor, or, failing agreement, by a rough survey and assessment to be made by the State Government the expense of such rough survey being borne half by the district panchayat and half by the holder or proprietor of such village.

193. The State Government may levy a cess not exceeding twenty paise on every rupee of water rate leviable under the provisions of the Bombay Irrigation Act, 1879.

Levy of cess on
water rate. Bom
VII of 1879.

194. The cess described in section 191 shall be levied, so far as may be, in the same manner, and under the same provisions of law as the land revenue:

Manner of
levying cess
described in
Sec. 191.

Provided that, in the case of any land in the possession of a tenant if such tenant is liable to pay the land revenue in respect of such land under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, or the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958, such tenant shall be primarily liable for the payment of cess in respect of such land.

Bom. LXVII
of 1948.
Bom. XCIX of
1959.

195. The cess described in section 193 shall be levied so far as may be, in the same manner, and under the same provision of law, as water rates payable to the State Government under the Bombay Irrigation Act, 1879.

Manner of
levying cess des
cribed in Sec.
193. Bom.
VII of 1879.

196. The provision of law relating to the assistance to be given to superior holders and owners of watercourses for the recovery of their dues from their tenants and occupants under them, or from persons authorised to use

Assistance to
superior
holders.

their water-courses shall be applicable to all superior holders, whether of alienated or unalienated land, and to all owners of water-courses in respect of the recovery of the said cesses from their tenants, occupants or persons authorised to use their water-courses, and shall be applicable also to occupants of land under the Land Revenue Code for the recovery of the said cesses from their tenants or joint occupants.

Collecton and credit of local cess on water rates.

197. The local cess leviable on water rate under section 193 in respect of lands shall be paid by the State Government to the taluka panchayat within the jurisdiction of which the lands are situated, after deducting such portion thereof as cost of collection, as the State Government may prescribe by rules.

Collection and credit of local cess of land revenue.

198. The local cess leviable on lands under section 191 shall be paid by the State Government to the district panchayat within the jurisdiction of which lands are situated, after deducting such portion thereof as cost of collection, as the State Government may prescribe by rules.

Suspension and remission of local cess.

199. The State Government may, on the application of the district panchayat to which the cess is payable, suspend or remit the collection of cess or any portion thereof in any year in any area, subject to the Jurisdiction of such district panchayat.

PART—II

Taxation by village Panchayats.

Levy of taxes and fees by village panchayats.

200. (1) Subject to any general or special order (including an order fixing the minimum and maximum rates of a tax or fee) which the State Government may make in this behalf, it shall be competent to a village panchayat to levy all or any of the following taxes and fee at such rates as may be decided by it and in such manner and subject to such exemptions as may be prescribed, namely :--

- (i) a tax on buildings (whether subject to payment of agricultural assessment or not) and lands (which are not subject to payment of agricultural assessment) within the limits of the village ;
- (ii) octroi on animals or goods or both brought within the village for consumption, use or sale therein ;
- (iii) a pilgrim tax ;
- (iv) a tax on fairs, festivals and other entertainments nor being a tax on payments for admission to any entertainments ;
- (v) a tax on vehicles, boats or animals used for riding, draught or burden, kept for use within the village, whether they are actually kept within or outside the village ;
- (vi) a toll on vehicles and animals used as aforesaid entering the village but not liable to taxation under clause (v) of this sub-section ;
- (vii) a tax on dogs kept within the village ;
- (viii) a general sanitary cess for the construction or maintenance, of public latrines and for the removal and disposal of refuse ;
- (ix) a general water rate which may be imposed in the form of a rate assessed on buildings and lands or in any other form as may be best adapted to the circumstances of any class of cases ;
- (x) any other prescribed tax (not being a toll on motor vehicles or trailers, save as provided by section 20 of the Bombay Motor Vehicles Tax Act, 1958 or tax on professions, trades, callings and employments or a tax on payments for admission to any entertainment) which the State Legislature has under the Constitution, powers to impose in the State ;
- (xi) a fee on markets and weekly bazars ;
- (xii) a fee on cart-stands and tonga-stands ;

Bom. LVX of 1958.

- (xiii) a special water rate for water supplied by the panchayat through pipes, which may be imposed in any form including that of charges for such water supplied fixed in such mode or modes as shall be best adapted in the circumstances of any class of cases ;
- (xiv) a fee for the supply of water from wells and tanks vesting in it, for purposes other than domestic use and for cattle ;
- (xv) fee for temporary erection, on, or putting up projections over, or temporary occupation of, any public street or place ;
- (xvi) a special sanitary cess upon private latrines, premises or compounds cleaned by the panchayat agency ;
- (xvii) a drainage tax ;
- (xviii) a lighting tax ;
- (xix) a fee for cleansing a cess pool constructed on land whether belonging to a panchayat or not ;
- (xx) a fee for grazing cattle on grazing lands vesting in a panchayat ;
- (xxi) in lieu of any two or more separate taxes specified in clauses (i), (viii), (ix) and (xviii), a consolidated tax on buildings or lands or both situated within the limits of the village.

(2) The duties and obligation of persons liable to any tax or fee under sub-section (1) shall be such as may be prescribed,

(3) Rules made under sub-section (1) may, *inter alia* provide,—

(a) for the assignment and payment of a part of the proceeds of pilgrim tax levied by village panchayat to a district panchayat or taluka panchayat to such extent and in such circumstances and on such conditions as may be prescribed ;

(b) for lump sum payment of tax on vehicles or animals by persons liable to pay such tax.

(4) The tax on buildings or lands referred to in clauses (i) and (xxi) of sub-section (1) shall be leviable from the owners or occupiers thereof ;

Provided that when an owner of a building or land has left the village or cannot otherwise be found, any person to whom such building or land has been transferred shall be liable for the tax leviable from the owner.

(5) The State Government may, by notification in the **Official Gazette**, direct that the tax upon buildings or lands referred to in clause (i) of sub-section (1) shall not be levied, or shall be levied on such reduced scale, on all buildings and lands or on any class of buildings or lands situated in an area predominantly populated by members of Scheduled Castes or Scheduled Tribes.

(6) Any person aggrieved by the assessment, levy or imposition of any tax or fee may appeal to the district panchayat within the prescribed period.

(7) No such appeal shall be entertained unless the amount claimed from the appellant has been deposited by the appellant with the panchayat.

(8) The State Government may suspend the levy or imposition of any tax or fee and may at any time rescind such suspension.

201. (1) Subject to any rules that may be made under this Act, and regard being had to the fact that a factory itself provides in the factory area all or any of the amenities which such panchayat provides, village any factory with the sanction of the State Government to receive a lump-sum contribution in lieu of all or any of the taxes levied by the panchayat.

Lump-sum contribution by factories in lieu of taxes levied by panchayat.

(2) Where no such agreement as is referred to in sub-section (1) can be reached, the matter may be referred to the State Government in the manner prescribed and the State Government, may after giving to the panchayat and

the factory concerned an opportunity of being heard decide the amount of such contribution, The decision of the State Government shall be binding on the panchayat and the factory concerned.

(3) In the case of any matter referred to the State Government under sub-section (2), the State Government may, subject to such condition as it may think fit to impose having regard to the circumstances of the case, by order in writing direct the panchayat to stay the collection or recovery from the factory of all or any of the taxes until the State Government decides the matter under sub-section (2).

Framing of fees on markets etc.

202. (1) It shall be lawful for a village panchayat to lease by public auction or private contract the collecting of any fees levied by it on markets and weekly bazars or the collecting of octroi:

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

(2) All sums payable under the terms and conditions of the lease, if not paid, shall be recoverable as arrears of land revenue.

(3) The lessee and every person employed by the lessee to assist him in the collection of the fees or octroi, as the case may be, shall be deemed to be appointed by the panchayat to collect the same under this Act and shall exercise all the powers and be subject to all the responsibilities attaching to persons appointed to collect such fees or octroi, as the case may be, under this Act.

(4) Any rules or orders for the levy, collection and recovery of any such fees or octroi as the case may be, shall have effect subject to the provisions of this section.

Levy and Collection upto twenty five paise as cess on every rupee of land revenue.

203. (1) A village panchayat may by resolution passed by its meeting, apply to levy a cess at the rate not exceeding twenty-five paise, according to its needs and capacity, on every rupee of every sum payable to the State Government as land revenue, and on which a cess is leviable under clauses (a), (b) and (c) of sub-section (1) of section 191 and thereupon the state Government shall (in addition to any cess leviable under section 191) levy and collect such cess in the area within the jurisdiction of such panchayat.

(2) Where a village panchayat undertakes for the benefit of the community any special work or project so as to complete it within a specified period and for that purpose an additional provision of funds is necessary, the panchayat may by resolution passed at its meeting and with the previous permission of the district panchayat apply, to the State Government to increase the rate of cess levied in accordance with sub-section (1) to such extent and for such period as may be specified in the resolution:

Provided that such increase shall not exceed one hundred paise on every rupee of every sum payable to the State Government as ordinary land revenue.

(3) On receipt of an application under sub-section (1) or (2) the State Government shall levy the cess or increase the rate thereof as proposed by the panchayat and sub-section (1) shall have effect accordingly.

(4) The net proceeds (after deducting the expenses of assessment and collection) of any cess levied and collected in accordance with sub-section (1) shall form part of and be paid into the village fund.

(5) The State Government may, at the request of the panchayat to which the cess referred to in sub-section (1) is payable, suspend the collection of the cess or any portion thereof in any year.

Power of taluka panchayat to increase taxation of panchayat.

204. (1) If the income of a village panchayat falls below what in the opinion of a taluka panchayat is necessary for the proper discharge of the duties specified in Schedule I, the taluka panchayat may after having given such panchayat an opportunity of being heard, require it to take steps within six months, to increase its income to such extent as the taluka panchayat considers necessary. If the village panchayat fails to take adequate steps to increase its income to the required extent, the taluka panchayat may require it to levy any of the taxes or fees specified in section 200 or increase

the rate at which any of the such taxes and fees is levied and it shall be the duty of the panchayat to comply with the requirement :

Provided that the taluka panchayat shall not compel the panchayat to levy any tax or fee or increase the rate thereof beyond the maximum rate prescribed in this behalf.

(2) The panchayat in respect of which an order under sub-section (1) is made by the taluka panchayat may within the prescribed period prefer an appeal to the district panchayat, which may pass such orders on the appeal as it may think just and proper. The district panchayat may stay the execution of the order until the appeal is decided.

205. If under clause (a) of item 4 of Schedule I, a village panchayat incurs any expenditure on watch and ward of the village and of the crops therein the cost of such watch and ward shall be levied and recovered by the panchayat from such persons and in such manner (including the levying of a fee) as may be prescribed.

Recovery of
cost of watch
and ward.

PART III

TAXATION BY TALUKA PANCHAYAT

206. (1) Subject to any general or special orders which the State Government may make in this behalf, every taluka panchayat may after observing the preliminary procedure required by section 212 impose an education cess and any of taxes and fees which are leviable by a village panchayat under section 200 :

Taxes and fees
which may be
imposed by
taluka panchayat
and mode of
collection thereof.

Provided that the rate of tax or fee leviable by a taluka panchayat in respect of any matter within the limits of any village shall not exceed 15 per cent of the rate of the tax or fee actually levied by the village panchayat in respect of the same matter, and where no such tax or fee has been levied by the village panchayat, shall not exceed 15 per cent of the prescribed maximum rate of tax or fee in respect of the same matter ;

Provided further that,—

(i) no tax imposed as aforesaid other than a special sanitary cess or a water rate, shall without the express consent of the Government or, as the case may be, the district panchayat concerned be leviable in respect of any building or part of any building or any vehicle, animal or other property, belonging to the Government or the district panchayat and used solely for public purposes, and not used or intended to be used for purposes of profit and no toll shall be leviable for passage of troops, the conveyance of Government stores or of any other Government property, the passage of Military or Police Officers on duty, or the passage or conveyance of any person or property in the custody of such officers; and

(ii) no tax on property shall be imposed in respect of any land on which local cess is being collected.

(2) (a) Where in the exercise of the powers under sub-section (1) a taluka panchayat imposes a tax or fee in any area within the jurisdiction of a village panchayat, such tax or fee shall be collected by the village panchayat concerned from those persons who are liable to pay the same under the rules made by the taluka panchayat in accordance with the provisions of section 215 as if it were a tax or fee imposed by the village panchayat concerned under the provisions of this Act and shall be paid to the taluka panchayat at such time and in such manner as the taluka panchayat may specify.

(b) Such percentage not exceeding 50 per cent of the gross collection of such tax or fee in any financial year as the State Government may by general or special order determine shall not form part of the taluka fund but shall be assigned to the village panchayat in such manner as the taluka panchayat may determine.

(c) If any panchayat makes any default in the payment of any sum due in respect of a tax or fee within the time specified under clause (a), the provisions of section 211 shall *mutatis mutandis* apply to such default and the taluka panchayat shall exercise the same powers as are exercisable by a district panchayat under that section.

Increase of stamp duty for a taluka panchayat.

Bom. LX of 1958.

207. (1) A taluka panchayat may, by resolution passed at its meeting, apply to the State Government for increasing the rate of stamp duty leviable under the Bombay Stamp Act, 1958 on instruments of sale, mortgage, lease or any other kind of transfer of immovable property situated within the limits of the taluka, to such extent as not to exceed 15 per cent of the rate of duty so leviable and specified in the resolution.

Bom. LX of 1958.

(2) Notwithstanding anything contained in the Bombay Stamp Act, 1958 on receipt of an application under sub-section (1) the State Government shall by notification published in the **Official Gazette**, direct that the rate of stamp duty on the class of instruments specified in the notification and affecting the immovable property situated within the taluka shall be increased to the extent specified in the notification with effect from the date specified in the notification, and thereupon, the rate of stamp duty shall stand increased accordingly.

Bom. LX of 1958.

(3) For the purpose of this section, section 28 of the Bombay Stamp Act, 1958, shall be read as if it specifically required the particulars therein referred to be set forth separately in respect of—

(a) property situated in the jurisdiction of any taluka panchayat ;
and

(b) property not situated in the jurisdiction of any taluka panchayat.

(4) The increase in stamp duty in respect of any class of instruments under this section shall be in addition to any increase made therein in respect of the same class of instruments for a district panchayat under section 209.

(5) The State Government shall, every year after due appropriation made by law in this behalf, pay to the taluka panchayat from the Consolidated Fund of the State, a grant-in-aid approximately equal to the extra duty realised under sub-section (1), in respect of properties situated within the jurisdiction of the taluka panchayat.

PART IV

TAXATION BY DISTRICT PANCHAYAT

Taxes which may be imposed by a district panchayat.

208. Subject to any general or special orders which the State Government may make in this behalf, every district panchayat may, after observing the preliminary procedure required by section 212 impose any of the taxes and fees which are leviable by a village panchayat under section 200 : Provided that the rate of tax or fee leviable by a district panchayat in respect of any matter within the limits of any village shall not exceed 10 per cent of the rate of the tax or fee actually levied by the village panchayat in respect of the same matter, and where no such tax or fee has been levied by the village panchayat shall not exceed 10 per cent, of the prescribed maximum rate of tax or fee in respect of the same matter:

Provided further that—

(i) no tax imposed as aforesaid other than a special sanitary cess or a water rate, shall without the express consent of the Government or, as the case may be, the taluka panchayats concerned be leviable in respect of any building or part of any building or any vehicle, animal or other property belonging to the Government or to the taluka panchayat and used solely for public purposes, and not used or intended to be used for purposes of profit and no toll shall be leviable for passage of troops, the conveyance of Government stores or of any other Government property, the passage of military or Police Officers on duty, or the passage or conveyance of any person or property in the custody of such officers; and

(ii) no tax on property shall be imposed in respect of any land on which local cess is being collected.

209. (1) A district panchayat may, by resolution passed at its meeting apply to the State Government, for increasing the rate of stamp duty leviable under the Bombay Stamp Act, 1958 on instruments of sale, mortgage, lease or any other kind of transfer of immovable property situated within the limits of the district, to such extent as not to exceed 20 per cent, of the rate of duty so leviable and specified in the resolution.

(2) Notwithstanding anything contained in the Bombay Stamp Act, 1958 on receipt of an application under sub-section (1), the State Government shall by notification published in the Official Gazette direct that the rate of stamp duty on the class of instruments specified in the notification and affecting the immovable property situated within the district shall be increased to the extent specified in the notification with effect from the date specified in the notification and thereupon, the rate of stamp duty shall stand increased accordingly.

(3) For the purpose of this section, section 28 of the Bombay Stamp Act, 1958, shall be read as if it specifically required the particulars therein referred to be set forth separately in respect of-

- (a) property situated in the jurisdiction of any district panchayat; and
- (b) property not situated in the jurisdiction of any district panchayat.

(4) The increase in stamp duty in respect of any class of instruments under this section shall be in addition to any increase made therein in respect of the same class of instruments for a taluka panchayat under section 207.

(5) The State Government shall, every year after the due appropriation made by law in this behalf, pay to the district panchayat from the Consolidated Fund of the State, a grant-in-aid approximately equal to the extra duty realised under sub-section (1) in respect of properties situated within the jurisdiction of the district panchayat.

210. Wherein exercise of the powers given by this Act, a district panchayat imposes any tax or fee then notwithstanding anything in this Act or any other law for the time being in force, in any area within the jurisdiction of a village panchayat -

- (a) such tax or fee shall be collected by the village panchayat concerned from those persons who are liable to pay the tax or fee under the rules made by a district panchayat and who reside, or carry on any trade or exercise any profession or follow a calling, within such area, in accordance with the provisions of section 215, as if it were a tax or fee imposed by the village panchayat under the provisions of this Act, and shall be paid to the district panchayat at such time and in such manner as the district panchayat may specify :
- (b) such percentage not exceeding fifty percent, of the gross collection of such tax or fee in any financial year, as the State Government may by general or special order determine shall not form part of the district fund, but shall be assigned to the village panchayat, in such manner as the district panchayat may determine.

211. (1) If any panchayat makes default in the payment of any sum due in respect of a tax on professions, trades, callings and employments, or any other tax or fee within the time specified by the district panchayat under clause (a) of section 210, the district panchayat may, notwithstanding any law relating to the funds vesting in such panchayat or any other law for the time being in force direct any bank in which any moneys of the panchayat are deposited or the person in charge of the Government treasury or any place of security in which the moneys of the panchayat are deposited to pay such sum from such moneys as may be standing to the credit of the panchayat in such bank or as may be in the hands of such person or as may from time to time be received from or on behalf of the panchayat by way of deposit by such bank or person and such bank or person shall be bound to obey such order.

V-87-20.

Increase of stamp duty for a district panchayat.

Bom. LX of 1958.

Bom. LX of 1958

Bom. LX of 1958.

Tax on professions etc., levied by district panchayat to be collected by village panchayat.

Default in payment by panchayat.

(2) Every payment made pursuant to an order under Sub-section (1) shall be as sufficient discharge to such bank or person from all liability to the panchayat in respect of discharge of any sum so paid by it or him out of the moneys of the panchayat so deposited with such bank or person.

PART V

PROCEDURE OF LEVYING TAX OR FEE BY TALUKA PANCHAYAT AND DISTRICT PANCHAYAT.

Procedure of Taluka and district panchayat preliminary to imposing tax.

212. (1) A taluka panchayat or, as the case may be, a district panchayat shall, before imposing a tax or fee, by resolution passed at a meeting of the panchayat -

- (a) select a tax or fee which may be imposed; and
- (b) approve rules describing the tax or fee selected; and
- (c) shall in such resolution and in such rules specify;
 - (i) the class or classes of persons or of property, or of both, which the panchayat desire to make liable, any exemptions which it desires to give (including the circumstances or principles on which exemptions can be given) and the duties and obligations of persons liable to pay any such tax or fee;
 - (ii) the amount for which, or the rate at which, it is desired to make such classes liable; and
 - (iii) all other matters which the State Government may require to be so specified.

(2) When such a resolution has been passed, the panchayat shall publish the rules with a notice in the prescribed form and manner.

(3) Any inhabitant of the taluka or, as the case may be, district objecting to the imposition of the said tax or fee, or to the amount or rate proposed, or to the class of persons or property to be made liable therefor or to any exemptions proposed, may, within one month from the publication of the said notice, send his objections in writing to the taluka panchayat or, district panchayat, as the case may be, and the panchayat shall take all such objections into consideration, or shall authorise a committee of its members to consider and report on them.

(4) The panchayat shall take proposals and all objections received thereto and the report of the committee, if any, into consideration at a meeting and sanction the rules with or without modifications.

Procedure for abolishing or varying a tax.

213. (1) The panchayat may, at a special meeting, pass a resolution to propose the abolition of any tax or fee already imposed or a variation in the amount or rate thereof.

(2) Any such proposal shall be dealt with according to the procedure laid down in section 212 for the imposition of a new tax or fee; and the notification of the abolition or variation of a tax or fee under this section in the **Official Gazette** shall be conclusive proof that such abolition or variation has been made in accordance with the provisions of this Act.

(3) Nothing in this section shall affect the power of a panchayat to propose an increase in rate of cess on land revenue or in the rate of stamp duty under the provisions of section 203, 207 and 209.

Publication of sanctioned rules with notice.

214. All rules sanctioned under section 212 shall be published in the prescribed manner by the taluka panchayat in the taluka and by the district panchayat in the district for which they are made, and the tax as described in the rules so published shall, from the date specified in the notice under that section (such date not being less than one month from the publication of such notice), be imposed accordingly:

Provided that-

- (a) a tax leviable by the year -
- (i) shall not come into force except on one of the following dates, that is to say, the first day of April, the first day of July, the first day of October or the first day of January, in any year, and
- (ii) if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing ;
- (b) on or before the day on which a notice is issued, the panchayat shall publish such further detailed rules as may be required, prescribing the mode of levying and recovering the tax herein specified, and the dates on which the tax or the instalments (if any), thereof, shall be payable; and
- (c) if the levy of a tax, or of a special portion of tax, has been sanctioned for a fixed period only the levy shall cease at the conclusion of that period, except as regards any unpaid arrears which have become due during the period.

CHAPTER X

RECOVERY OF TAXES, FEES, CESSSES AND OTHER DUES.

215. (1) When any tax or fee or any other sum has become due, a panchayat shall with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the amount due from him, specifying the date on or before which the amount shall be paid.

Recovery
taxes and
other dues.

(2) If any person fails to pay any tax or fee or any other sum due from him to a panchayat under this Act or the rules on or before the specified date of payment, he shall pay to the panchayat by way of penalty in addition to the tax, fee or sum, as the case may be, an amount equal to one per cent, of the amount of the tax or fee or sum, as the case may be, for each complete month during the time he continues to make default in the payment of tax, fee or sum, as the case may be.

(3) In the case of a person who is a defaulter under sub-section (2), the panchayat shall cause a writ of demand in the prescribed form to be served on such person.

(4) The presentation of every bill under sub-section (1) and the service of every writ of demand under sub-section (2) shall be affected by an officer or servant of the panchayat in this behalf -

- (a) by giving or tendering the bill or writ to the person to whom it is addressed; or
- (b) if such person is not found, by leaving the bill or writ at his last known place of abode, if within the area of jurisdiction of the panchayat, or by giving or tendering the bill or writ to some adult male member or servant of his family ; or
- (c) if such person does not reside in the area of jurisdiction of the panchayat and his address elsewhere is known to the officer directing the issue of the bill or writ then forwarding the bill or writ to such person by registered post, under cover bearing the said address ; or
- (d) if none of the means aforesaid be available, then causing the bill or writ to be affixed on some conspicuous part of the building or land, if any, to which the bill or writ relates in the presence of at least two panchas.

(5) If the sum for which a writ of demand has been served is not paid within thirty days from the date of such service, the panchayat may levy such sum by distraint and sale of the movable property of the defaulter in the prescribed manner.

(6) Fees for -

- (a) every writ of demand issued under sub-section (2);

- (b) every writ of demand made under sub-section (3) ;
- (c) the cost of maintaining any livestock seized under sub-section (5) shall be chargeable at such rates as may be prescribed.

(7) Notwithstanding anything contained in the foregoing sub-sections any tax or fee payable on demand in accordance with the rules shall be recoverable in such manner as may be prescribed.

(8) If a panchayat is unable to recover a tax or fee or other sum (including penalty) due to it as aforesaid, it shall be recoverable as an arrear of land revenue.

(9) If a panchayat fails to recover any tax, fee or any sum due to it, or neglects to take action under sub-sections (2) and (5) of this section, the competent authority may apply to the Collector to recover the same as an arrear of land revenue.

(10) On receipt of such application the Collector shall, after holding such inquiry as he thinks fit, proceed to recover the sum as an arrear of land revenue unless such sum is, under section 217 directed to be written off.

Penalty for evasion or octroi.

216. Where any animal or goods passing into village are liable to the payment of octroi, any person, who with the intention of defrauding the village panchayat causes or abets the introduction of or himself introduces or attempts to introduce within the octroi limits of such village, any such animal or goods upon which payment of the octroi due on such introduction has neither been made nor tendered, or who fails to comply with any direction given by the officer demanding the octroi levied by the authority of panchayat with reference to the introduction of the animal or goods within the octroi limits shall be punished, on conviction, with fine which may extend to ten times the amount of such octroi or to two thousand rupees, whichever may be greater.

District Development Officer's power to direct irrecoverable sums to be written off.

217. The District Development Officer may direct any sum certified by a panchayat as recoverable as an arrear of land revenue to be written off, if in his opinion the sum is irrecoverable ;

Provided that no sum exceeding five hundred rupees shall be written off except with the previous sanction of the State Government.

CHAPTER XI

FINANCIAL ASSISTANCE TO PANCHAYATS

Provision by the State Government for making grants to panchayats.

218. The State Government shall, having regard to the recommendations, if any, of the Finance Commission, in each year after due appropriation made by the State Legislature by law in this behalf make provision for making grants to the panchayats in accordance with this Chapter.

Extent of grants out of the average of three year's collection of land revenue.

219. (1) For the purposes of section 218, the State Government shall in each year determine a sum which shall be equal to the average of the land revenue collected or recovered during the three preceding revenue years in the State.

- (2) Out of the sum determined under sub-section (1) an amount equal to-
 - (a) such percentage of the sum as may be prescribed shall be set apart for meeting the expenditure on the salaries of the secretaries of village panchayats and of the village accountants (talatis) in the State and on their training ;
 - (b) five per cent, of the sum shall be paid into the State Equalisation Fund established under section 220 ;

Provided that in the case of a village panchayat of a Devasthan village the land revenue in respect of which is wholly or partially alienated in favour of the Devasthan, the village panchayat shall be paid in each year out of the State Equalisation Fund a sum on the same basis as applicable to other villages under sub-section (3).

(3) out of the balance remaining after making the provisions in accordance with sub-section (2) -

(i) an amount equal to -

- (a) 50 percent, of the balance shall be distributed among the village panchayats ;
- (b) 25 percent, of the balance shall be distributed among the taluka panchayats ; and
- (c) 10 percent, of the balance shall be distributed among the district panchayats, in proportion to the average collection and recovery of land revenue from the respective village, taluka or, as the case may be, district panchayat in the three revenue years immediately preceding;

(ii) an amount equal to -

- (a) $7\frac{1}{2}$ per cent, of the balance shall be paid into the District Equalisation Fund established under section 221.
- (b) $7\frac{1}{2}$ percent, of the balance shall be paid into the District Gram Encouragement Fund established under Section 222.

220. (1) There shall be established by the State Government a fund to be called the State Equalisation Fund, which shall consist of the payments made into it under clause (b) of sub-section (2) of section 219 and which shall be utilised for making special grants to backward districts so as to minimise the social and economic inequalities between the districts of the State.

State Equalisation Fund.

(2) The fund established under sub-section (1) shall be non-lapsable.

(3) Special grants out of the said fund to district panchayats shall be made in accordance with the rules made in that behalf.

221. (1) In each district, there shall be established by the district panchayat, a fund to be called the District Equalisation Fund consisting of the payments made into it under sub-clause (a) of clause (ii) of sub-section (3) of section 219 which shall be utilised by the district panchayat for making special grants to the backward panchayats subordinate to it so as to minimise the social and economic inequalities between the panchayats in the district.

District Equalisation Fund.

(2) The fund established under sub-section (1) shall be non-lapsable and shall be invested in the prescribed manner.

(3) Special grants out of the said fund, shall be made in accordance with the rules made in that behalf.

222. (1) In each district, there shall be established by the district panchayat a fund to be called the District Village Encouragement Fund which shall consist of the payments made into it under sub-clause (b) of clause (ii) of sub-section (3) of section 219 and which shall be utilised by the district panchayat for making incentive grants to village panchayats to encourage them to raise their income by levying taxes and fees leviable by them under this Act.

District village Encouragement Fund.

(2) The fund established under sub-section (1), shall be non-lapsable and shall be invested in the prescribed manner.

(3) The fund shall be utilised for granting loans to village panchayats in accordance with the rules and for payment of interest on contributions made by the said panchayats.

(4) The State Government shall make rules prescribing the purposes for which loans may be granted the terms and conditions (including the rate of interest and of penal interest) on which such loans may be made, the period therefor and all matters incidental to the grant of loans.

223. (1) In each district, there shall be established a fund to be called the District Development Fund which shall consist of the contributions made by the village panchayats under section 115.

District Development Fund.

(2) The fund shall vest in the district panchayat and shall be invested in the prescribed manner.

(3) The fund shall be utilised for granting loans to village panchayats in accordance with the rules and for payment of interest on contributions made by the said panchayats.

(4) The State Government shall make rules prescribing the purposes for which loans may be granted, the terms and conditions (including the rate of interest and of penal interest) on which such loans may be made, the period therefor and all matters incidental to the grant of loans.

Grant of a portion of forest revenue to district panchayats.

224. The State Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to every district panchayat an amount equal to two percent of the forest revenue collected in the revenue year immediately preceding within the limits of the district.

Grant from forest revenue to certain village panchayats.

225. Where any village is situate in a forest area and is not assessed under the Land Revenue Code then the State Government shall, in lieu of a grant of land revenue under section 219, pay to the village panchayat of the village, in each year such amount out of the forest revenue of the village collected in the revenue year immediately preceding, as it may fix but the amount so fixed shall not be -

(1) less than Rs. 500 and

(2) more than an amount calculated on the basis of the population of the village at such *Per capita* rate as is equal to the *per capita* rate arrived at in respect of grants made under section 219.

CHAPTER XII

FINANCE COMMISSION

Finance Commission.

226. (1) In this section, the Commission means the Finance Commission constituted by the Governor pursuant to clause (1) of article 243-I of the Constitution ;

(2) The Commission shall consist of such number of members not exceeding five including the Chairman as may be determined by the State Government ;

(3) The Chairman of the Commission shall be selected from amongst persons who have had experience in public affairs and the other members shall be selected from among persons who -

(a) are, or have been, or are qualified to be appointed as judges of a High Court ; or

(b) have special knowledge of the finances and accounts of Government and local authorities ; or

(c) have had wide experience in financial matters and in administration; or

(d) have special knowledge of economics.

(4) every member of the Commission shall hold office for such period as may be specified in the order of the Governor appointing him, but shall be eligible for reappointment ;

V of 1908

(5) (a) The Commission shall in the performance of their functions have all the powers of the civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely-

(a) summoning and enforcing the attendance of witnesses ;

(b) requiring the production of any document ;

(c) requisitioning any public record from any Court or office.

(b) The commission shall have powers to require any person to furnish information on such points and matters as in the opinion of the Commission may be useful for or relevant to, any matter under the consideration of the Commission.

CHAPTER XIII

PROVISIONS RELATING TO SERVICES

227. (1) For the purpose of bringing about uniform scales of pay and uniform conditions of service for persons employed in the discharge of functions and duties of panchayats, there shall be constituted a panchayat service in connection with the affairs of panchayats, Such service shall be distinct from the State Service.

Panchayat service
to be regulated
by rules.

(2) The panchayat service shall consist of such classes, cadres and posts and the initial strength of officers and servants in each such class and cadre shall be such, as the State Government may, by order from time to time, determine ;

Provided that nothing in this sub-section shall prevent a district panchayat from altering, with the previous approval of the State Government, any class, cadre or number of posts so determined by the State Government.

(3) (a) The cadres referred to in sub-section (2) may consist of district cadres, taluka cadres and local cadres.

(b) A servant belonging to a district cadre shall be liable to be posted whether by promotion or transfer to any post in any taluka in the district.

(c) A servant belonging to a taluka cadre shall be liable to be posted, whether by promotion or transfer to any post in any village in the same taluka.

(d) A servant belonging to a local cadre shall be liable to be posted whether by promotion or transfer to any post in the same village.

(4) In addition to the posts in the cadres referred to in sub-section (3), a panchayat may have such other posts of such classes as the State Government may by general or special order determine. Such posts shall be called "deputation posts" and shall be filled in accordance with the provisions of section 231.

(5) Subject to the provisions of this Act, the State Government may make rules regulating the mode of recruitment either by holding examinations or otherwise and conditions of service of persons appointed to the panchayat service and the powers in respect of appointments, transfers and promotions of officers and servants in the panchayats service and disciplinary action against any such officers or servants.

(6) Rules made under sub-section (5) shall in particular contain -

(a) a provision entitling servants of such cadres in the panchayat service to promotion to such cadre in the State service as may be prescribed,

(b) a provision specifying the classes of posts recruitment to which shall be made through the District Panchayat Service Selection Committee and the classes of posts, recruitment to which shall be made by the Gujarat Panchayat Service Selection Board, and

(c) a provision regarding the percentage of vacancies to be reserved for the members of Scheduled Castes, Scheduled Tribes and other backward classes in the panchayat service.

(7) Such rules may provide for inter-district transfers of servants belonging to the panchayat service and the circumstances in which and the conditions subject to which such transfers may be made.

(8) The promotion of a servant in a cadre in the panchayat service to a cadre in the State service in accordance with rules made under clause (a) of sub-section (6) shall not affect—

(a) any obligation or liability incurred or default committed by such servant during the period of his service in a cadre in the panchayat service while acting or purporting to act in the discharge of his duties as such servant, or

(b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default, and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto during the said period of service by such authority as the State Government may by general or special order specify in this behalf.

Expenditure towards pay, allowances etc., of officers and servants in panchayat service to be met by panchayats.

228. Subject to the rules, which the State Government may make in this behalf, the expenditure towards the pay and allowances of and other benefits available, to an officer or servant of the panchayat service serving for the time being under any panchayat shall be met by that panchayat from its own fund.

Mode of appointment.

229. Subject to any rules made under section 227 appointments to the posts in the panchayat service shall be made—

(i) by direct recruitment.

(ii) by promotion, or

(iii) by transfer of a member of the States service to the panchayat service.

Allocation of officers and servants to panchayat services.

230. (1) The State Government shall, by a general or special order, allocate to the panchayat service—

(i) Such number of officers and servants, out of the staff allotted or transferred to a panchayat under section 175 and 276 as it may deem fit.

(ii) all officers and servants of the nagarpanchayats dissolved under section 261.

(iii) such other officers and servants employed in the State service as may be necessary to enable the panchayats to discharge efficiently their functions and duties under this Act.

(2) The Officers and servants allocated to the panchayat service under sub-section (1), shall be taken over by such panchayats in such cadre, on such tenure, remuneration and other conditions of service, as the State Government, may, by general or special order determine :

Provided that the conditions of service of any such officer or servant shall not be less favourable than those applicable to him immediately before such allocation :

Provided further that nothing in the aforesaid proviso shall entitle an officer or servant to claim the same cadre and designation which he had before allocation.

Allocation to panchayat service to be provisional for certain period and re-allocation of officers and servants to State services.

231. (1) Notwithstanding anything contained in section 230, the allocation to the panchayat service made under section 230 of officers or servants allotted or transferred to a panchayat under section 175, shall initially be provisional and it shall be lawful for the State Government to review their allocation within a period of four years from such allocation or transfer, and if necessary, to reallocate by an order made in that behalf any of such officers or servants to the State service for any of the following reasons, namely :—

(i) if out of the officers and servants so allocated, any officers or servants are found to be surplus in any category of the panchayat service;

(ii) if in the interest of public service it is considered necessary to recall any such officer or servant ;

(iii) if in pursuance of any information called for in this behalf by or on behalf of the State Government at any time within the aforesaid period of four years, any such officer or servant has preferred to revert to the State service and after taking into consideration the exigencies of service in the panchayat organisation, and also of service under the State Government, the State Government thinks fit to recall such officer or servant;

(iv) any other reason prescribed by rules.

(2) Any officer or servant who is not re-allocated under sub-section (1) and continues in the panchayat service immediately before the expiry of the aforesaid period of four years, shall on such expiry, be deemed to be finally allocated to the panchayat service.

(3) The conditions of service of an officer or servant re-allocated to the State service shall not be less favourable than those applicable to him immediately before such re-allocation.

(4) The re-allocation of any officer or servant to the State service under sub-section (1) whether made before or after the commencement of the Gujarat Panchayat and the Gujarat New Capital (Periphery) Control (Amendment) Ordinance, 1964, shall not affect--

Guj.
Ord. 2
of
1964.

(a) any obligation or liability incurred or default committed by such officer or servant during the period of his allocation to the panchayat service while acting or purporting to act in the discharge of his duties as such officer or servant, and

(b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default;

and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto during the said period of allocation by such authority as the State Government may by general or special order specify in this behalf.

232. (1) For the purpose of enabling the panchayats to discharge their functions and duties under this Act, it shall be lawful for the State Government to direct by a general or special order that such number of officers of the Indian Administrative Service and of Class I and Class II services of the State and such number of officers or servants allotted or transferred to a panchayat under section 175 but not allocated to the panchayat service under section 230 shall be posted under such panchayat and for such period and subject to such conditions as may be specified in the order and accordingly the officers specified in the order shall be posted under such panchayat.

Posting under panchayats of officers and servants in the State service.

(2) The Pay and allowances of an officer posted in accordance with sub-section (1) shall during the period of posting, be paid by the panchayat from its fund.

(3) Notwithstanding any thing contained in sub-section (1), if in the opinion of the State Government, it is necessary so to do in the public interest, it shall be lawful for the State Government to post by an order in writing any servant of class III services of the State under such panchayat, and for such period and subject to such conditions as may be specified in the order, and accordingly the servant specified in the order, shall be posted under such panchayat and the provisions of sub-section (2) shall apply to such servant as they apply to an officer posted in accordance with sub-section (1).

(4) The procedure in respect of disciplinary action against any officer or servant posted under a panchayat otherwise than as a member of the panchayat service, the authorities competent to take such action and the powers of such authorities shall be such as may be prescribed.

233. Any panchayat may, subject to the rules made in this behalf, obtain the services of any officer of Government on loan.

Loan Services of Government officer to panchayats.

XIV
of
1947.

234. Notwithstanding anything contained in the Industrial Disputes Act, 1947, or any other law for the time being in force, the allocation of any officer or servant to the panchayat service under section 230, shall not entitle such officer or servant to any compensation under that Act or law and no claim for any such compensation shall be entertained by any Court, Tribunal or Authority.

No compensation payable for transfer of service.

235. (1) There shall be established a Gujarat Panchayat Service Selection Board consisting of five members including the Chairman.

(2) At least one of the members of the Board shall be a person who is a member of the State service or has retired from such service.

Gujarat panchayat Service Selection Board, its constitution and function.

(3) Subject to sub-sections (1) and (2), the State Government shall appoint as members of the Board such persons as it may think fit and out of the persons so appointed, appoint one person as the Chairman of the Board.

(4) A member of the Board shall hold office for a term of six years from the date he enters upon his office or until he attains the age of sixty two years, whichever is earlier and shall be eligible for re-appointment to that office for a further term of six years only :

Provided that no person appointed as member shall continue to hold his office as such after he attains the age of sixty two years.

(5) The conditions of service (including pay and allowances) of the members of the Board shall be such as the State Government may, by order, determine.

(6) It shall be the duty of the Board to select candidates for recruitment to such posts in the panchayat service, and to advise the panchayat in such matters as may be prescribed by rules.

(7) The Board shall perform such other functions provided by or under this Act.

District Panchayat Service Selection Committee and district Primary Education Staff Selection Committee.

236. (1) There shall be a District Panchayat Service Selection Committee in each district for selecting candidates for recruitment to such posts of the panchayat service and to advise the panchayats in such matters and to perform such other functions as may be prescribed.

(2) A District Panchayat Service Selection Committee shall consist of—

- (a) one member of the Gujarat Panchayat Service Selection Board to be nominated by the Chairman of that Board.
- (b) the President of the district panchayat of the district, and
- (c) such officer of the panchayat service or State service as the State Government may nominate.

(3)(a) In Addition to the District Panchayat Service Selection Committee, the State Government may appoint in each district a District Primary Education Staff Selection Committee for the recruitment of primary teachers and such other staff in connection with primary education as may be prescribed.

(b) The constitution, powers and duties of such a committee shall be such as may be prescribed.

CHAPTER XIV

CONTROL

Power of Government to prepare State wide projects etc. not affected.

237. Nothing in this Act shall affect the power of the State Government to prepare for the whole State the Five Year Plan or the project and programmes relating to the construction of roads, water supply, or any other matter or to undertake any project or programme concerning a district or more districts,

Panchayats to form part of Statewide Panchayats Organisation and to perform function so as to carry out the State policy.

238. The village panchayats, taluka panchayats, and district panchayats, notwithstanding that they are separate bodies corporate having distinct territorial jurisdiction and distinct functions to perform—

(1) shall form part of the panchayat organisation set up for the purpose of securing a greater measure of participation by the people of the State in local and governmental functions;

(2) shall perform the functions and duties assigned to them by or under this Act so as to conform to the State Five Year Plans and the National Five Year Plans and to the State policy in general and shall give effect to such general or special directions as the State Government may from time to time by order in writing issue in that behalf;

(3) shall carry their administration faithfully and efficiently.

239. (1) If in respect of any matter which is to be dealt with by a panchayat, the State Government so directs by a general or special order, it shall be the duty of the panchayat to invite such officer or person as may be designated by the State Government as an officer or person possessing technical knowledge and experience pertaining to such matter to attend the meeting of the panchayat or, as the case may be, of its committee whenever such matter is to be dealt with thereat.

Panchayat to invite designated officer or person to attend meetings.

(2) Where, upon such invitation, any such officer or person attends any meeting of the panchayat or, as the case may be, of its committee, he shall be entitled to take part in the discussion which may be held in respect of matter at the meeting but shall not be entitled to vote.

(3) Where any such officer or person attends any such meeting he shall be paid such allowances at such rates as may be prescribed.

240. Where the functions and duties assigned to village panchayats, taluka panchayats and district panchayats under the Panchayats Functions List relate to the same subject, then in order that the functions and duties may not overlap or that the responsibility for performing any such function or duty is not shifted by one panchayat to another on account of any ambiguity or misunderstanding, the State Government may, from time to time, by an order in writing issue to all any of the panchayats such directions, as it may think necessary for avoiding any such overlapping of functions, or shifting of the responsibility and the panchayats shall be bound to exercise their powers, and perform their functions and duties in conformity with such directions.

Power of Government to issue directions.

241. (1) Subject to the provisions of sub-section (2) no work or development scheme which a panchayat intends to undertake as, part of its functions and duties under this Act shall be commenced unless a detailed estimate of the cost of such work or development scheme has been approved by the panchayat and the plan thereof is approved by the prescribed authority.

Necessity of administrative sanction etc to works schemes, grant-in-aid and acquisition of property.

(2) No such work or development scheme shall be commenced and no grant-in-aid shall be made by a panchayat from its fund unless previous sanction has been accorded thereto by such authority as may be prescribed by rules in that behalf.

(3) Subject to such exceptions as may be prescribed no property shall be acquired by a panchayat unless previous sanction has been accorded thereto by such authority as may be prescribed.

242. (1) Save as otherwise provided in this Act, an appeal shall lie to the district panchayat against any order or decision of a village panchayat or taluka panchayat affecting any individual or institution.

appeals against order of village panchayat.

(2) Such appeal shall be made within a period of thirty days from the date of the order or decision.

(3) The district panchayat may pass such order on the appeal as it may deem just and proper and the order on appeal shall be final.

243. (1) Notwithstanding anything contained in section 145, the appellate powers conferred on a district panchayat under section 104, 200, and 241 shall be exercisable by an Appeal Committee of the district panchayat, which shall consist of the President of the panchayat and four other members of the panchayats as may be chosen by the panchayat from amongst its members.

Appeal Committee to exercise appellate powers of district Panchayats.

(2) The President of the panchayat shall be *ex-officio* Chairman of the Appeal Committee.

(3) The term of the Appeal Committee shall be two years.

(4) A member chosen on the Appeal committee may resign from membership of the Committee by tendering his resignation to the Chairman.

(5) The State Government shall make rules consistent with this Act to regulate the procedure that the Appeal Committee shall follow in exercising its appellate powers and such rules may provide for-

(a) the sitting of the members of the committee in benches constituted by the President or such other member of the committee as is authorised by him; and

(b) the mode of settling differences of opinion which may arise between the members of a bench.

(6) The appellate powers as aforesaid shall include power to grant temporary injunction or to issue a direction to stay the execution of the decision or order appealed against until the disposal of the appeal or to make such other interlocutory orders as may appear to be just and convenient and such power may be exercised by the Chairman of the Appeal Committee.

(7) Any decision given by the Appeal Committee in the exercise of the powers conferred on it by this section shall be deemed to be the decision of the district panchayat.

To whom appeal
may be addressed
etc.

244. An appeal to be made to a district panchayat shall be in writing and addressed to the District Development Officer. It may be sent to the District Development Officer by registered post or presented to him in person. Every such appeal shall be accompanied by the decision or order appealed against or by a certified copy thereof.

Power to call for
proceedings.

245. (1) The district panchayat shall have power--

(a) to call for any proceeding of any panchayat subordinate to it or an extract therefrom, any book or document in the possession of or under the control of any such subordinate panchayat and any return, statement, account or report which the district panchayat thinks fit to require such panchayat to furnish, and

(b) to require any such subordinate panchayat to take into consideration-

(i) any objection which appears to the district panchayat to exist to the doing of anything which is about to be done or is being done by such subordinate panchayat, or

(ii) any information which the district panchayat is able to furnish and which appears to the district panchayat to necessitate the doing of a certain thing by the subordinate panchayat, and to make a written reply to the district panchayat within a reasonable time stating its reasons for not desisting from doing or for not doing such things.

(2) An officer authorised by the State Government in this behalf by a general or special order shall, in respect of a district panchayat have the same powers as a district panchayat has under sub-section (1) in respect of a panchayat subordinate to it.

Powers of entry.

246.(1) The district panchayat may authorise its President, Vice-President or Secretary to enter on and inspect, or cause to be entered on and inspected, at all reasonable times any immovable property occupied by any subordinate panchayat or any work in progress under its direction and also to enter or cause to be entered the office of such panchayat and inspect or cause to be inspected any record, register or other document kept therein and such panchayat shall comply with the inspection notes, if any, made by the person making such inspection.

(2) The taluka panchayat, if so empowered by the State Government may authorise its President, Vice-President or Secretary to enter on and inspect, or cause to be entered on and inspected, at all reasonable times any immovable property occupied by any subordinate panchayat or any work in progress

under its direction and also to enter or cause to be entered the office of any such panchayat and inspect or cause to be inspected any record, register or other document kept therein and such panchayat shall comply with the inspection notes, if any, made by the person making such inspection.

247. An officer authorised by the State Government in this behalf by a general or special order may enter on and inspect or cause to be entered and inspected, at all reasonable times any immovable property occupied by any panchayat or any work in progress under its direction and also enter the office of any panchayat and inspect any record, register or other documents kept therein and the panchayat shall comply with the inspection notes, if any, made by such officer.

Powers of Officer of State Government regarding inspection.

248. (1) If in the opinion of the district panchayat the number of persons maintained by a panchayat subordinate to it as officers or servants, or the remuneration given or proposed to be given by the panchayat to such persons is excessive, the panchayat shall, on being required by the district panchayat, reduce such number or remuneration.

Reduction of establishment.

(2) The panchayat may appeal to the State Government or an officer authorised by it in that behalf against any requisition made under sub-section (1), and the decision of the State Government or the officer so authorised shall be final.

249. (1) If, in the opinion of the Taluka Development Officer the execution of any order or resolution of a panchayat subordinate to the taluka panchayat or the doing of anything which is about to be done, or is being done by or on behalf of such panchayat, is unlawful, he may by order in writing suspend, the execution or prohibit the doing thereof.

Suspension of execution of order.

(2) When the Taluka Development Officer makes an order under sub-section (1), he shall forthwith send to the panchayat affected thereby a copy of the order, with a statement of the reasons therefor.

(3) The Taluka Development Officer shall forthwith submit to the District Development Officer a report of every case occurring under this section and the District Development Officer may revise or modify any order made therein and make in respect thereof any other order which the Taluka Development Officer could have made.

(4) The District Development Officer in respect of a taluka panchayat or a village panchayat, shall have the same powers as taluka development officer has in respect of a village panchayat under sub-sections (1), (2) and (3) subject to the modification that he shall submit a report under sub-section (3) to the State Government. The State Government may pass such order thereon as it may deem fit.

(5) An officer authorised by the State Government in this behalf by a general or special order, shall in respect of a district panchayat, have the same powers as the District Development Officer has in respect of a taluka panchayat under this section.

(6) If in the opinion of the Collector the execution of any order or resolution of any panchayat or the doing of anything which is about to be done or is being done by or on behalf of such panchayat, is causing or is likely to cause injury or annoyance to the public or to lead to a breach of peace, the Collector may by order in writing suspend the execution or prohibit the doing thereof and shall forthwith:-

- (a) send to the panchayat affected thereby a copy of the order, with a statement of the reasons therefor and,
- (b) submit to the State Government a report thereof.

250. (1) In cases of emergency the Taluka Development Officer may provide for the execution of any work or the doing of any act which a panchayat subordinate to a taluka panchayat is empowered to execute or do, and the immediate execution or doing whereof is, in his opinion, necessary for the health or safety of the public and may direct that the expense of executing the work or doing the act shall be forthwith paid by the panchayat.

Execution of work in case of emergency.

(2) If the expense is not so paid, the Taluka Development Officer may direct the officer in charge of the treasury in which the fund of the panchayat is kept to pay such expense or so much thereof as is possible, from the balance of such fund in his hands and the Officer in charge of the treasury shall comply with such directions.

(3) The Taluka Development Officer shall forthwith report to the District Development Officer every case in which he exercises his powers under sub-section (1).

(4) The District Development Officer in respect of a taluka panchayat or village panchayat shall have the same powers as taluka Development Officer has in respect of a village panchayat under sub-section (1),(2) and (3) subject to the modification that he shall submit a report under sub-section (3) to the State Government.

(5) An Officer authorised by the State Government in this behalf by a general or special order, shall in respect of a district panchayat, have the same powers as the District Development Officer has in respect of a taluka panchayat under this section.

Extension by panchayat of its services, etc. to area outside its limits.

251. (1) If for the purpose of taking immediate steps for protecting life and property in any area affected by an outbreak of fire or epidemic disease or any other natural calamity, the District Development Officer is satisfied that it is necessary to requisition any service, equipment or staff provided or maintained by any panchayat within the area for which it is constituted, such officer may by order in writing direct the panchayat to supply to the area so affected such service equipment and staff for such purpose and for such period as may be specified in the order and the panchayat shall be bound to comply with the direction.

(2) Where any direction is issued to a panchayat under sub-section (1), the panchayat shall, subject to the provisions of sub-section (3), be entitled to the cost of supplying the service, equipment and staff in pursuance of the direction.

(3) (a) The sum payable to the panchayat under sub-section (2) by way of cost shall be determined by the officer making requisition under sub-section (1).

(b) If the area to which the service, equipment and staff are so supplied, is within the local limits of any municipal corporation, municipality, or any other panchayat, such corporation, municipality, or panchayat as the case may be, shall be liable to pay to the panchayat to which the order under sub-section (1) is directed, the sum determined under clause (a) and shall pay the same to the panchayat within such period as the officer determining the sum directs and in any other case, the sum determined under clause (a) shall be paid to the panchayat by the State Government.

(4) If any area not comprised within the local limits of a municipal corporation, municipality or panchayat, is affected by an outbreak of fire or epidemic disease or any other natural calamity and a panchayat is satisfied that for protecting life and property in that area, it is necessary to take immediate steps to make available any of its services, equipment and staff for that area, then notwithstanding anything contained in sub-section (1), (2) or (3), and whether requisition under sub-section (1) has been made or not, it shall be lawful for the panchayat to do so free of cost.

Default in performance of duty.

252. (1) If at any time, it appears to the district panchayat that any panchayat subordinate to it, has made default in the performance of any duty imposed on it by or under this Act, it may order the duty to be performed within a specified period, and if the duty is not performed within the period specified, the district panchayat may appoint a person to perform it, and direct that the expense of performance shall be paid by the defaulting panchayat within such period as the district panchayat may fix.

(2) If the expense is not so paid, the district panchayat may direct the person in custody of the fund of the panchayat to pay such expenses, or so much thereof as is possible from the balance of such fund in his hands, and such person shall pay such expense and part thereof accordingly.

(3) If at any time it appears to the State Government or any officer authorised by the State Government in this behalf, that a panchayat has made default in the performance of any duty and that the district panchayat has failed or neglected to take action under sub-section (1), the State Government or the officer authorised, as the case may be, may take such action as could have been taken by the district panchayat under sub-section (1) and (2).

(4) The district panchayat or the officer authorised, as the case may be, shall forthwith report to the State Government every case occurring under this section and the State Government may revise or modify any order made therein, and make in respect thereof, any other order which the district panchayat could have made.

(5) An officer authorised in this behalf by the State Government by a general or special order shall, in respect of district panchayat, have the same powers as the district panchayat has in respect of the panchayat subordinate to it under this section.

253. (1) If, in the opinion of the State Government, a panchayat exceeds or abuses its powers or is incompetent to perform or makes persistent default in the performance of, the duties imposed on it or functions entrusted to it under any provision of this Act or by or under any other law for the time being in force, or fails to obey an order made under this Act by the panchayat superior thereto or by the State Government or any officer authorised by it, under this Act or persistently disobeys any of such orders, the State Government may, after consultation with the district panchayat in the case of a panchayat subordinate to it and after giving the panchayat an opportunity of rendering an explanation, by order in the **Official Gazette**—

Dissolution or supersession of panchayats, for default.

(i) dissolve such panchayat, or

(ii) supersede such panchayat for the period specified in the order:

Provided that such period shall not be longer than six months or the residual period of duration of such panchayat whichever is less :

Provided further that the State Government may subject to the preceding proviso from time to time after making such inquiry as it may consider necessary by an order published in the **Official Gazette** extend the period of supersession of such panchayat until such date as may be specified in the order or by like order curtail the period of supersession.

(2) When a panchayat is dissolved or superseded, all members of the panchayat shall from the date specified in the order, vacate their office as such members.

(3) When the panchayat is dissolved or superseded, it shall be reconstituted, in the manner provided in this Act.

(4) If a panchayat is dissolved or superseded—

(a) all the powers and duties of the panchayat shall during the period of dissolution or supersession, as the case may be exercised and performed by such person or persons as the State Government may, from time to time appoint in that behalf, and

(b) all property vested in the panchayat shall during the period of dissolution or supersession, as the case may be, vest in the State Government ; and

(c) on the dissolution, or, as the case may be, on the expiry of the period of supersession, the panchayat shall be reconstituted in the manner provided in this Act, and the persons vacating office shall be eligible for re-election.

254. (1) When by a notification under clause (g) of article 243 of the constitution the limits of a village is altered so as to—

Consequences of alteration of limits of village.

(a) include any area therein, or.

(b) exclude any area there from,

the State Government may, notwithstanding anything contained in this Act or any other law for the time being in force, by order published in the Official Gazette, provide for all or any of the following matters, namely :—

(i) in a case falling under clause (a), the increase in the number of the members of the village panchayat by election of additional members ;

(ii) in a case falling under clause (b), the removal of the members of the village panchayat, who in the opinion of the State Government represent the area excluded from the village ;

Provided that where the area so excluded has been included in any other village, the members so removed shall be additional members of the panchayat of such village.

(iii) the term of additional members and the manner of filling casual vacancies ;

(iv) allocation of any officer or servant of the panchayats affected by the alteration of the limits.

(2) The panchayat, if any, constituted for the village and functioning immediately before the alteration of the limits shall, subject to the addition or exclusion of members under sub-section (1), continue to function until the expiry of its duration under this Act and on such expiry it shall be reconstituted in the manner provided in this Act.

(3) If in altering the limits of any village, the area excluded therefrom is included in any other village, then—

(a) such portion of the village fund, debts, obligations and other property of the village from which the area is so excluded shall be transferred to and shall vest in, the panchayat of the village in which such area is included, as the State Government may, by order in writing direct ;

(b) the rights and liabilities of the panchayat in respect of any contracts, agreements and other matters and things, arising in or relating to the area so excluded shall vest in the panchayat of the village in which the area is so included ;

(c) any notice, tax, fee, cess, order, licence, permission rule or bye-law issued, imposed, granted or made in respect of the area so excluded shall be deemed to have been issue, imposed, granted or made in respect of the panchayat in which the area is so included and shall continue in force until it is superseded under the provisions of the law applicable thereto ;

(d) all proceedings relating to the area excluded from the village and pending before the panchayat on the date of such exclusion shall be transferred to and disposed off by the panchayat of the village in which the area is included.

Effect of area being excluded from village.

255. Where by a notification under clause (g) of article 243 of the Constitution any local area forming part of village is excluded from such village and such area is not included in or declared to be village so much of the village fund and other property vesting in the panchayat of the village of which such area formed part, as the State Government by order in writing direct, shall best in the State Government to be utilized for the benefit of the area as the State Government may think fit.

Effect of area ceasing to be village.

256. On any area ceasing to be a village by virtue of any notification under clause (g) of article 243 of the Constitution,

(a) the panchayat shall be dissolved and all members of the panchayat shall vacate office as from the date of the notification ;

(b) the unexpended balance of the fund of the panchayat and the property (including arrears of rates, Taxes and fees) vesting in the panchayat shall vest in the State Government to be utilised for the benefit of the inhabitants of the areas as the State Government thinks fit.

257 (1) Where in respect of a panchayat which is to be reconstituted on account of the expiry of its duration, the State Government is satisfied that, it is not possible to hold elections before the expiry of duration for reconstitution the panchayat on account of said natural calamity, then, notwithstanding anything contained in this Act or rules made thereunder the State Government may by notification in the Official Gazette make a declaration to that effect.

Power of State Government to appoint officer when elections not held for reconstitutions panchayat.

(2) A notification issued under sub-section (1) in relation to panchayat shall remain in force for such period not exceeding three months commencing from the date of expiry of the duration of the panchayat as may be specified therein.

(3) On the issue of the notification under sub-section (1) all the powers and duties of the panchayat shall be exercised and performed for the period during which the notification remains in force by such officer as the State Government may by order in writing specify.

258. (1) The State Government may from time to time cause inquiry to be made by way of its officers in regard to any panchayat or matters concerning it or to any matters with respect to which the sanction, approval, consent or order of the State Government is required by this Act.

Inquiry by officers of panchayat.

V. of 1908.

(2) The Officer holding such inquiry shall have the powers of a court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the inquiry.

(3) The State Government may make orders as to the cost of inquiries under sub-section (1) and as to the parties by whom and the funds out of which they shall be paid and any such order may, on the direction of the State Government or the application of any person named therein, be executed as if it were a decree of a civil court.

259. The State Government may call for and examine the record of proceeding of any panchayat or of any committee thereof or of any officer for the purpose of satisfying itself as to the legality or propriety of any order passed and may revise or modify the order as it shall deem just.

State Government may call for proceedings.

CHAPTER XV

PROVISIONS FOR CONVERSION OF A NAGAR PANCHAYAT INTO A VILLAGE PANCHAYAT AND FOR AMALGAMATION AND DIVISION OF PANCHAYATS

260. For the purpose of this Chapter, unless the context otherwise requires—

Interpretation.

Guj. of 1964.

(a) "municipal borough" means a municipal borough within the meaning of the Gujarat Municipalities Act, 1963;

Guj. of 1964.

(b) "nagar panchayat" means a nagar panchayat constituted for a municipal borough and includes a person or persons authorised to exercise the powers and perform the functions of a municipality under section 263 of the Gujarat Municipalities Act, 1963 (hereinafter referred to as "The Municipal Act");

(c) "panchayat" includes a person or persons appointed to exercise the powers and to perform the functions of a panchayat under section 253.

261. (1) Where any local area is declared to be a village under clause (g) of article 243 of the constitution and, immediately before such declaration, the local area was co-extensive with the limits of a municipal borough or included an area comprising a municipal borough as well as any other area, then with effect from the date on which such local area is so declared to be a village (in this section referred to "as the said date") the following consequences shall, notwithstanding anything in the Municipal Act, ensue, that is to say—

Effect of conversion of nagar panchayat into village panchayat.

(a) the nagar panchayat functioning in such local area or part thereof shall cease to exist ;
V-87-24,

(b) there shall, notwithstanding anything contained in any law for the time being in force be constituted for the village an interim village panchayat consisting of persons vacating office as members of the nagar panchayat or members of the committee thereof and the President and Vice-President of the nagar panchayat shall respectively, be deemed to be the Sarpanch and Upa-Sarpanch of the interim village panchayat ;

Provided that if immediately before the nagar panchayat so ceasing to exist, there be a person or persons appointed under section 263 of the Municipal Act to exercise the powers and perform the duties of the nagar panchayat, there shall be an interim village panchayat for the local area and the person or persons so appointed shall be deemed to be a person or persons appointed under clause (a) of sub-section (4) of section 293 to exercise all the powers and perform all the duties of such interim village panchayat.

(c) the unexpended balance of the nagar fund and property including arrears of rates, taxes and fees belonging to the nagar panchayat, and all rights and powers, which prior to such notification, vested in the nagar panchayat shall, subject to all charges and liabilities affecting the same vest in the interim village panchayat as the village fund until the new panchayat is constituted under the provisions of this Act ;

(d) any appointment, notification, notice, tax, fee, cess, order, scheme, licence permission, rule, bye, law, or form made, issued, imposed or granted under the Municipal Act immediately before the said date in respect of such local area shall continue to be in force and be deemed to have been made, issued, imposed or granted in respect of the village until it is superseded or modified by any other appointment, notification, notice, tax fee, cess, order, scheme, licence, permission, rule, bye-law, or form made, issued, imposed or granted under this Act.

(e) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated under the Municipal Act immediately before the said date in respect of such local area shall be deemed to have been made or authenticated under this Act ;

(f) all debts and obligations incurred and all contracts made by or on behalf of the nagar panchayat immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the interim village panchayat in exercise of the powers conferred on it by or under this Act;

(g) all officers and servants in the employ of the nagar panchayat immediately before the said date shall be officers and servants of the interim village panchayat under this Act and shall, until other provision is made in accordance with the provisions of this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date :

Provided that it shall be competent to the interim village panchayat subject however to the previous sanction of the State Government, to discontinue the services of any officer or servant who, in its opinion, is not necessary or suitable to the requirements of the service of the interim village panchayat, after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalidated out of service as if the nagar panchayat in the employ of which he was, had not ceased to exist ;

(h) all proceedings pending at the said date before the nagar panchayat shall be deemed to be transferred to, and continued by, the interim village panchayat ;

(i) all appeals pending at the said date before the nagar panchayat shall, so far as may be practicable, be disposed of as if such local area had been included in the village when they were filed ;

(j) all prosecutions instituted by or on behalf of the nagar panchayat and all suits or other legal proceedings instituted by or against such nagar panchayat or any officer of such nagar panchayat pending at the said date

shall be continued by or against the interim village panchayat as if such local area had been included in the village when such prosecutions, suits or proceedings were instituted ;

(k) any law (other than the Municipal Act) of any rule, bye-law, notification or order issued under such law, which was applicable to and in force in the local area immediately before it was declared as a village under clause (g) of article 243 of the Constitution, shall continue to apply to and to be in force in the local area until it is superseded.

(2) The duration of the interim village panchayat shall be the same as that of the nagar panchayat had it continued to exist or till elections are held for reconstituting the interim village panchayat alongwith other village panchayats whichever is earlier.

(3) All arrears of rates, taxes and fees vesting in the interim village panchayat shall be recoverable under the provisions of this Act as if the rates, taxes and fees were imposed and recoverable under this Act.

(4) In other respects the provisions of this Act shall, *mutatis mutandis*, apply to the interim village panchayat and its members.

(5) If any difficulty arises.

(i) in the constitution of the interim village panchayat which succeeds it, or

(ii) in giving effect to the provisions of this section.

the State Government may by order, as occasion may require, do notwithstanding anything contained in this Act or in the Municipal Act, anything which appears to it to be necessary to remove the difficulty.

262. (1) When two or more villages cease to be villages and the local areas constituting such villages are amalgamated and declared to be one village (hereinafter in this section referred to as "an amalgamated village"), by virtue of a notification under clause (g) of article 243 of the Constitution, with effect from the date on which such notification is issued (hereinafter in this section referred to as "the said date") the following consequences shall ensue, that is to say-

Effect of amalgamation of villages.

(a) the panchayats of such local areas shall cease to exist and all the members of such panchayats shall vacate office;

(b) all powers and duties of such panchayats shall be exercised and performed by such person or persons (hereinafter referred to as the administrator or administrators) as the State Government appoints in this behalf;

(c) the unexpended balance of the village funds and all the properties including areas of rates, taxes and fees belonging to such panchayats and all rights and powers which prior to the said date, vested in such panchayats shall, subject to all charges and liabilities affecting the same, vest as the village fund-

(i) in the administrator or administrators until the panchayat for the amalgamated village is constituted and holds its first meeting under sub-section (1) of section 51, and

(ii) thereafter, the amalgamated panchayat;

(d) the unexpended balance of the village funds and all the properties (including arrears of rates, taxes and fees) shall until amalgamated panchayat is constituted and holds its first meeting, be utilised for the benefit of the inhabitants of such local areas in such manner as the administrator or administrators may think fit;

(e) any appointment, notification, notice tax, fee, cess, order, scheme, licence, permission, rule, bye-law or form made, issued, imposed or granted in respect of such local areas and in force on the said date shall continue in force and be deemed to have been made, issued,

imposed or granted in respect of the amalgamated village until it is superseded or, modified by any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, bye-law or form made imposed or granted under this Act;

(f) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated by such panchayats immediately before the said date shall be deemed to have been made or authenticated in respect of the amalgamated village under this Act;

(g) all debts and obligations incurred and all contracts made by or on behalf of such panchayats immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the amalgamated panchayat in exercise of the powers conferred on it by this Act;

(h) all officers and servants in the employ of such panchayats immediately before the said date shall be officers and servants of the amalgamated panchayat and shall until other provision is made in accordance with this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date :

Provided that it shall be competent to the administrator or administrators or the amalgamated panchayat, subject however, to the previous sanction of the State Government, to discontinue the services of any officer or servant who, in his, their or its opinion, is not necessary or suitable to the requirements of the service of the amalgamated panchayat, after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued, shall be entitled to such leave, pension, provident fund and gratuity, as he would have been entitled to take or receive on being invalided out of service, as if the panchayat in the employ of which he was, had not ceased to exist.

(i) all proceedings pending at the said date before such panchayats shall be deemed to be transferred to, and continued by, the administrator or administrators or the amalgamated panchayat, as the case may be;

(j) all appeals pending before such panchayats at the said date shall so far as may be practicable, be disposed of by the administrator or administrators of the amalgamated panchayat, as the case may be;

(k) all prosecutions instituted by or on behalf of such panchayats and all suits or other legal proceedings instituted by or against such panchayats, or any officer of such panchayats pending at the said date shall be continued by or against the amalgamated panchayat.

(2) Within four months of the said date a panchayat for the amalgamated village shall be constituted in accordance with the provisions of this Act and its duration shall be for such period as the State Government may, having regard to the remainder of the period for which village panchayats in the district in which the amalgamated village is situate, by notification in the official Gazette specify.

263. (1) Where by virtue of a notification issued under clause (g) of article 243 of the Constitution any village ceases to be a village or is split up into two or more villages with effect from the date on which the village is so split up (hereinafter referred to as "the said date") the following consequences shall ensue, that is to say-

(a) the panchayat constituted in respect of such local area shall stand dissolved and all the members of the panchayat shall vacate office;

(b) until for the respective new village a village panchayat is constituted the State Government shall appoint an administrator or administrators, to exercise the powers and perform the functions of the respective panchayat of the new village;

(c) the unexpended balance of the village fund and all properties, including arrears of rates, taxes and fees belonging to the dissolved

panchayat shall subject to all charges and liabilities affecting the same, vest in such proportion and in such manner as the State Government may direct in the respective panchayat of the new village:

Provided that until the respective panchayat for new village is constituted and it holds its first meeting under sub-section (1) of section 51 the unexpended balance of the fund and other properties vesting in the panchayat shall be held by the administrator of new village and shall be utilised by him for the benefit of the inhabitants of the new village in such manner as he may think fit;

- (d) any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, bye-law or form made, issued, imposed or granted in respect of the area within the jurisdiction of the dissolved panchayat and in force on the said date shall continue in force and be deemed to have been made, issued imposed or granted in respect of the new village formed out of the said area until it is superseded or modified by any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, bye law or form made issued, imposed or granted under the law applicable thereto ;
- (e) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated by the dissolved panchayat immediately before the said date shall in so far as they relate to the new village be, deemed to have been made or authenticated in respect of the new village;
- (f) all debts and obligations incurred and all contracts made by or on behalf of the dissolved panchayat immediately before the said date and subsisting on the said date shall in, so far as they relate to the village formed in the area within the jurisdiction of the dissolved panchayat be the debts and obligations incurred by and the contracts made by the panchayat of the new village -
- (g) all officers and servants in the employ of the dissolved panchayat immediately before the said date shall be allocated to the panchayat of the new village by the State Government in such manner as it may direct and until other provision is made in accordance with this Act, they shall receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on the said date ;
- (h) all proceedings (including appeals) pending at the said date before the dissolved panchayat shall be deemed to be transferred to and continued by the panchayat of new village before which they would have been instituted, had the new village been formed when the proceedings were instituted ;

Provided that until the panchayat for the new village is constituted the administrator appointed for the new village may deal with such proceedings and dispose them off;

- (i) all prosecutions instituted by or on behalf of and all suits or other legal proceedings instituted by or against the dissolved panchayat or any officer thereof and pending at the said date shall be continued by or against the panchayat of the new village, by, on behalf of or against which they would have been instituted, had the new village been formed when the prosecutions, suits or legal proceedings were instituted and until such panchayat is constituted, shall be continued by or against the administrator appointed for new village.
- (2) Within four months of the said date a panchayat for the respective new village shall be constituted in accordance with the provisions of this Act and its duration shall be for such period as the State Government may, having regard to the remainder of the period for which village panchayats in the district in which the respective new villages are situated, by notification in the Official Gazette specify.

264. (1) When, on account of the constitution of a new district or taluka under the Land Revenue Code, or for any other reason, the limits of a

Consequences of alteration of limits of district or taluka.

district, or as the case may be, a taluka are, during the term of office of the members of the district panchayat or, as the case may be, the taluka panchayat, altered so as to-

- (a) include any area therein, or
- (b) exclude any area therefrom,

the State Government may, notwithstanding anything contained in this Act or any other law for the time being in force, by order published in the **Official Gazette**, provide for all or any of the following matters, namely :—

- (i) in a case falling under clause (a), the interim increase in the number of members of the district panchayat or, as the case may be, the taluka panchayat, and the appointment of such additional members from amongst the members of panchayat who are elected from the area so included ;
 - (ii) in a case falling under clause (b), the interim reduction in the number of members of the district panchayat, or, as the case may be, the taluka panchayat and the termination of office of the elected members of the district panchayat or, as the case may be taluka panchayat who are elected as such members from the area so excluded;
 - (iii) the term for which additional members so appointed shall hold office and the manner of filling casual vacancies of such members ;
 - (iv) allocation of any officer or servant of the panchayat affected by the alteration of limits ;
 - (v) the removal of any difficulty which may arise on account of any change referred to in clause (a) or clause (b).
- (2) The district panchayat or the taluka panchayat, if any, functioning immediately before the alteration of the limits shall, subject to the addition or exclusion of member under sub-section (1), continue to function until the expiry of its duration under this Act and on such expiry it shall be reconstituted in the manner provided in this Act.
- (3) If in consequence of the alteration of the limits of any district or taluka, the area excluded therefrom is included in any other district or taluka, then -
- (a) such portion of the district or taluka fund, and other property of the district or taluka panchayat of the district or taluka from which the area is so excluded shall vest in, and be transferred to, the district panchayat, or as the case may be, the taluka panchayat of the district, or as the case may be, the taluka in which such area is included, as the State Government may, by order in writing, direct ;
 - (b) the rights, assets and liabilities of the district or taluka panchayat of the district or taluka from which the area is so excluded in respect of any contracts, agreements and other matters and things, arising in or relating to the area so excluded, shall vest in, and be transferred to, the district or taluka panchayat of the district or taluka in which the area is included ;
 - (c) any notification, notice, tax, fee, cess, rule, bye-law, order licence or permission issued, imposed, made or granted by the district or taluka panchayat in respect of the area so excluded shall be deemed to have been issued, imposed, made or granted by the district or taluka panchayat of the district or taluka in which the area is so included and shall continue in force until it is superseded in accordance with law ;
 - (d) all proceedings relating to the area excluded from the district or taluka and pending before the panchayat on the date of such exclusion shall be transferred to and disposed of by the district or taluka panchayat of the district or taluka in which the area is included.

CHAPTER XVI

MISCELLANEOUS PROVISION

265. (1) A panchayat may, from time to time, concur with any other panchayat or with any local body or with more than one such local body-

Joint Committees
of two or more
local bodies.

- (a) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee ;
- (b) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies ; and
- (c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

(2) A panchayat may subject to the sanction of the State Government, from time to time, enter into an agreement with any other panchayat, local body or with a combination of any such bodies, for the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

(3) Where a panchayat has requested the concurrence of any other local body under the provisions of sub-section (1) or (2) in respect of any matter and such other local body has refused to concur, the State Government may pass such orders as it may deem fit requiring the concurrence of such other local body (not being a cantonment authority) in the matter aforesaid, and such other local body shall comply with such orders.

(4) If any difference of opinion arises between local bodies acting under this section, the decision thereon of the State Government or of such officer as it appoints in this behalf, shall be final :

Provided that, where one of the local bodies is a cantonment authority, the decision of the State Government, or of the officer, shall be subject to the concurrence of the Central Government.

266. (1) There shall be a State Council for panchayats consisting of the following members, namely :—

Constitution of
State Council
for panchayats,
its functions, etc.

(A) Chairman :

(i) Minister in charge of the Department dealing with Panchayats Organization of the State ;

(B) Vice-Chairman.

(ii) The Minister of State dealing with the Panchayats Organization of the State or if there is no such Minister of State, the Deputy Minister dealing with such Organization, or in the absence of both such Ministers, the Parliamentary Secretary dealing with such Organization: Provided that where there is no person holding any of such offices, the Vice-Chairman shall be elected by the Council from amongst its members ;

(C) Members :

(iii) Presidents of the district panchayats ;

(iv) Seven members to be nominated by the State Government from amongst persons taking interest in the development of panchayats. Out of these one shall be a woman and one shall be a person from Scheduled Castes and one shall be a person from amongst the Scheduled Tribes if none of the members falling under clause (iii) is a person belonging to a Scheduled Tribe;

- (v) Three Officers to be nominated by the State Government ;
- (vi) Three members to be elected by the members of the Gujarat Legislative Assembly from amongst themselves.

(2) Such officer as the State Government may appoint in this behalf shall act as a Secretary to the Council.

(3) The functions of the Council so constituted shall be as under :—

- (a) to advise the State Government on all general questions pertaining to panchayats ;
- (b) to advise the State Government in respect of a scheme for the training of Secretaries and other servants of panchayats ;
- (c) to review the administration of panchayats and to suggest ways of coordinating the activities of panchayats in the State ;
- (d) to suggest ways and means to remove the difficulties experienced by the panchayats in the State in their administration ;
- (e) to make *suo motu* recommendations to the State Government in regard to any matter relating to the administration of the panchayats;
- (f) to report to the State Government on such matters as may be referred to it by the State Government for its opinion.

(4) The State Government may by general or special order provide for—

- (a) the calling of the meetings of the Council and the procedure of meeting ;
- (b) duties of the Secretary for the Council;
- (c) sub-committees of the Council ;
- (d) the term of office of nominated members of the Council, travelling allowance and daily allowance to the members of the Council and the rate thereof.

(5) The term of office of the member elected by the Members of the Gujarat Legislative Assembly shall expire on the expiry of his term as the member of the Gujarat Legislative Assembly or if he otherwise ceases to be such member.

(6) Any elected or nominated member of the Council may resign from the membership by tendering his resignation in writing to the Chairman and the resignation shall take effect from the date on which it is accepted by the Chairman who shall give intimation of the vacancy—

- (a) to the State Government in the case of the resignation of a nominated member, and
- (b) to the Secretary to the Gujarat Legislative Assembly in the case of the resignation of a member elected by that Assembly.

Liabilities of members for loss, waste or mis-application.

267. (1) Every member of a panchayat or its Committee shall be personally liable for the loss, waste, or misapplication of any money or other property of panchayat to which he has been party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member.

(2) If after giving the member concerned a reasonable opportunity for showing cause to the contrary, an officer authorised by the State Government is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross negligence on his part the officer so authorised shall by an order in writing, direct such member to pay to the panchayat before a fixed date, the amount required to be reimbursed to it for such loss, waste or mis-application.

(3) If the amount is not so paid, it shall be recovered as an arrear of land reveue and credited to the fund of the relevant panchayat.

(4) Any person aggrieved by the decision or action of the officer so authorised may apply to the District Court as provided in sub-section (6) of section 121, within the like time for redress of his grievance and that court may pass any order thereon which it can pass under that sub-section.

268. (1) Where, the officer authorised in this behalf by the State Government is of the opinion that any person, who in his capacity as a member, officer, servant, or secretary of a panchayat had, in his custody any record, money or other property belonging to the panchayat is after his retirement, removal or suspension from office, as the case may be, not likely to deliver such record or property or pay such money, the officer so authorised may, by a written order, require that the record, property or money so detained be delivered or paid to the panchayat forthwith.

Power of authorised officer to recover record and money.

(2) If any such person as aforesaid shall not deliver the record or property or pay the money as directed, the officer so authorised may cause him to be apprenended and may send him with a warrant in such form as may be prescribed to be confined in a civil ail till he delivers the record or property or pays the money :

Provided that no such person shall be so detained in confinement for a period longer than one calender month.

(3) It shall be lawful for the officer so authorised -

(a) for recovering any such money to direct that such money be recovered as an arrear of land revenue and on such direction being given, such money shall be recoverable as an arrear of land revenue from such person;

(b) for recovering any such record or property to issue a search warrant and to exercise all such powers with respect thereto as may lawfully be exercised by a Magistrate under the provisions of Chapter 7 of the Code of Criminal Procedure, 1973.

(4) No action under sub-section (1), (2) or (3) shall be taken unless reasonable opportunity has been given to the person concerned to show cause why such action should not be taken against him.

Explanation :—In the section the word "member" includes a Sarpanch, Upa-Sarpanch, President and Vice-President of a panchayat.

269. (1) Whoever not being duly authorised in that behalf occupies or is in possession of any property vesting in, or under the control of, a panchayat shall without prejudice to any other action which may be taken under this Act, be liable to pay in to the panchayat a sum upto four times the amount of rent which would have been payable to the panchayat for the period of such occupation or possession, had the property been let by the panchayat.

Liability to pay rent for unauthorised occupation or possession of property of panchayat.

(2) The sum so payable shall be detrmind by the panchayat in the prescribed manner and thereafter the sum shall become due to the panchayat and the provisions of Chapter X shall *mutatis mutandis* apply to the recovery thereof.

270. (1) No action shall be brought against any panchayat or any member, officer, servant or agent of a panchayat or any member of a committee of a panchayat acting under its direction, in respect of anything in good faith done under this Act or under any rule or bye-law made thereunder.

Bar of action against panchayat etc. and previous notice before institution.

(2) No action shall be brought against any panchayat or any member, officer, servant or agent of such panchayat or any member of a committee of a panchayat acting under its direction for anything done or purporting to have been done by or under this Act, until the expiration of one month next after notice in writing has been left or delivered at the office of the panchayat. and also at the residence of the member, officer, servant or agent thereof against whom the action is intended to be brought; the notice shall state

the cause of action, the nature of the relief sought; the amount of compensation claimed and the name and place of abode of the person who intends to bring the action.

(3) Every such action shall be commenced within six months after the accrual of the cause of action, and not afterwards.

(4) If any panchayat or person to whom the notice under sub-section (2) is given shall, before an action is brought, tender sufficient amount to the plaintiff, and pay into Court the amount so tendered, the plaintiff shall not recover more than the amount so tendered; the plaintiff shall also pay all costs incurred by the defendant after such tender.

Delegation of powers.

271. (1) The State Government may, by notification in the Official Gazette, authorise any officer of Government to exercise any of the powers exercisable by the State Government under this Act except the power to make rules.

(2) Subject to the general or special orders which the State Government may issue from time to time—

(i) a district panchayat may delegate to a District Development Officer.

(ii) a taluka panchayat may delegate to a Taluka Development Officer, and

(iii) a competent authority may delegate to any officer subordinate to it, any powers exercisable by it under this Act.

Members etc. of panchayats, and servants etc. to be public servants.

XLV of 1860.

Previous sanction for prosecution against Sarpanch Chairman President etc.

272. Every member of a panchayat or of its committee, and every officer and servant maintained by or employed under panchayat, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

273. When any person who is or had been a Sarpanch, Upa-Sarpanch President or Vice-President of a panchayat or a Chairman of the Education Committee of district is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of the State Government or any officer authorised by the State Government in this behalf.

Power of Government to make rules.

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274. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made—

(a) for the whole or any part of the State of Gujarat and for all or any panchayat.

✓ (b) to provide for all matters expressly required or allowed by this Act to be prescribed by rules, and

(c) to provide that a contravention of any rule prescribing the duties and obligations of any person liable to pay any tax or fee made under sub-section (2) of section 200 or sub-section (1) of section 212 shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing contravention with fine which may extend to twenty five rupees for every day during which the contravention continues after conviction for the first contravention.

(3) Such rules may also provide for the levy of fees for the inspection or search of any document issued under this Act or of any record maintained under or for the purposes of this Act and for giving copies of or extracts from such document or record and the scale of such fees.

(4) The power to make rules in respect of matters required to be determined by rules under sub-section (4) of section 65 and sub-section (5) of section 79, and sections 125 and 148 may be exercised either prospectively or retrospectively.

(5) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication except where the rules provide for any of the matters specified in Chapter XIII. (3)

(6) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the legislature may make during the session in which they are so laid, or the session immediately following. 4

(7) Any modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect. h

275. (1) A district panchayat may, with the previous sanction of the State Government make bye-laws for a village panchayat generally for carrying out the purposes of this Act. Bye-laws.

(2) Without prejudice to the generality of the foregoing provision, the district panchayat may make bye-laws :—

(i) for the purification and protection from pollution of all sources of water used for drinking purposes and the regulation of water supply ;

(ii) for the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source, where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in or covering over to such tank, or well, or by any other method which may be considered advisable ;

(iii) for the prohibition of the deposit or storage of manure, refuse, or other offensive matter in a manner or in places prejudicial to the public health, comfort or convenience ;

(iv) for the regulation of offensive callings or trades ;

(v) for the disposal of corpse by burning or burial ;

(vi) for the excavation of earth and the filling up of excavations and depressions injurious to the health or offensive to the neighbourhood ;

(vii) for the removal of noxious vegetation ;

(viii) for the repair and removal of dangerous or ruinous buildings ;

(ix) for the prevention of the erection of buildings without adequate provisions for ventilation or the laying out and location of streets ;

(x) for the control of fairs and bazars and the regulation of markets, slaughter houses and cart stands ;

(xi) for the inspection and destruction of unfit food and drink exposed for sale ;

(xii) for the general regulation of sanitation and conservancy and the disposal of carcasses of dead animals ;

(xiii) for the temporary erection on, or projection over, or temporary occupation or, any public street or place ;

(xiv) for the regulation of any matter specified in Schedule I by the issue of licences or permits or in any other manner.

(3) any bye-laws made under this section may provide for the levy of fees in respect of any matter provided for in the bye-law.

(4) Any bye-law made under this section may provide that a contravention thereof shall be punishable—

(a) with a fine which may extend to two hundred rupees ;

(b) in the case of a continuing contravention with a fine, which may extend to twenty five rupees per day after conviction for the first contravention during period within which such contravention continues.

Repeal and savings.

276. (1) In this section unless the context otherwise requires -

(a) "appointed day" means such date as the State Government may, by notification in the Official Gazette appoint ;

(b) "an existing panchayat" means a gram panchayat, taluka panchayat or district panchayat existing immediately before the appointed day, and where any such panchayat has been superseded or dissolved includes the person or persons appointed to exercise the powers or to perform the functions of such panchayats;

(c) "the successor panchayat" means a village panchayat, taluka panchayat or district panchayat constituted under this Act for such local area as corresponds to the respective local area of the existing gram panchayat, taluka panchayat or district panchayat.

(2) With effect on, and from the appointed day the Gujarat Panchayats Act, 1961 shall stand repealed and the following consequences shall ensue, that is to say--

(a) all property, movable and immovable, and all interests of whatsoever and kind therein, which vested in an existing panchayat, immediately before the appointed day, shall be deemed to be transferred to, and shall vest in the successor panchayat, subject to all limitations, conditions and rights or interests of any person, body or authority in force or subsisting immediately before the appointed day ;

(b) all rights, liabilities and obligations of an existing panchayat, (including those arising under any agreement or contract) shall be deemed to be the rights, liabilities and obligations of the successor panchayat ;

(c) any functions relating to recovery of land revenue and cesses under the Land Revenue Code and law relating to collection of cesses; any functions of district school boards; any functions under the Gujarat Co-operative Societies Act, 1963 and any functions of the State Government under any enactment or any other function of the State Government, transferred to an existing panchayat under the repealed Act shall be deemed to have been transferred to the successor panchayat under this Act ;

(d) all sums due to an existing panchayat, whether on account of any tax or otherwise, shall be recoverable by the successor panchayat. and for the purposes of such recovery the successor panchayat. shall be competent to take any measure or institute any proceedings which it would have been open to an existing panchayat, or any authority thereof to take or institute before the appointed day ;

(e) the unexpended balance in the Gram Fund, Taluka Fund, District Fund or, as the case may be, District Family Welfare Fund constituted under the Repealed Act and all sums due to an existing panchayat and such sums of any other body or bodies as the State Government may direct shall form part of, and be paid into, the respective village fund, taluka fund, district fund or, as the case may be, District Family Welfare Fund of the successor panchayat constituted under this Act :

(f) the unexpended balance in the State Equalisation Fund, District Equalisation Fund, District Gram Encouragement Fund and District Development Fund established under the repealed Act shall form part of and paid into corresponding fund established under this Act ;

(g) all contracts made with, and all instruments executed by or on behalf of an existing panchayat shall be deemed to have been made with, or executed by or on behalf of the successor panchayat, and shall have effect accordingly ;

(h) all proceedings and matters pending before the existing panchayat or any authority of an existing panchayat, under the Repealed Act immediately before the appointed day, shall be deemed to have been instituted and to be pending before the successor panchayat or such authority as the successor panchayat may direct ;

(i) in all suits and legal proceedings pending on the appointed day in or to which an existing panchayat, is a party, the successor panchayat, shall be deemed to be substituted therefor;

(j) any appointment, notification, notice, tax, fee, order, scheme, licence, permission, rule-by-law, regulation or form made, issued imposed or granted in respect of the local area of an existing panchayat under the repealed Act and in force immediately before the appointed day, shall, in so far as it is not inconsistent with the provisions of this Act, continue to be in force as if made, issued, imposed or granted in respect of the corresponding local area of the successor panchayat under this Act until superseded or modified by any appointment, notification, notice, tax, fee, order scheme licence permission, rule bye-law, regulation or form made, issued imposed or granted under this Act ;

(k) all budget estimates, assessments, assessment lists, valuations, or measurements made or authenticated by or in respect of an existing panchayat under the Repealed Act and in force immediately before the appointed day shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made or authenticated by the successor panchayat ;

(l) all officers and servants in the employment of an existing panchayat immediately before the appointed day, shall, subject to the provisions of this Act be deemed to be transferred to the service of the successor panchayat ;

(m) any reference in any law or in any instrument to the provision of the Repealed Act, or any authority constituted, elected or appointed thereunder shall, unless a different intention appears, be construed as a reference to the corresponding provisions of this Act, or as the case may be, to the corresponding authority constituted, elected or appointed under this Act.

277. (1) For the purpose of bringing the provisions of any law in force in the territory of this State into accord with the provisions of this Act, the State Government may by order published in the **Official Gazette** make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order have effect subject to adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

Power of State Government to adapt laws.

(2) Nothing in sub-section (1) shall be deemed--

(a) to empower the State Government to make any adaptation or modification of any law after the expiration of four years from the commencement of this section, or

(b) to prevent the State Legislature or other competent authority from repealing or amending any law adapted or modified by the State Government under this section.

Explanation.—The expression “law in force” in this section shall include a law passed or made by the State Legislature or other competent authority in the State before the commencement of this section and not previously repealed, notwithstanding that it or parts of it may not be then in operation either in all, or any particular areas in the State.

278. If any difficulty arises in giving effect to the provisions of this Act or any Schedule the State Government may, as occasion requires, by order do anything which appears to it to be necessary for the purpose of removing the difficulty.

Removal of difficulties.

279. Where the term of a panchayat constituted under the Gujarat Panchayats Act, 1961 expires within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992 or a Panchayat constituted under the said Act is dissolved, then until a panchayat is duly constituted under this Act for the first time and its first meeting is held, its powers, functions and duties shall be performed by such person as the State Government may by order in writing, appoint.

Transitional Provision.

SCHEDULE—I*(See Section 99)***MATTERS IN RESPECT OF WHICH IT IS THE DUTY OF VILLAGE PANCHAYATS TO MAKE PROVISION.**

- I. In the sphere of sanitation and health -
- (a) supply of water for domestic use and for cattle;
 - (b) construction and cleaning of public roads, drains, ponds, tanks and wells other than tanks and wells used for irrigation purposes and other public places;
 - (c) sanitation, conservancy, the prevention and abatement of nuisance;
 - (d) preservation and improvement of public health, establishing and maintaining public hospitals and dispensaries providing public relief;
 - (e) regulation by licensing or otherwise of tea, coffee and milk shops;
 - (f) provision, maintenance and regulation of burning and burial grounds;
 - (g) ensuring systematic disposal of carcasses, provision of definite place for the purpose and other means for the disposal of unclaimed corpses and carcasses;
 - (h) construction and maintenance of public latrines;
 - (i) taking of measures to prevent the outbreak, spread and recurrence of any infectious disease;
 - (j) reclaiming of unhealthy localities;
 - (k) removal of rubbish heaps, jungle growth, prickly pear, the filling in of disused wells insanitary ponds, pools, ditches, pits or hollows, the prevention of water-logging in irrigated areas and other improvements of sanitary conditions;
 - (l) maternity and child welfare;
 - (m) the encouragement of human and animal vaccination;
 - (n) the provision and maintenance of compost pits;
 - (o) regulating the keeping of cattle and taking necessary steps against stray cattls and dogs;
 - (p) regulating, checking and abating of offensive or dangerous trade or practices;
 - (q) watering public streets and places;
 - (r) cleaning public streets, places and sewers, and all spaces not being private property, which are open to the enjoyment of the public, whether such places are vested in the panchayat or not; removing the noxious vegetation, and abating all public nuisances;
 - (s) extinguishing fires, and protecting life and property when fires occur;
 - (t) removing obstruction and projections in public streets or places, and in spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the panchayat or belong to Government;
 - (u) securing or removing dangerous buildings or places;
 - (v) constructing, altering and maintaining public streets, culverts, panchaayt boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage works, sewage works, baths, washing places, drinking fountains, tanks, wells, dams and the like;

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- (w) obtaining a supply of an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply when such supply or additional supply can be obtained at a reasonable cost;
- (x) paying the salary and the contingent expenditure on account of such police or guards as may be required by the panchayats for the purposes of this Act or for the protection of any panchayat property;
- (y) constructing and maintaining residential quarters for the conservancy staff of the panchayat;
- (z) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the Panchayat.

2. In the sphere of public works -

- (a) removing of obstructions and projections in public streets or places and in sites, not being private property, which are open to the public whether such sites are vested in the panchayat or belong to Government;
- (b) construction, maintenance and repair of public roads, drains, bunds and bridges:

Provided that if the roads, drains, bunds and bridges vest in any other public authority, such works shall not be undertaken without the consent of that authority;

- (c) maintenance and regulation of the use of buildings handed over to the panchayat or of Government buildings under the control of the panchayat, grazing lands, forest lands including lands assigned under section 28 of the Indian Forest Act, 1927. and tanks and wells (other than tanks and wells or irrigation);

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- (d) lighting of the village;
- (e) control of fairs, bazars, tonga-stand and cartstands;
- (f) construction and maintenance or control of slaughter houses;
- (g) planting of trees in market places and other public places and their maintenance and preservation;
- (h) construction and maintenance of Dharmashalas;
- (i) management and control of bathing and washing ghats which are not managed by any authority;
- (j) establishment and maintenance of markets;
- (k) construction and maintenance of houses for conservancy staff and village functionaries of the panchayat;
- (l) provision and maintenance of camping grounds;
- (m) establishment, control and management of cattle pounds;
- (n) establishment and maintenance of works for the provision of employment particularly in times of scarcity;
- (o) extension of village sites and the regulation of buildings and housing schemes in accordance with such principles as may be prescribed.
- (p) construction and maintenance of buildings for warehouses, shops, purchasing centres and such others;
- (q) construction and maintenance of buildings for common use and of buildings necessary for development activities;
- (r) generation, distribution and supply of electrical energy and other matters connected therewith.

3. In the sphere of education and culture -
 - (a) spread of education;
 - (b) establishment and maintenance of akhada, parks, clubs and other places of recreation for the welfare of women and youth;
 - (c) establishment and maintenance of theatres for promotion of art and culture;
 - (d) establishment and maintenance of libraries and reading rooms ;
 - (e) promotion of social and moral welfare of the village including prohibition propaganda, removal of untouchability, amelioration of the condition of the backward classes, the eradication of corruption and the discouragement of gambling and other antisocial activities;
 - (f) assisting the introduction of compulsory primary education as planned by the State;
 - (g) provision of school-buildings and of necessary equipment for education.
 - (h) pre-primary education and child-welfare activities;
 - (i) repairs and maintenance of school buildings;
 - (j) maintenance of school funds;
 - (k) offering financial assistance to needy students;
 - (l) celebration of school functions and festivals;
 - (m) arranging cultural programmes for the purposes of popular education;
 - (n) provision for light meals for school children, if possible;
 - (o) establishment, construction and maintenance of secondary schools;
4. In the sphere of self-defence and village -defence;
 - (a) watch and ward of the village and of crops therein and raising volunteer organisations or organisations of any other kind, encouraging and assisting such organisations;
 - (b) providing for training facilities to the youth of the gram for the purpose of self-defence and villages defence and assisting such training that may be organised by the Government;
 - (c) preventing of fires, rendering assistance in extinguishing fires and protecting life and property when fire occurs;
5. In the sphere of planning and administration -
 - (a) the preparation of plans for the development of the village;
 - (b) assisting the implementation of soil improvement projects of the State Government;
 - (c) economic survey of the gram accompanied by the provision of employment to the unemployed or under employed resident thereof;
 - (d) preparation of budget, collection and maintenance of accouts, custody and utilization of funds, assessment and collection of taxes and maintenance of an Account Code;
 - (e) use of assistance given by the Central or State Government for any purpose of the village;
 - (f) making independent surveys of the gram or assisting such surveys undertaken by the Central or State Government;

- (g) recruitment, training and management of staff to be employed by panchayat ;
- (h) control of cattle-stands, thrashing floors, grazing grounds and community lands ;
- (i) establishment, maintenance and regulation of fairs, pilgrimages and festivals ;
- (j) reporting to proper authorities complaints which are not removable by the panchayat ;
- (k) preparation, maintenance and up-keep of the panchayat records ;
- (l) registration of births, deaths and marriages in such manner and in such form as may be laid down by the State Government by general or special order in this behalf ;
- (m) numbering of premises.

6. In the sphere of Community Development -

- (a) relief of the crippled, destitute and the sick,
- (b) assistance to the residents when any natural calamity occurs ;
- (c) organising, encouraging and assisting co-operative activities in the economic and social fields ;
- (d) propagation of family planning ;
- (e) organising voluntary labour for community works and works for the upliftment of the village ;
- (f) opening fair-price shops ;

7. In the sphere of agriculture, preservation of forests and pasture lands -

- (a) planned improvement of agriculture ;
- (b) securing minimum standards of cultivation in the gram with a view to increasing agricultural production ;
- (c) establishment and management of model agricultural farm ;
- (d) the establishment and maintenance of granaries ;
- (e) bringing under cultivation waste and fallow lands vested by the State Government in the panchayat ;
- (f) ensuring conservation of manurial resources, preparing composts and sale of manure ;
- (g) production of improved seeds, the establishing of nurseries of improved seeds and promoting the use of improved seeds ;
- (h) promoting the use of improved agricultural implements and making such implements easily available ;
- (i) the promotion of co-operative farming ;
- (j) crop-protection and crop-experiments ;
- (k) minor irrigation, construction and maintenance of filled channels and distribution of water ;
- (l) raising preservation and improvement of village forests , pastures and orchards ;
- (m) taking steps against harmful animals with a view to protection of crops.

8. In the sphere of Animal Husbandary -
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- (a) improvement of cattle, and cattle-breeding ;
 - (b) the general care of live-stock ;
 - (c) providing and maintaining stud bulls for purposes of cattle breeding ;
 - (d) promotion of dairy farming.
9. In the sphere of village Industries -
- (a) surveying and harnessing industrial and employment potential of the gram ;
 - (b) promoting hand-spinning, hand-weaving dying, printing, embroidery, sewing oil-pressing industry, leather-industry, pottery, carpentry, smithy, industries processing agricultural raw materials into finished products, other cottage industries and special arts or craft of the village, if any and protecting, encouraging and assisting these with a view to improving and develop them ;
 - (c) providing necessary raw materials for cottage industries and arts and crafts ;
 - (d) making efforts for the production by the village craftsmen of modern and improved tools for cottage industries and making such tools easily available to them ;
 - (e) encouraging and assisting artisans for training in cottage industries and handicraft ;
 - (f) providing for the organisation, management and development of cottage industries on a co-operative basis.
10. In the sphere of collection of land revenue -
- (a) collection of land revenue when so empowered by the State Government under section 168.
 - (b) maintenance of records relating to land revenue in such manner and in such form as may be prescribed from time to time by or under any law relating to land revenue.

SCHEDULE II

(See section 130)

Part I

MATTERS IN RESPECT OF WHICH IT IS THE DUTY OF A TALUKA PANCHAYAT TO MAKE PROVISION

1. In the sphere of sanitation and health—
- (a) controlling small-pox and other epidemics and expansion and maintenance of health services ;
 - (b) family planning ;
 - (c) providing facilities for pure drinking water ;
 - (d) maintenance and supervision of stores of drugs, dispensaries, pharmacies, maternity homes and primary health centres ;
 - (e) cultivating public opinion on following methods for the preservation of health and sanitation :
 - i. nourishment ;
 - ii. maternity and child welfare ;
 - iii. control and eradication of contagious diseases ;

(f) providing for help and protection to the people against epidemics.

2. In the sphere of communication—

- (a) construction and maintenance of village link roads ;
- (b) providing necessary assistance for construction and maintenance of village approach roads.

3. In the sphere of education and culture--

- (a) establishment and maintenance of primary schools ;
- (b) preparing and implementing the programme of constructing buildings for primary schools ;
- (c) assisting educational activities of a village panchayat ;
- (d) enforcing in the taluka the law relating to compulsory primary education ;
- (e) conducting and encouraging libraries, reading rooms and other cultural activities ;
- (f) assisting the propagation of pre-primary education.

4. In the sphere of social education--

To cultivate a new outlook, among the people to make them self-reliant, industrious and co-operation-minded, and especially—

- (a) establishing and maintaining information centres, community educational centres and recreation centres ;
- (b) establishing institutions for rendering social service such as youth clubs, women's clubs and farmer's associations and encouraging any such institutions if already established ;
- (c) establishing a village defence crops ;
- (d) encouraging physical and cultural activities ;
- (e) establishing voluntary health associations ;
- (f) training gram-sevaks and utilising their services ;
- (g) training gram-laxmis and gram-sevikas and utilising their services ;
- (h) promoting childrens' activities.

5. In the sphere of community development—

- (a) planning for increased employment and production, as well as for co-ordination of village institutions ;
- (b) training in self-help and self-sufficiency among the village community on the principle of mutual co-operation ;
- (c) utilising the surplus energy, resources and time of the village for benefit of the community ;
- (d) providing for the implementation of development programmes entrusted to it by the State Government.

6. In the sphere of agriculturæ and irrigation—

- (a) planning for agricultural improvement in the taluka ;
- (b) use of land and water resources and propagation of improved agricultural methods according to the latest reserches ;
- (c) construction and maintenance of irrigation works in the taluka ;

- (d) reclamation and conservation of agricultural land in the taluka ;
 - (e) maintenance of seed multiplication farms, assisting registered seed producers and distribution of seeds in the taluka ;
 - (f) raising the production of fruits and vegetables ;
 - (g) conservation of manurial resources, preparing compost manure, organic manure and mixture and to arrange for making them easily available ;
 - (h) promoting the use of improved agricultural implements and arranging to make them easily available ;
 - (i) the protection of crops, fruit-trees and plants against disease ;
 - (j) establishment and management of model agricultural farms ;
 - (k) providing credit and other facilities for irrigation and agricultural development ;
 - (l) increasing the area of land under irrigation by construction and repairs of wells, digging and repairs of private ponds by undertaking minor irrigation works and by supervision of field channels ;
 - (m) increasing the use of sub-soil water by boring wells and giving assistance in regard to such wells ;
 - (n) providing for the timely and equitable distribution and full use of water available under irrigation schemes.
7. In the sphere of animal husbandary—
- (a) improving cattle-breed by introduction of stud bulls, by castration of stray bullocks and establishment and maintaining artificial insemination centres ;
 - (b) introducing improved breeds of cattle, sheep, poultry, etc. giving grants therefor and maintenance of small breeding centres ;
 - (c) controlling and checking infectious diseases ;
 - (d) introducing improved grass and cattle-feeds and providing for their storage ;
 - (e) starting and maintaining first-aid centres and veterinary dispensaries ;
 - (f) providing for milk supply ;
 - (g) solving the problem of stray cattle.
8. In the sphere of village and small-scale industries-To promote, cottage, village and small-scale industries with a view to providing increased employment and raising peoples' standard of living and especially—
- (a) to establish and maintain production and training centres ;
 - (b) to improve the skills of artisans ;
 - (c) to popularise improved implements ;
 - (d) to ensure the implementation of scheme for Cottage, Village and Small-Scale Industries run by the Khadi and Village Industries Board and other All India Associations ;
 - (e) to establish industrial townships at the Taluka level ;
 - (f) to develop wool industry.
9. In the sphere of co-operation—
To promote the idea of co-operation in different fields of life and to organise and encourage co-operative institutions in the economic and social fields and especially—

- (a) to establish and promote the development of multipurpose co-operative societies for credit, sale, industry, irrigation and agriculture ;
- (b) promoting savings through thrift, small savings and insurance schemes.

10. In the sphere of women's welfare—

Implementing of schemes for women's and children's welfare and maintaining women's and children's welfare centres, education centres, craft centres and tailoring centres.

11. In the sphere of social welfare--

- (a) provision of hostels for students of backward classes and scheduled castes and scheduled tribes ;
- (b) implementing schemes of rural housing ;
- (c) maintaining decrepit beggars ;
- (d) sponsoring voluntary institutions of social welfare and co-ordinating and assisting their activities;
- (e) propaganda for prohibition and against drug addiction.

12. In the sphere of relief—

Providing immediate relief in cases of floods, fires, epidemics and other natural calamities on a small or large scale.

13. In the sphere of collection of statistics—

Collecting and co-ordinating statistics as may be required by the village panchayats, taluka panchayats or district panchayats or by the State Government.

14. In the sphere of trusts—

Managing trusts in furtherance of the objects of any programme that may be carried out with the taluka fund.

15. In the sphere of forests—

Promoting the development of village jungles and pastures.

16. In the sphere of rural housing—

Development of village-sites with the co-operation of the village population and planning of rural housing.

17. In the sphere of information—

- (a) community radio listening programme ;
- (b) arranging exhibitions;
- (c) publications.

PART II

(See section 130.)

FUNCTIONS AND DUTIES OF TALUKA PANCHAYAT

It shall be the duty of a taluka panachayat—

- (a) to assist in conducting and revising educational surveys and in preparing and implementing Five Year plan for the development of primary educational and all other educational activities entrusted to it ;

- (b) to provide adequate accommodation and equipment for primary schools ;
- (c) to open, with the sanction of the district panchayat, new primary schools in places where they are needed ;
- (d) to determine the exact location of primary schools ;
- (e) to supervise the working of all primary schools and of such other educational institutions under the control of the district panchayat as that panchayat may decide from time to time ;
- (f) to exercise such powers over the staff employed in primary schools and other educational institutions under the control of the district panchayats as may be delegated to it from time to time ;
- (g) to supervise the activities of the village panchayats within the jurisdiction of the taluka panchayats to ensure that each such panchayat pays its contribution to the School Funds, if any, and to bring cases of default to the notice of the Educational Inspector of the district and generally to guide them to maintain and improve the primary school or schools in their charge ;
- (h) to be responsible for the enforcement of compulsory primary education ; and, without prejudice to the generality of the foregoing provision—
 - i. to determine on the recommendation of the competent officer of the district panchayat, the distance measured according to the nearest road between an approved school and the residence of the child for the purposes of the Bombay Primary Education Act, 1947 ;
 - ii. to grant, on the recommendation of the aforesaid competent officer, exemption from attending an approved school to a child who is receiving instruction otherwise than in an approved school,
- (i) to grant sanction to the changes in the dates of birth and the names of pupils attending primary schools ;
- (j) to construct new buildings for primary schools and to carry out special repairs.
- (k) to sanction grants-in-aid to gram panchayats for their standing committee for Education ;
- (l) to inform, and, if necessary to advise, the district panchayat, generally on all matters connected with primary education and other educational activities undertaken by the district panchayat in the taluka ;
- (m) to carry on propaganda in the Taluka for the expansion and improvement of education in general and primary education in particular; and
- (n) to exercise such other powers and to perform such other duties as may be delegated to it by the district panchayat from time to time;
- (o) to hire buildings for primary schools with the sanction of the taluka panchayat on reasonable rent, which shall be certified by the competent authority ;
- (p) the supervision of individual primary schools ;
- (q) to secure the enforcement of the Bombay Primary Education Act, 1947 and the rules or orders made thereunder.

SCHEDULE III

PART I

(See Section 154)

MATTERS IN RESPECT OF WHICH IT IS THE DUTY OF DISTRICT PANCHAYAT TO MAKE PROVISION

1. In the sphere of sanitation and health—
 - (a) establishment and maintenance of dispensaries;
 - (b) provision and maintenance of drinking water supply ;
 - (c) taking necessary action or steps for improvement in public health and public amonities ;
 - (d) establishment and maintenance of primary health centres ;
 - (e) assisting family-planning ;
 - (f) supply of milk to children and nursing mothers in families in the low income group ;
 - (g) Providing for training to mid-wives;
 - (h) giving protection against diphtheria, whooping cough and tentanus;
 - (i) establishment and maintenance of ayurvedic and homeopathic dispensaries;
 - (j) provision of medical relief through ayurvedic and homeopathic centres;
 - (k) assisting recognised medical relief-centres;
 - (l) Providing for training of nurses.
2. In the sphere of public works —
 - (a) construction and maintenance of roads;
 - (b) the planting and rearing of trees on both sides of the roads;
 - (c) execution of works entrusted to it by the State Government;
 - (d) supervision, repairs and preservation of building vested in the district panchayat;
 - (e) construction and maintenance of buildings required for the activities of the district panchayat.
3. In the sphere of education and other cultural activites—
 - (a) undertaking all educational activities entrusted to it;
 - (b) Planning of education in the district within the frame work of the national policy and the national plan;
 - (c) survey and evaluation of educational activities;
 - (d) distribution of Government aid in regard to primary education between the taluka panchayats;
 - (e) recognising private educational institutions within its area;
 - (f) recommending the courses of study;
 - (g) selection of text-books;
 - (h) implementation of any programme in regard to secondary education that may be entrusted to it by the State Government;

- (i) inspection of primary schools managed by the taluka panchayats and conduct of their examination.
 - (j) accepting and managing educational funds;
 - (k) assisting, encouraging and guiding all educational activities in the district;
 - (l) organising camps, conferences, and gatherings of members of village panchayats, taluka panchayats and district panchayat in the district.
4. In the sphere of administration—
- (a) collection of necessary stores and materials;
 - (b) publication of statistical and other information relating to activities of panchayats;
 - (c) co-ordination and use of statistics and other information required for the activities of the village panchayats, taluka panchayats and district panchayats;
 - (d) periodical supervision and evaluation of the projects and programmes entrusted to the different panchayats in the district;
 - (e) accepting donations in the furtherance of the purposes for which fund might have been raised.
5. In the sphere of community development—
- (a) co-ordination and integration of the development schemes of all talukas in the district and preparing a plan therefor for the whole district;
 - (b) preparation of projects, plans and schemes concerning two or more talukas in the district;
 - (c) (i) promoting the establishment and development of panchayats;
(ii) inspection, regulation and control of the taluka panchayats in the district;
(iii) performance of all such functions as are assigned to it under any law or as may be assigned by the State Government from time to time;
 - (d) implementation of any development programme that may be entrusted by the State Government;
 - (e) distribution and co-ordination of work among village panchayats, taluka panchayats and district panchayats.
6. In the sphere of agriculture—
- (a) undertaking intensive pioneering schemes relating to paddy, wheat, bajari, juwar, ground-nuts and cotton;
 - (b) construction and maintenance of building for seeds distribution centres;
 - (c) implementation of schemes of manure.
 - (d) promoting the planting of coconut-palm;
 - (e) arranging for the purchase and sale of necessary equipment for the protection of plants;
 - (f) arranging for the purchase and sale of insecticides;
 - (g) establishment and maintenance of model agricultural farms;
 - (h) procuring and distributing improved seeds;

- (i) implementing schemes relating to agricultural production and agricultural development;
- (j) arranging exhibitions as, competitions and other programmes in connection with agricultural development and cattle-breeding.

7. In the sphere of animal husbandry—

- (a) establishment and maintaining supply-centres for cattle-breeding;
- (b) giving encouragement and assistance to cattle breeding centres run by recognised institutions;
- (c) the implementation of schemes of key villages;
- (d) the implementing of the schemes of Gosh ala development;
- (e) provision for the rearing of stud calves;
- (f) the development of grass-lands;
- (g) encouraging and assisting schemes for the storage of grass;
- (h) implementing schemes of poultry farming;
- (i) the implementation of the schemes of cattle breeding.
- (j) establishment and maintaining veterinary hospitals and dispensaries.

8. In the sphere of village and small scale industries—

- (a) examining the possibilities of village industries and small scale Industries in the district, preparation and execution of plans for their revival, organisation and development;
- (b) providing for necessary assistance and encouragement of technical training to village workers in village industries and small-scale industries relating to their crafts;
- (c) establishing, maintaining, expanding, and aiding secondary, technical and industrial schools.

9. In the sphere of social welfare—

- (a) providing necessary assistance and encouragement to the work of institutions of social service;
- (b) conducting necessary social welfare activities in the district.
- (c) arranging fairs and festivals other than fairs and festivals arranged by the State Government.

10. In the sphere of relief—

Establishment and management of relief centres in times of natural calamities such as famine and scarcity, floods, fire and earthquake.

11. In the sphere of minor irrigation projects;

- (a) Provision for irrigation by canals from tanks and bunds;
- (b) the implementation of the schemes of tube-wells.
- (c) digging new wells and repairing old wells for irrigation;
- (d) giving assistance for the purchase of pumping sets and machinery;
- (e) provision and propaganda for improved Kosi;
- (f) providing detonators and boring equipment for wells;
- (g) encouraging and assisting irrigation schemes on a co-operating basis.

PART-II

See Section 145 (1) (iii)

**FUNCTIONS AND DUTIES OF EDUCATION COMMITTEE OF
A DISTRICT PANCHAYAT**

It shall be the duty of the education committee of a district panchayat

- (a) to undertake all educational activities;
- (b) to undertake the planning of education in the district within the frame work of the national policy and the national plan;
- (c) to survey and evaluate educational activities;
- (d) to act as a channel for the State Government in regard to primary education to reach panchayat;
- (e) to make suggestions as to courses of study for being determined by the State Government;
- (f) To make suggestions as to the selection of text—books by the State Government;
- (g) to implement any programme in regard to secondary education entrusted to the district panchayat by the State Government;
- (h) to arrange for the inspection of primary schools managed by the taluka panchayat and to conduct their examinations;
- (i) to supervise the working of all primary schools and of such other educational institutions under the control of the District Panchayat as that panchayat may decide from time to time;
- (j) to supervise the activities of village Panchayats within the jurisdiction of the District Panchayat to ensure that each such Panchayat pays its contribution to the school funds, if any, and to bring cases of default to the notice of the Educational Inspector of the District and generally to guide them to maintain and improve primary School or School in their charge;
- (k) to accept and manage educational funds;
- (l) to assist, encourage and guide all educational activities in the district;
- (m) to discharge the following duties if the district panchayat makes provision of secondary and other education—
 - i. to conduct secondary schools providing for diversified courses in rural areas where private enterprise is not available and to introduce a number of High School Scholarships for poor and deserving in rural area;
 - ii. to conduct hostels for High Schools as well as for pupils in Standard, V to VII;
 - iii. to provide for part--time education of children who leave school at about the age of 11 and of the children whose age is between 11 and 14 years and who are absolutely illiterate;
 - iv. to make arrangement for vocational education in rural areas;
 - v. to push the scheme of social education classes; village libraries and pre-primary education;
 - vi. to recognise and aid gymnasia and to organise recreational centres and holiday and school camps.



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Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to
by the Governor on the 11th July, 1998 is hereby published for general
information.

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 5 OF 1998

(First published, after having received the assent of the Governor in the
Gujarat Government Gazette on the 13th July, 1998).

AN ACT

further to amend the Gujarat Panchayats Act, 1993.

It is hereby enacted in the Forty-ninth Year of the Republic of India as
follows :—

Short title and commencement.— 1. (1) This Act may be called the Gujarat Panchayats (Amendment) Act, 1998.

(2) It shall be deemed to have come into force on the 20th December, 1997.

Insertion of sections 278A and 278AA in Guj. 18 of 1993. 2. In the Gujarat Panchayats Act, 1993, (hereinafter referred to as "the principal Act"), after section 278, the following sections shall be inserted, namely:—

Guj. 18
of 1993.

Application
of Act to
Scheduled
Areas of
State.

"278A. This Act shall apply to the Scheduled Areas of the State as referred to in clause (1) of article 244 of the Constitution of India, subject to the modifications specified in Schedule IV.

Amendment
of certain
Acts in their
application to
Scheduled
Areas of
State.

278AA. The enactments specified in Schedule V shall, in their application to the Scheduled Areas of the State as referred to in clause (1) of article 244 of the Constitution of India, be amended to the extent specified in column 3 of the said Schedule."

Insertion of
new
Schedules IV
and V in Guj.
18 of 1993.

3. —In the principal Act, after Schedule III, the following Schedules shall be added, namely:—

"SCHEDULE IV

(See section 278A)

(Modifications subject to which this Act applies to the Scheduled Areas of the State.)

1. In section 2, after clause (19), the following clause shall be inserted, namely:—

"(19A) "Scheduled Areas" means the Scheduled Areas of the State as referred to in clause (1) of article 244 of the Constitution of India ;".

2. For section 4, the following section shall be substituted, namely :—

Gram Sabha:

"4. (1) There shall be a *gram sabha* for a village for performing such functions as are provided by or under this Act.

(2) The *gram sabha* shall consist of persons whose names are included in the list of voters of electoral divisions of that village.

(3) The *gram sabha* shall perform the following additional functions, namely:—

(a) The *gram sabha* shall endeavour to safeguard and preserve the traditions and customs of the inhabitants of the village, their cultural identity, community resources and the customary mode of dispute resolution.

(b) The *gram sabha* shall—

(i) approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the village panchayat;

(ii) be responsible for the identification or selection of persons as beneficiaries under poverty alleviation and other programmes in the village."

3. In section 7, to sub-section (1), the following proviso shall be added, namely:—

"Provided that while making a recommendation in respect of a local area in the Scheduled Areas it shall be ensured that the local area shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with the traditions and customs."

4. In section 9, in sub-section (5), in clause (a), after sub-clause (i), the following sub-clause shall be inserted, namely:—

"(ia) In the case of a village panchayat, the whole local area of which comprises of any of the Scheduled Areas, the number of seats reserved for the Scheduled Tribes under sub-clause (i) shall be increased to such number as is not less than one-half of the total number of seats in the village panchayat."

5. In section 10, in sub-section (5), in clause (a), after sub-clause (i), the following sub-clause shall be inserted, namely:—

"(ia) In the case of a taluka panchayat, the whole local area of which comprises of any of the Scheduled Areas, the number of seats reserved for the Scheduled Tribes under clause (i) shall be increased to such number as is not less than one-half of the total number of seats in the taluka panchayat."

6. In section 11, in sub-section (5), in clause (a), after sub-clause (i), the following sub-clause shall be inserted, namely:—

"(ia) In the case of a district panchayat, the whole local area of which comprises of any of the Scheduled Areas, the number of seats reserved for the Scheduled Tribes under clause (i) shall be increased to such number as is not less than one half of the total number of seats in the district panchayat."

7. After section 11, the following section shall be inserted, namely:—

"11A. If for any reason an election does not result in the return of any member of Scheduled Tribes in a taluka panchayat or district panchayat, then the State Government may nominate from amongst members belonging to Scheduled Tribes who are qualified to be elected, such number of members as not to exceed one-tenth of the total members to be elected in that panchayat."

Nomination of
members of
Scheduled
Tribes.

8. In section 51, in sub-section (2),—

(1) for clause (a), the following shall be substituted, namely:—

"(a) All offices of sarpanch of village panchayats in the State shall be reserved by the State Government for the Scheduled Tribes."

Explanation.—For the purposes of this clause, "village panchayat" means the village panchayat, the whole local area of which comprises of the Scheduled Areas.":

(2) in clause (b),—

(a) in sub-clause (i), the word "and " shall be deleted;

(b) sub-clause (ii) shall be deleted.

9. In section 63, in sub-section (2), —

(i) for clause (a), the following shall be substituted, namely:—

"(a) All offices of the President of the taluka panchayats in the State shall be reserved by the State Government for the Scheduled Tribes.

Explanation.—For the purposes of this clause, "taluka panchayat" means the taluka panchayat, the whole local area of which comprises of the Scheduled Areas.":

(2) in clause (b), —

(a) in sub-clause (i), the word "and " shall be deleted ;

(b) sub-clause (ii) shall be deleted.

10. In section 77, in sub-section (2),—

(1) for clause (a), the following shall be substituted, namely:—

"(a) All offices of the President of the district panchayats in the State shall be reserved by the State Government for the Scheduled Tribes.

Explanation.—For the purposes of this clause, "district panchayat" means the district panchayat, the whole local area of which comprises of the Scheduled Areas."

(2) in clause (b), —

(a) in sub-clause (i), the word "and " shall be deleted ;

(b) sub-clause (ii) shall be deleted.

11. In section 108, after sub-section (4), the following sub-section shall be added, namely:—

"(5) (a) For the purposes of this Act, there shall be vested in the village panchayat minor forest produce found (except found in the areas of National Parks or Sanctuaries) in such area of a forest as is situate in the jurisdiction of that village.

(b) The sale proceeds of the minor forest produce shall be paid into and form part of the village fund.

(c) Nothing in clause (a) shall be construed as vesting in the village panchayat the land in the area of forest referred to in clause (a) and trees and plantations thereon.

Explanation.—For the purposes of this sub-section the expression "minor forest produce" shall have the same meaning as assigned to it in clause (9) of section 2 of the Gujarat Minor Forest Produce Trade Nationalisation Act, 1979.

Guj. 7
of 1979.

12. In section 112, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The village panchayat shall obtain from the *gram sabha* a certificate of utilization of funds by that panchayat for the plans, programmes and projects referred to in sub-clause (i) of clause (b) of sub-section (3) of section 4."

13. After section 132, the following section shall be added, namely:—

"132A. The taluka panchayat shall be consulted,—

(a) before acquiring under the Land Acquisition Act, 1894 of 1894 any land situate in the taluka for any development project;

(b) before resettling or rehabilitating persons affected by such project."

Taluka
Panchayat to
be consulted
before
acquisition
of land and
rehabilitation
of persons
affected.

14. In Schedule I,—

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

"(ia) enforcing prohibition and regulating or restricting the sale and consumption of intoxicants;";

(2) in entry 7, after sub-entry (k), the following sub-entry shall be inserted, namely:—

"(k-i) planning and management of water bodies;";

(3) after entry 10, the following entry shall be added, namely:—

"11. In the sphere of social sectors—

the power to exercise control over institutions and functionaries in all social sectors."

15. In Schedule II, in Part I, in entry 5, after sub-entry (d), the following sub-entry shall be added, namely:—

"(e) control over local plans and resources for such plans including tribal sub-plans."

SCHEDULE V
Acts amended.
(See section 278AA)

Serial No. 1	Short Title 2	Extent of amendment 3
1.	The Bombay Land Revenue Code, 1879. (Bom. V of 1879.)	In section 73AA,— (1) in sub-sections (1) and (2), for the words "the Collector", the words "the District Panchayat" shall be substituted; (2) in sub-section (3), in clause (a),— (a) for the words "occupancy to another tribal", the words "occupancy to any person" shall be substituted; (b) for the words "the Collector", occurring at two places, the words "the District Panchayat" shall be substituted; (3) in sub-section (4), in clause(a), the words, brackets and figure "of sub-section (1) of this section, or" shall be deleted; (4) in the <i>Explanation</i> , before clause (i), the following clause shall be inserted, namely:— "(ia) "district panchayat" means a district panchayat of a district comprising of any Scheduled Areas of the State as referred to in clause (1) of article 244 of the Constitution of India, in which the occupancy of the tribal exists;"
2.	The Bombay Money-Lenders Act, 1946. (Bom. XXXI of 1946.) Previous sanction of village panchayat before lending money to member of Scheduled Tribe.	After section 17, the following shall be inserted, namely:— "17A. No money lender shall lend any money to a member of the Scheduled Tribe residing in a Scheduled Areas of the State as referred to in clause (1) of article 244 of the Constitution of India, without previous sanction of the village panchayat of that village."

Repeal and savings.

4. (1) The Gujarat Panchayats (Amendment) Ordinance, 1998 is hereby repealed. Guj. Ord. 3 of 1998.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.



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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 30th March, 2001 is hereby published for general information.

V. M. Kothare,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 6 OF 2001.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 30th March, 2001).

AN ACT

further to amend the Gujarat Panchayats Act, 1993.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Panchayats (Amendment) Act, 2001. **Short title and commencement.**
(2) It shall be deemed to have come into force on the 4th November, 2000.
- Guj. 18 of 1993.** 2. In the Gujarat Panchayats Act, 1993 (hereinafter referred to as the "principal Act"), in section 257, sub-section (2) shall be deleted. **Amendment of section 257 of Guj. 18 of 1993.**
- Repeal and savings.** 3. (1) The Gujarat Panchayats (Amendment) Ordinance, 2000 is hereby repealed. **Guj. Ord. 4 of 2000.**
(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 3rd August, 2001 is hereby published for general information.

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 12 OF 2001.

(First published, after having received the assent of the Governor in the "*Gujarat Government Gazette*", on the 6th August, 2001).

AN ACT

further to amend the Gujarat Panchayats Act, 1993.

It is hereby enacted in the Fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Panchayats (Second Amendment) Act, 2001.

(2) It shall be deemed to have come into force on the 1st May, 2001.

Short title
and
commence-
ment.

Amendment
of section
2 of
Guj. 18 of
1993.

2. In the Gujarat Panchayats Act, 1993 (hereinafter referred to as "the principal Act"), in section 2, clause (13) shall be deleted.

Guj. 18 of
1993.

Amendment
of section
200 of
Guj. 18 of
1993.

3. In the principal Act, in section 200, in sub-section (1), clause (ii) shall be deleted.

Amendment
of section
202 of
Guj. 18 of
1993.

4. In the principal Act, in section 202, —

- (a) in sub-section (1), the words "or the collecting of octroi" shall be deleted;
- (b) in sub-section (3), the words "or octroi, as the case may be" occurring at two places shall be deleted;
- (c) in sub-section (4), the words "or octroi as the case may be" shall be deleted.

Deletion of
section
216 of
Guj. 18 of
1993.

5. In the principal Act, section 216 shall be deleted.

Repeal
and
savings.

6. (1) The Gujarat Panchayats (Amendment) Ordinance, 2001 is hereby repealed.

Guj. Ord. 4
of 2001.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.