Extra Ordinary Part - V / 1993

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Extra No.1	06-01-1993	Gujarat Legislature Secretariat
Extra No.2	08-01-1993	Legal Department
Extra No.3	18-02-1993	Gujarat Legislature Secretariat
Extra No.4	18-02-1993	Gujarat Legislature Secretariat
Extra No.5	18-02-1993	Gujarat Legislature Secretariat
Extra No.6	12-03-1993	Gujarat Legislature Secretariat
Extra No.8	17-03-1993	Gujarat Legislature Secretariat
Extra No.9	18-03-1993	Gujarat Legislature Secretariat
Extra No.10	19-03-1993	Legal Department
Extra No.11	19-03-1993	Legal Department
Extra No.12	19-03-1993	Legal Department
Extra No.13	19-03-1993	Legal Department
Extra No.14	22-03-1993	Legal Department
Extra No.15	23-03-1993	Legal Department
Extra No.16	23-03-1993	Legal Department
Extra No.17	23-03-1993	Gujarat Legislature Secretariat
Extra No.18	23-03-1993	Gujarat Legislature Secretariat
Extra No.19	23-03-1993	Gujarat Legislature Secretariat
Extra No.20	23-03-1993	Gujarat Legislature Secretariat
Extra No.21	29-07-1993	Legal Department
Extra No.22	30-07-1993	Legal Department
Extra No.23	02-08-1993	Legal Department
Extra No.24	02-08-1993	Legal Department
Extra No.25	06-08-1993	Legal Department
Extra No.26	12-08-1993	Gujarat Legislature Secretariat
Extra No.27	12-08-1993	Gujarat Legislature Secretariat
Extra No.28	12-08-1993	Gujarat Legislature Secretariat

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PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 6th January, 1993 by Shri Chimanbhai Patel, Chief Minister, is published under rule 127-A of the Gujarat Legislative Assembly Rules, for general information.

THE SOUTH GUJARAT UNIVERSITY (AMENDMENT) BILL, 1993.

GUJARAT BILL NO. 1 OF 1993.

A BILL

to amend the South Gujarat University Act, 1965.

It is hereby enacted in the Forty-third Year of the Republic of India as follows :—

Short title.

1. This Act may be called the South Gujarat University (Amendment) Act, 1993.

Amendment of section 2 of Guj. 38 of 1965.

Guj. 38 of 1965.

2. In the South Gujarat University Act, 1965, in section 2, in clause (3), for the words "leading to a de[illegible]", the words "leading to a diploma or a degree" shall be substituted.

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STATEMENT OF OBJECTS AND REASONS

As a college teaching courses leading to a diploma does not come within the definition of the term "college" given in clause (3) of section 2 of the South Gujarat University Act, 1965, such a college cannot apply for affiliation to the University. In order to enable such a college to obtain affiliation, it is considered necessary to amend the said definition. This Bill seeks to achieve the aforesaid object.

Dated the 29th December, 1992. CHIMANBHAI PATEL."

Gandhinagar,
Dated the 6th January, 1993.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

THE GUJARAT PANCHAYATS (AMENDMENT) BILL, 1993.

GUJARAT BILL NO. 2 OF 1993.

A BILL

further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Forty-third Year of the Republic of India as follows:—

Short title and commencement.

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.

Amendment of section 20 of Guj. VI of 1962.

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.

Repeal and savings.

Guj. Ord. 2 of 1992.

3. (*1*) The Gujarat Panchayats (Amendment) Ordinance, 1992 is hereby repealed.

(*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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STATEMENT OF OBJECTS AND REASONS

Sub-section (5) of section 20 of the Gujarat Panchayats Act, 1961 empowers the competent authority to alter the limits of any ward of the gram or nagar and the State Government to alter the limits of the territorial constituency of the taluka or distrct, for the purpose of general elections to the panchayts. But such alterations, as provided therein, can be made at any time not later than four months before the date of expiry of the term of a panchayat. As the population figures of the last census of 1991 were expected to be made available in the month of December 1992, the Gujarat Panchayats (Amendment) Ordinance, 1992 was promulgated to amend sub-section (5) of section 20 of the said Act to reduce the said period of four months to two months so that it would have been possible to effect such alteration for the purpose of elections of panchayats in the month of February, 1993.

Since the period of four months is pretty long and may cause undue delay in holding elections, it is considered necessary to reduce the said period of four months to two months for such alteration, as and when occasion for election arises. This Bill seeks to replace the said Ordinance by an Act of the State Legislature to achieve the aforesaid object.

Dated the 8th January, 1993. LILADHAR WAGHELA.

By order and in the name of the Governor of Gujarat,

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 8th January, 1993.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following bill which was introduced on the 18th February, 1993 by Shri Jaynarayan Vyas M.L.A. is published under Rule 127-A of the Gujarat Legislative Assembly Rules, for general information.

"GUJARAT BILL NO. 3 OF 1992.

THE GUJARAT PUBLIC SECTOR UNDERTAKINGS TERM DEPOSIT MANAGEMENT BILL, 1992.

A BILL

to provide for regulation of short/long term deposits being deposited by the Public Sector Undertakings in the State of Gujarat and for matters connected therewith

It is hereby enacted in the Forty Third Year of the Republic of India, as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Gujarat Public Sector Undertakings Term Deposit Management Act, 1992.

(*2*) It extends to the whole of the State of Gujarat.

(*3*) It shall come into force at once.

Definitions

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

(*i*) "Public Sector Undertakings" means any board or corporation constituted by the State Government under any Central or State Act and includes any Company registered under the Indian Companies Act, 1956 in which the equity held by the State Govt. is not less than fifty percent or any board or corporation whose management is controlled by the State Govt. and the State Govt. has an authority to appoint Chairman or Directors or Members or Officers on the Board for its management.

of 1956.

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(*ii*) "Prescribed" means prescribed by rules made under this Act.

(*iii*) "Term Deposit" means the money or sums invested by any Public Sector undertakings for any short/long term duration with any bank in any account other than the current account or any sum or money invested or deposited with any Company, institution or agency.

Investment in Deposits.

3. (*1*) The Public Sector Undertakings shall, on and after the commencement of this Act, invest the moneys in long or short term deposits with the State Govt. in such proportion and in such manner as may be prescribed by rules.

(*2*) The rules made under sub-section (*1*), shall be subject to finalisation after previous publication in the *Official Gazette* inviting suggestions and objections from the Public.

Power to make rules.

4. (*1*) The State Govt. may by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(*2*) All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as after they are made, and shall be subject to rescission by the State Legislature, or to such modification as the State Legislature may make during the session in which they are so laid or the Session immediately following.

(*3*) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

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STATEMENT OF OBJECTS AND REASONS

The State Govt. is increasingly finding it difficult to mobilise its resources for development programmes. The extent and the duration of overdraft by the State Govt. is on increase. On the otherhand, the public sector undertakings have large sums of money available with them, which is being invested without any regulation by the State Govt. or with any development objectives in mind. This Bill, therefore seeks to provide for regulation of such moneys available with the public sector undertakings for optimist use of such funds for the furtherance of State Govt. objectives of development.

Hence the Bill.

Gandhinagar,
Dated the 23rd June, 1992.

(Signed) JAY NARAYAN VYAS,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of Clause 3 of the Bill empowers the State Govt. to prescribe by rules the proportion and the manner in which the Public Sector undertakings shall invest the money in the term deposit.

Clause 4 of the Bill empowers the State Govt. to make rules for carrying out the purposes of this Act.

The delegation of Legislative powers as aforesaid is necessary and of normal character.

Gandhinagar,
Dated the 23rd June, 1992.

(Signed) JAY NARAYAN VYAS,
M.L.A.

Gandhinagar,

Dated the 18th February, 1993.

N. K. KATHIRIA,
Secretary,
General Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 18th February, 1993 by Shri Laxmansinh Parmar M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"Gujarat Bill No. 4 of 1993.

THE GUJARAT SECRETARIAT (RECRUITMENT AND CONDITIONS OF SERVICE) BILL, 1993.

A BILL

to regulate the recruitment and conditions of service of persons appointed to the Secretarial Staff of the Secretariat of the Government of Gujarat.

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

Short title and Commencement.

1. (*1*) This Act may be called the Gujarat Secretariat (Recruitment and Conditions of Service) Act, 1993.

(*2*) It shall come into force at once.

Definitions.

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

(*a*) "dependent" means a member of the family of a deceased government servant, who is not earning;

(*b*) "Government" means the Government of Gujarat;

(c) "Government Servant" means person appointed to the secretarial staff of the Secretariat;

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(*d*) "post" means a post in the secretarial staff of the Secretariat;

(*e*) "prescribed" means prescribed by rules, made under this Act;

(*f*) "Secretariat" means the Secretariat of the Government of Gujarat;

(*g*) "Service" means any service in the Secretarial staff of the Secretariat.

Strength and composition of the Secretariat.

3. There shall be in the Secretariat—

(*a*) such categories of posts and such number of posts in each category as exists at the commencement of this Act; and

(*b*) Such additional posts in the categories referred to in clause (a) and additional categories and number of posts there in, as the Government may from time to time sanction.

Method of recruitment.

4. (*1*) Recruitment to a post or class of posts may be made by one of the following methods, namely:—

(*a*) by promotion of a person of proved merit and efficiency from amongst the persons employed in the Secretariat; or

(*b*) by transfer of a suitable person serving outside the Secretariat in connection with the affairs of the State of Gujarat;

(*c*) by direct recruitment.

(*2*) The Government may, by rules, from time to time—

(*a*) specify the method or methods by which a post or class of posts may be filled;

(*b*) determine the proportion of vacancies to be filled by each method; and

(*c*) in case of recruitment by promotion, specify the class of officers, who and the conditions subject to which they, shall be eligible for such promotion.

Recruitment of dependent of deceased Government Servant.

5. (*1*) Whenever, any government servant dies during his service, his dependent shall be appointed, on compassionate ground to suitable post in secretarial staff as per his qualification within a period of three months.

(*2*) If there is no vacant post in the secretarial staff, a supernumerary post shall be created for the purpose of sub-section (*1*):

Provided that the qualifications and age limit for the post may be relaxed for the purpose of sub-section (*1*) as the Government may determine:

Provided further that there shall be no limit of income of family of deceased government servant for the purpose of sub-section (*1*).

Appointing authority.

6 All appointments to the posts in the secretarial staff shall be made by the Government or by such authority as may be prescribed by the Government from time to time.

Qualifications and age limit for recruitment.

7. The qualifications and age limit for recruitment to any post or class of posts shall be such as may be prescribed.

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8. Every person appointed to a permanent post by direct recruitment shall be on probation for a period of two years: Probation;

Provided that, if necessary the Government may extend or reduce the probation period.

9. Other conditions of service shall be such as may be prescribed by Government from time to time. Other conditions of service.

10. (*1*) The Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act. Power to make rules.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall there upon take effect.

11. Save as otherwise expressly provided in this Act, all rules corresponding to the provisions of this Act, and in force immediately before the commencement of this Act, are hereby repealed: Repeal and Savings.

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

STATEMENT OF OBJECTS AND REASONS

Article 309 of the Constitution of India, authorises the State Legislatures to make law for regulating the recruitment and conditions of service of persons appointed to the public services. Proviso to Article 309 provides that until any law is made by the State Legislature the matters may be regulated by rules to be made by the Governor. Thus the provision for regulating the service matters by rules appears to be transitory. The present set-up of rules made under proviso to article 309 are not conducive to the healthy growth of the Secretariat. Existing policy of the Government in relation to the appointment of dependent of the deceased government servant is governed under Government Resolution and it is experienced that its implementation is not so effective. In most of the cases, such appointment takes 5 to 10 years. At present, there are so many cases pending before the Government, in absence of appropriate Legislation.

The Supreme Court of India, in Civil Appeal No. 3642 of 1989 (AIR 1989, Supreme Court—1976) observed that in all claims for appointments on compassionate ground, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for year. If there is no suitable post for appointment, supernumerary post should be created to accommodate the applicant.

It is, therefore, necessary to enact a Legislation for smooth and healthy running of administration.

Hence this Bill.

Gandhinagar,
Dated the 7th January, 1993.

(Signed) LAXMANSINH PARMAR,
M.L.A.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (*b*) of clause 3, empowers the Government to sanction posts and categories in addition to those referred in clause (a).

Sub-clause (2) of clause 4, empowers the Government to make rules for specifying **methods** for filling posts, determining proportion of vacancies to be filled and to specify the class of officers and conditions for promotions.

Proviso to clause 5 empowers the Government to relax qualifictions and age limit in **appointing dependent** on compassionate ground.

Clause 6 empowers the Government to prescribe the appointing authority from time to time.

Clause 7 empowers the Government to prescribe the qualifications and age limit for recruitment.

Clause 8 empowers the Government to extend or reduce the probation period.

Clause 9 empowers the Government to prescribe other conditions of service.

Clause 10 empowers the Government to make rules to carry out the purposes of the Act.

The delegation of Legislative powers as aforesaid is necessary and of normal character.

Gandhinagar.
Dated, the 7th January, 1993,

(Signed) LAXMANSINH PARMAR,
M.L.A."

Gandhinagar,
Dated the 18th February, 1993.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

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PART V

Bill Introduced in the Gujarat Legislative Assembly

The following Bill which was introduced on the 18th February, 1993 by Shri Umedbhai B. Gohel, M.L.A. is published unrer Rule 127-A of the Gujarat Legislative Assembly Rules for general information.

Gujarat Bill No. 5 of 1993.

THE SAURASHTRA FELLING OF TREES (INFLICTION OF PUNISHMENT) (GUJARAT AMENDMENT) BILL, 1993.

A BILL

further to amend the Saurashtra Felling of Trees (Infliction of Punishment) Act, 1951.

It is hereby enacted in the Forty fourth Year of the Republic of India as follows:–

Short title and Commencement.

1. (*1*) This Act may be called the Saurashtra Felling of Trees (Infliction of Punishment) (Gujarat Amendment) Act, 1993.

(*2*) It shall come into force at once.

Amendment of section 3 of Saurashtra Act No. 17 of 1951.

Sau. 17 of 1951.

2. In the Saurashtra Felling of Trees (Infliction of Punishment) Act, 1951, in section 3, for sub-section (*2*) the following sub-section shall be substituted namely:—

"(*2*) Nothing contained in sub-section (*1*) shall apply to–

(*a*) the felling, appropriating or damaging any branch of babool tree for the purpose of using it or causing it to be used for cleaning teeth,

(*b*) the felling, appropriating or damaging any babool tree by a person from lands occupied by him for using its wood for agricultural or domestic purpose".

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STATEMENT OF OBJECTS AND REASONS

The farmers in Gujarat who cannot afford to use teak-wood for rafters or support pillars in their houses or huts, have to use babool wood. Some poor farmers also use babool wood for making agricultural implements. However, under the existing provisions of the Saurashtra Felling of Trees (Infliction of Punishment) Act, 1951, the farmers are not allowed to utilize the babool wood even from their own babool trees without permission except for cleaning the teeth. It is, therefore, necessary to provide that the farmers need not take permission for felling, appropriating or damaging their own babool trees for the agricultural or household purposes.

Hence the Bill.

Dated the 20th January, 1993.

(Signed) UMEDBHAI F. GOHEL,
M. L. A.

Gandhinagar,
Dated the 18th February, 1993.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 11th March, 1993 by Shri Ghanshyambhai Patel, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

"Gujarat Bill No. 6 of 1993.

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 1993.

A BILL

further to amend the Gujarat Co-operative Societies Act, 1961.

It is hereby enacted in the Forty-fourth year of the Republic of India as follows :—

Short title and Commencement.

1. (*1*) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 1993.

(*2*) It shall come into force at once.

Amendment of Section 2 of Guj. X of 1962.

Guj. X of 1962.

2. In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act"), in section 3, for sub-section (2), the following sub-section shall be substituted, namely :—

" (2) "by-laws" means by-laws made under section 168-A."

Amendment of Section 8 of Guj. X of 1962.

3. In the principal Act, in section 8—

(*1*) in sub-section (*2*), the words "and shall be accompanied by four copies of the proposed by-laws of the society" shall be deleted :

(*2*) in sub-section (*3*), the words "and its by-laws" shall be deleted.

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Amendment of section 9 of Guj. X of 1962.

4. In the principal Act, in section 9,—

(*1*) in sub-section (*1*)—

(*i*) in clause (*a*), the words "and that its by-laws are not contrary to this Act and the rules" and "and its by-laws" shall be deleted,

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

"(*b*) if the Registrar is of opinion that the application complies with the requirements of section 8 he may provisionally register the society, and by an order in writing permit the society to perform such functions subject to such conditions as he may specify in the order",

(*2*) in sub-section (*2*), the words "and its by-laws" shall be deleted.

Deletion of Section 13 and 14 of Guj. X of 1962.

5. In the principal Act, Section 13 and 14 shall be deleted.

Insertion of new section 168 A in Guj. X of 1962.

6. In the principal Act, after section 168, the following section shall be inserted, namely :—

Power of State Govt. to make by-laws for the Societies.

"168-*A* (*1*) Notwithstanding anything contained in this Act, the State Government shall make common by-laws with a provision, in particular, to the effect that the term of office of any officer of the society shall not be extended in any circumstances, alongwith other provision in general, for all categories of societies and they shall be binding to all the societies already registered or to be registered under this Act.

(*2*) As soon as common by-laws made under sub-section (*1*) come into force, all by-laws which are registered under this Act and are in force shall stand repealed :

Provided that anything done or any action taken under any of the provisions of the by-laws so repealed shall, so far as it is not inconsistent with the provisions of the said by-laws, be deemed to have been done or taken under the corresponding provisio of the by-laws made under sub-section (*1*)."

STATEMENT OF OBJECTS AND REASONS

At present every Co-operative Society has its own by-laws. Therefore, no uniformity is maintained. In order to maintain uniformity in by-laws it is desirable that the Government should make common by-laws for all Co-operative Societies and they should be made binding to all the societies already registered or to be registered under the Gujarat Co-operative Societies Act, 1961.

This Bill seeks to achieve the above object.

GHANSHYAMBHAI PATEL,
M. L. A.

Dated the 22nd February, 1993.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

New section 168-A proposed to be inserted by clause-6 of the Bill empowers the State Government to make common by-laws for all categories of societies.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Dated the 22nd February, 1993.

GHANSHYAMBHAI PATEL,
M. L. A.

Gandhinagar,

Dated the 11th March, 1993.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill, Which was introduced on the 17th March, 1993 by Shri Chhabildas Mehta, Finance Minister, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

GUJARAT BILL NO. 8 OF 1993.

THE GUJARAT APPROPRIATION (EXCESS EXPENDITURE) BILL, 1993.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1983.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows*:—

1. This Act may be called the Gujarat Appropriation (Excess Expenditure) Act, 1993. Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the agreegate to the sum of one hundred ten crores, sixty-four lakhs, sixty-one thousand, six hundred and ninety-two rupees towards defraying the several charges which have come in course of payment during the financial year ending on the thirty-first day of March, 1983 in respect of the services and purposes specified in column 2 of the Schedule. Issue of Rs. 1,10,64,61,692/- from and out of the Consolidated Fund of the State of Gujarat for the financial year 1982-83.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ending on the thirty-first day of March, 1983. Appropriation.

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SCHEDULE

(*See* sections 2 and 3)

No. of Excess Demand/ Appro-priation	Services and purposes		Sum not exceeding		Total
			Charged on the Consoli-dated fund	Voted by the Legislative Assembly.	
1	2			3	4
			Rs.	Rs.	Rs.
9.	Non-residential Building	Revenue	..	19,04,19,311	19,04,19,311
		Capital	..	4,45,72,965	4,45,72,965
10.	Residential Buildings	Revenue	..	6,34,14,596	6,34,14,596
		Capital	..	3,32,63,903	3,32,63,903
11.	Roads and Bridges	Revenue	..	8,09,17,208	8,09,17,208
		Capital	..	4,89,20,684	4,89,20,684
12.	Gujarat Capital, Construction Scheme	Capital	*219*	1,05,99,795	1,06,00,014
13.	Other Expenditure pertaining to Building and Communication Department	Revenue	..	19,59,719	19,59,719
14.	Education Department	Revenue	..	2,29,248	2,29,248
15.	Education Department	Revenue	*5,40,540*	..	5,40,450
17.	Finance Department	Revenue	..	49,200	49,200
20.	Pensions and Other Retirement Benefits.	Revenue	*2,54,31,516*	4,09,09,683	6,63,41,199
22.	Repayment of Debt pertaining to Finance Department and its Servicing	Capital	*11,87,79,176*	..	**11,87,79,176**
37.	Health and Family Welfare Department	Revenue	..	1,719	**1,719**
38.	Medical	Revenue	..	1,50,88,396	**1,50,88,396**
39.	Family Welfare	Revenue	..	2,32,23,171	2,32,32,171
42.	Home Department	Revenue	..	90,265	90,265
45.	Jails	Revenue	..	14,42,431	14,42,431
51.	Industries	Capital	..	4,82,89,819	4,82,89,819
56.	Irrigation and Soil Conservation	Revenue	..	28,22,70,274	28,22,70,274
58.	Labour and Employment Department	Revenue	..	1,38,103	1,38,103

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No.of Excess Demand/ Appro-priation.	Services and purposes		Sum not exceeding		Total
			Charged on Consolidated fund.	Voted by the Legislative Assembly.	
1	2			3	4
			Rs.	Rs.	Rs.
61.	Legal Department	Revenue	..	42,188	42,188
62.	Administration of Justice	Revenue	..	15,25,522	15,25,522
64.	Panchayats, Housing and Urban Development Department	Revenue	..	2,47,291	2,47,291
68.	Compensation, Assignments and Tax Collection charges	Revenue	*1,19,93,379*	..	1,19,93,379
69.	Other expenditure pertaining to Panchayats, Housing and Urban Development Department	Revenue	..	79,35,871	79,35,871
		Capital	..	96,558	96,558
74.	Revenue Department	Revenue	..	92,170	92,170
75.	Tax Collection charges (Revenue Department)	Revenue	..	1,93,85,160	1,93,85,160
76.	District Administration	Revenue	..	40,43,633	40,43,633
82.	State Excise	Revenue	..	1,55,568	1,55,568
83.	Social Security and Welfare	Revenue	..	40,17,423	40,17,423
85.	Tribal Area				
	Sub-Plan	Capital		2,63,66,078	2,63,66,078
	TOTAL :	Revenue	*3,79,65,345*	73,76,07,150	77,55,72,495
		Capital	*11,87,79,395*	21,21,09,802	33,08,89,197
	GRAND TOTAL :		*15,67,44,740*	94,97,16,952	1,10,64,61,692

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STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 205 of the Constitution of India *read* with article 204 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the money required to meet the excess expenditure incurred on certain services and purposes during the financial year ending on the thirty-first day of March, 1983.

The amounts are shown below :—

(a) Revenue Account	Rs.	77,55,72,495
(b) Capital Account	Rs.	33,08,89,197
Total	Rs.	1,10,64,61,692

Dated the 9th March, 1993. CHHABILDAS MEHTA',

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

Gandhinagar,
Dated the 17th March, 1993.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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

PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill, which was introduced on the 18th March, 1993 by Shri Chhabildas Mehta, Finance Minister, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

"GUJARAT BILL NO. 9 OF 1993.

THE GUJARAT (SUPPLEMENTARY) APPROPRIATION BILL, 1993.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the year ending on the thirty-first day of March, 1993.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 1993. Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of fourteen hundred sixty-five crores, sixty five lakhs, and seventy seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 1993 in respect of the services and purposes specified in column 2 of the Schedule. Issue of Rs. 14,65,65-77,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 1992-93.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

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THE SCHEDULE

(*See* sections 2 and 3)

No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged on the* Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
2.	Agriculture	Revenue	44,92,50,000	...	44,92,50,000
		Capital	10,80,00,000	..	10,80,00,000
3.	Minor Irrigation Soil Conservation and Area Development	Revenue	2,000	...	2,000
		Capital	20,10,000	..	20,10,000
4.	Animal Husbandry and Dairy Development	Revenue	96,51,000	*2,57,000*	99,08,000
5.	Fisheries	Revenue	..	*4,26,000*	4,26,000
6.	Co-operation	Revenue	..	*5,000*	5,000
		Capital	6,79,38,000	..	6,79,38,000
7.	Other Expenditure pertaining to Agriculture, Co-operation and Rural Development Department	Revenue	..	*60,000*	60,000
		Capital	13,00,000	..	13,00,000
8.	Education Department	Revenue	4,90,000	..	4,90 000
9.	Education	Revenue	95,81,14,000	*5,20,00,000*	1,01,01,14,000
10.	Other Expenditure pertaining to Education Department	Revenue	46,42,000	..	46,42,000
		Capital	6,16,65,000	..	6,16,65,000
11.	Energy and Petro-chemicals Department.	Revenue	11,97,000	..	11,97,000
13.	Energy Projects	Revenue	7,98,97,00,000	..	7,98,97,00,000
		Capital	10,00,000	..	10,00,000
14	Other Expenditure pertaining to Energy and Petro-chemicals Department.	Capital	16,80,000	..	16,80,000
15.	Finance Department	Revenue	39,05,000	..	39,05,000
17.	Treasury and Accounts Administration	Revenue	36,11,000	..	36,11,000
18.	Pensions and other Retirement Benefits	Revenue	20,05,00,000	..	20,05,00,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged on the* Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
19.	Other Expenditure pertaining to Finance Department	Revenue	1,000	..	1,000
		Capital	28,29,03,000	..	28,29,03,000
20.	Repayment of Debt pertaining to Finance Department and its Servicing	Revenue	..	*7,17,57,000*	7,17,57,000
		Capital	..	*80,19,99,000*	80,19,99,000
21.	Food and Civil Supplies Department	Revenue	12,54,000	..	12,54,000
22.	Civil Supplies	Capital	1,000	..	1,000
23.	Food	Revenue	1,38,06,000	..	1,38,06,000
		Capital	2,55,00,000	..	2,55,00,000
24.	Other Expenditure pertaining to Food and Civil Supplies Department.	Capital	8,85,000	...	8,85,000
26.	Forests	Revenue	37,25,000	*4,74,000*	41,99,000
		Capital	21,68,000	..	21,68,000
28.	Other Expenditure pertaining to Forest and Environment Department.	Revenue	..	*13,000*	13,000
		Capital	5,00,000	..	5,00,000
29.	Governor	Revenue	..	*8,96,000*	8,96,000
30.	Council of Ministers	Revenue	87,50,000	..	87,50,000
31.	Elections	Revenue	3,95,22,000	..	3,95,22,000
32.	Public Service Commission	Revenue	1,72,000	*17,85,000*	19,57,000
33.	General Administration Department.	Revenue	88,37,000	..	88,37,000
34.	Economic Advice and Statistics	Revenue	51,74,000	..	51,74,000
35.	Other Expenditure pertaining to General Administration Department	Revenue	2,000	*48,000*	50,000
		Capital	79,30,000	..	79,30,000
36.	State Legislature	Revenue	63,99,000	*40,000*	64,39,000
37.	Loans and Advances to Government servants in Gujarat Legislature Secretariat	Capital	5,00,000	..	5,00,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged on* the Consoli-dated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
38.	Health and Family Welfare Department	Revenue	17,53,000	..	17,53,000
39.	Medical and Public Health	Revenue	19,33,20,000	*2,80,000*	19,36,00,000
40.	Family Welfare	Revenue	4,41,37,000	..	4,41,37,000
41.	Water Supply	Capital	2,40,00,000	..	2,40,00,000
42.	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	1,51,000	*43,000*	1,94,000
		Capital	20,00,000	..	20,00,000
43.	Home Department	Revenue	23,83,000	..	23,83,000
44.	Police	Revenue	30,33,93,000	*2,00,000*	30,35,93,000
45.	Jails	Revenue	1,34,53,000	..	1,34,53,000
46.	Transport	Revenue	28,59,08,000	..	28,59,08,000
47.	Other Expenditure pertaining to Home Department.	Revenue	1,15,52,000	*1,40,000*	1,16,92,000
		Capital	15,00,000	..	15,00,000
48.	Industries and Mines Department	Revenue	33,90,000	..	33,90,000
49.	Stationery and Printing	Revenue	13,16,000	*1,20,000*	14,36,000
50.	Industries	Revenue	21,91,000	..	21,91,000
		Capital	12,64,93,000	..	12,64,93,000
52.	Other Expenditure pertaining to Industries and Mines Department	Capital	9,00,000	..	9,00,000
54.	Information and Publicity	Revenue	14,43,000	..	14,43,000
55.	Tourism	Capital	30,00,000	..	30,00,000
56.	Other Expenditure pertaining to Information, Broadcasting and Tourism Department.	Capital	6,00,000	..	6,00,000
57.	Labour and Employment Department	Revenue	6,00,000	..	6,00,000
58.	Labour and Employment	Revenue	9,47,69,000	..	9,47,69,000
59	Other Expenditure pertaining to Labour and Employment Department.	Capital	9,00,000	..	9,00 ,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged on* the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
61.	Administration of Justice	Revenue	3,000	*1,000*	4,000
62.	Other Expenditure pertaining to Legal Department.	Revenue	1,21,000	..	1,21,000
		Capital	5,85,000	..	5,85,000
63.	Narmada and Water Resources Department.	Revenue	12,85,000	..	12,85,000
65.	Irrigation and Soil Conservation	Revenue	20,53,57,000	*2,81,000*	20,56,38,000
		Capital	45,87,64,000	*1,07,15,000*	46,94,79,000
66.	Other Expenditure pertaining to Narmada and Water Resources Department.	Revenue	10,00,000	*1,04,73,000*	1,14,73,000
		Capital	12,25,000	..	12,25,000
67.	Panchayats and Rural Housing Department.	Revenue	4,80,000	..	4,80,000
68.	Community Development	Revenue	8,85,68,000	..	8,85,68,000
69.	Rural Housing	Revenue	1,18,60,000	*10,91,50,000*	12,10,10,000
70.	Compensations and Assignments	Revenue	5,33,32,000	..	5,33,32,000
71.	Other Expenditure pertaining to Panchayats and Rural Housing Department.	Revenue	89,60,000	..	89,60,000
		Capital	55,00,000	..	55,00,000
72.	Revenue Department	Revenue	14,06,000	..	14,06,000
73.	Tax Collection Charges (Revenue Department)	Revenue	2,000	..	2,000
74.	District Administration	Revenue	79,65,000	*1,000*	79,66,000
75.	Relief on account of Natural Calamities.	Capital	12,00,00,000	..	12,00,00,000
76.	Dangs District	Revenue	1,59,90,000	..	1,59,90,000
77.	Compensation and Assignments	Revenue	89,75,000	*1,000*	89,76,000
78.	Other Expenditure pertaining to Revenue Department.	Revenue	26,00,44,000	*16,000*	26,00,60,000
80.	Non-Residential Buildings	Revenue	1,99,48,000	*8,60,000*	2,08,08,000
		Capital	6,25,96,000	*2,27,000*	6,28,23,000
81.	Residential Buildings	Revenue	22,50,000	..	22,50,000
		Capital	6,29,33,000	..	6,29,33,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged on* the Consolidated Fund.	Total
1	2			3	
			Rs.	Rs	Rs.
82.	Roads and Bridges	Revenue	6,90,65,000	*14,53,000*	7,05,18,000
		Capital	25,97,78,000	*4,81,000*	26,02,59,000
84.	Gujarat Capital Construction Scheme	Revenue	32,38,000	..	32,38,000
		Capital	30,00,000	*55,97,000*	85,97,000
85.	Other Expenditure pertaining to Roads and Buildings Department.	Revenue	1,00,00,000	*35,92,000*	1,35,92,000
		Capital	95,60,000	..	95,60,000
86.	Social Welfare and Tribal Development Department.	Revenue	7,68,000	..	7,68,000
88.	Social Security and Welfare	Revenue	3,73,38,000	..	3,73,38,000
		Capital	7,95,000	..	7,95,000
89.	Welfare of Scheduled Tribes	Revenue	72,90,000	..	72,90,000
		Capital	1,000	..	1,000
90.	Other Expenditure pertaining to Social Welfare and Tribal Development Department	Capital	9,00,000	..	9,00,000
91.	Special Component Plan for Scheduled Castes	Revenue	9,62,51,000	..	9,62,51,000
		Capital	40,63,000	..	40,63,000
92.	Tribal Area Sub-Plan	Revenue	12,55,40,000	*4,38,000*	12,59,78,000
		Capital	7,34,34,000	*4,93,000*	7,39,27,000
93.	Urban Development and Urban-Housing Department.	Revenue	5,45,000	..	5,45,000
94.	Urban Housing	Revenue	75,20,000	*1,11,50,000*	1,86,70,000
		Capital	27,01,000	..	27,01,000
95.	Urban Development	Revenue	..	*3,50,000*	3,50,000
		Capital	6,00,00,000	..	6,00,00,000
	Other Expenditure pertaining to Urban Development and Urban Housing Department.	Capital	8,50,000	..	8,50,000

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No. of Vote/ Appro pria- tion	Services and purposes		Sums not exceeding		
			Voted	*Charged on* the Consolidated Fund.	Total
1	2			3	
			Rs.	Rs.	Rs.
99.	Youth Services and Cultural Activities	Revenue	66,01,000	..	66,01,000
100.	Other Expenditure pertaining to Youth Services and Cultural Activities Department.	Capital	5,32,000	..	5,32,000
		Revenue	11,72,01,65,000	*26,63,10,000*	11,98,64,75,000
	Total :	Capital	1,85,05,90,000	*81,95,12,000*	2,67,01,02,000
	Grand Total		13,57,07,55,000	*1,08,58,22,000*	14,65,65,77,000

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STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204 of the Constitution of India *read* with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 1993.

The amounts are shown below:—

(a)	Revenue Expenditure	Rs. 11,98,64,75,000
(b)	Capital Expenditure	Rs. 2,67,01,02,000
	Total	Rs. 14,65,65,77,000

Dated the 11th March, 1993.

CHHABILDAS MEHTA".

Gandhinagar,
Dated the 18th March, 1993.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

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PART V

Bill Introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

THE BOMBAY SALES OF MOTOR SPIRIT TAXATION (GUJARAT AMENDMENT) BILL, 1993.

GUJARAT BILL NO. 10 OF 1993.

A BILL

further to amend the Bombay Sales of Motor Spirit Taxation Act, 1958.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Sales of Motor Spirit Taxation (Gujarat Amendment) Act, 1993.

(*2*) It shall come into force on the 1st April, 1993.

Amendment of section 5B of Bom. LXVI of 1958.

Bom. LXVI of 1958.

2. In the Bombay Sales of Motor Spirit Taxation Act, 1958 (hereinafter referred to as "the principal Act"), in section 5B, in sub-section (*1*), in the Table,—

(*1*) in the item at serial No. 3, after the words "five crores of rupees or more", the words "but less than eight crores of rupees" shall be added;

(*2*) after the item at serial No. 3, the following item shall be added, namely:—

"4.	where the total turnover is eight crores of rupees or more.	Two per cent. of the total turnover.".

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Amendment of section 10 of Bom. LXVI of 1958.

3. In the principal Act, in section 10, in sub-section (2), for the letters and figurey "Rs. 2", the letters and figures "Rs. 10" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

This Bill seeks to amend the Bombay Sales of Motor Spirit Taxation Act, 1958 with a view to giving effect to the proposal contained in the Budget speech of the Finance Minister in the Legislative Assembly on the 17th February, 1993.

2. Sub-section (2) of section 10 empowers the Collector to impose for the grant or renewal of every licence such fees not exceeding Rs. 2 as may be prescribed. An opportunity is also taken to enhance the limit of prescribing such fees from rupees two to rupees ten.

3. This Bill seeks to amend the Act to provide accordingly.

Dated the 18th March, 1993. CHHABILDAS MEHTA.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 19th March, 1993.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT APPROPRIATION BILL, 1993.

GUJARAT BILL NO. 11 OF 1993.

A BILL

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1994.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:-

Short title.

1. This Act may be called the Gujarat Appropriation Act, 1993.

Withdrawal of Rs. 92,74,17,54,000from and out of the Consolidated Fund of the State of Gujarat for the financial year 1993-94.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of nine thousand two hundred seventy-four crores, seventeen lakhs, fifty-four thousands rupees towards defraying the several charges which will come in course of payment during the financial year 1993--94 in respect of the services and purposes specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

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THE SCHEDULE

(*See* sections 2 and 3)

No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
1.	Agriculture, Co-operation and Rural Development Department	Revenue	2,25,08,000	..	2,25,08,000
2.	Agriculture	Revenue	2,16,25,65,000	..	2,16,25,65,000
		Capital	15,05,00,000	..	15,05,00,000
3.	Minor Irrigation, Soil Conservation and Area Development	Revenue	24,64,41,000	..	24,64,41,000
		Capital	85,00,000	..	85,00,000
4.	Animal Husbandry and Dairy Development	Revenue	26,71,38,000	..	26,71,38,000
		Capital	12,00,000	..	12,00,000
5.	Fisheries	Revenue	13,55,85,000	..	13,55,85,000
		Capital	1,99,30,000	..	1,99,30,000
6.	Co-operation	Revenue	19,01,17,000	..	19,01,17,000
		Capital	7,93,57,000	..	7,93,57,000
7.	Other Expenditure pertaining to Agriculture, Co-operation and Rural Development Department	Capital	1,92,66,000	..	1,92,66,000
8.	Education Department	Revenue	1,15,90,000	..	1,15,90,000
9.	Education	Revenue	13,13,72,86,000	*29,94,00,000*	13,43,66,86,000
		Capital	17,00,000	..	17,00,000
10.	Other Expenditure pertaining to Education Department	Revenue	4,82,15,000	..	4,82,15,000
		Capital	15,78,30,000	..	15,78,30,000
11.	Energy and Petro-Chemicals Department	Revenue	45,00,000	..	45,00,000
12.	Tax collection Charges (Energy and Petro-Chemicals Department)	Revenue	2,48,60,000	..	2,48,60,000
13.	Energy Projects	Revenue	1,52,95,00,000	..	1,52,95,00,000
		Capital	2,83,79,00,000	..	2,83,79,00,000
14.	Other Expenditure pertaining to Energy and Petro Chemicals Department	Revenue	72,00,000	..	72,00,000
		Capital	2,20,87,000	..	2,20,87,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged on* the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
15.	Finance Department	Revenue	2,73,20,000	..	2,73,20,000
		Capital	2,63,000	..	2,63,000
16.	Tax Collection Charges (Finance Department)	Revenue	30,83,19,000	..	30,83,19,000
17.	Treasury and Accounts Administration.	Revenue	17,34,08,000	..	17,34,08,000
18.	Pensions and other Retirement Benefits	Revenue	2,33,27,05,000	*10,00,000*	2,33,37,05,000
19.	Other Expenditure pertaining to Finance Department	Revenue	2,07,54,84,000	..	2,07,54,84,000
		Capital	16,77,07,000	*1,00,000*	16,78,07,000
20.	Repayment of Debt pertaining to Finance Department and its Servicing	Revenue	..	*9,55,35,70,000*	9,55,35,70,000
		Capital	..	*11,71,96,00,000*	11,71,96,00,000
21.	Food and Civil Supplies Department.	Revenue	2,79,95,000	..	2,79,95,000
22.	Civil Supplies	Revenue	29,35,65,000	..	29,35,65,000
		Capital	1,01,000	..	1,01,000
23.	Food	Revenue	5,18,59,000	..	5,18,59,000
		Capital	15,00,000	..	15,00,000
24.	Other Expenditure pertaining to Food and Civil Supplies Department	Capital	24,20,000	..	24,20,000
25.	Forest and Environment Department.	Revenue	63,91,000	..	63,91,000
26.	Forests	Revenue	42,30,06,000	..	42,30,06,000
		Capital	43,27,35,000	..	43,27,35,000
27.	Environment	Revenue	2,65,00,000	..	2,65,00,000
28.	Other Expenditure pertaining to Forest and Environment Department.	Capital	45,87,000	..	45,87,000
29.	Governor	Revenue	..	*71,62,000*	71,62,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consolidated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
30.	Council of Ministers	Revenue	1,81,75,000	..	1,81,75,000
31.	Elections	Revenue	88,13,000	..	88,13,000
32.	Public Service Commission	Revenue	27,65,000	*1,12,60,000*	1,40,25,000
33.	General Administration Department	Revenue	8,55,34,000	..	8,55,34,000
34.	Economic Advice and Statistics	Revenue	4,17,22,000	..	4,17,22,000
35.	Other Expenditure pertaining to General Administration Department	Revenue	53,59,05,000	..	53,59,05,000
		Capital	1,43,26,000	..	1,43,26,000
36.	State Legislature	Revenue	3,53,52,000	*4,00,000*	3,57,52,000
37.	Loans and Advances to Government servants in Gujarat Legislature Secretariat	Capital	25,75,000	..	25,75,000
38.	Health and Family Welfare Department.	Revenue	1,85,50,000	..	1,85,50,000
39.	Medical and Public Health	Revenue	2,64,00,06,000	..	2,64,00,06,000
40.	Family Welfare	Revenue	47,85,60,000	..	47,85,60,000
41.	Water Supply	Revenue	57,11,00,000	..	57,11,00,000
		Capital	1,63,90,10,000	..	1,63,90,10,000
42.	Other Expenditure pertaining to Health and Family Welfare Department.	Revenue	24,71,95,000	..	24,71,95,000
		Capital	4,12,70,000	..	4,12,70,000
43.	Home Department	Revenue	1,54,90,000	..	1,54,90,000
44.	Police	Revenue	2,92,61,07,000	*3,00,000*	2,92,74,07,000
45.	Jails	Revenue	8,20,72,000	..	8,20,72,000
46.	Transport	Revenue	1,22,17,93,000	..	1,22,17,93,000
		Capital	11,10,00,000	..	11,10,00,000
47.	Other Expenditure pertaining to Home Department	Revenue	23,30,75,000	*1,20,000*	23,31,95,000
		Capital	13,11,56,000	..	13,11,56,000

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No. of Vote/ Appro-pria-tion	Services and purposes		Sums not exceeding		
			Voted	*Charged on* the Consoli-dated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
48.	Industries and Mines Department	Revenue	1,24,75,000	..	1,24,75,000
49.	Stationery and Printing	Revenue	24,81,40,000	..	24,81,40,000
50.	Industries	Revenue	73,76,19,000	..	73,76,19,000
		Capital	61,64,00,000	..	61,64,00,000
51.	Mines and Minerals	Revenue	7,83,75,000	..	7,83,75,000
52.	Other expenditure pertaining to Industries and Mines Department	Revenue	6,05,000	..	6,05,000
		Capital	98,30,000	..	98,30,000
53.	Information, Broadcasting and Tourism Department	Revenue	28,75,000	..	28,75,000
54.	Information and Publicity.	Revenue	14,78,05,000	..	14,78,05,000
		Capital	30,00,000	..	30,00,000
55.	Tourism	Revenue	2,65,32,000	..	2,65,32,000
		Capital	75,00,000	..	75,00,000
56.	Other Expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue	1,30,95,000	..	1,30,95,000
		Capital	18,53,000	..	18,53,000
57.	Labour and Employment Department	Revenue	69,50,000	..	69,50,000
58.	Labour and Employment	Revenue	46,02,68,000	..	46,02,68,000
		Capital	2,00,000	..	2,00,000
59.	Other Expenditure pertaining to Labour and Employment Department	Capital	87,71,000	..	87,71,000
60.	Legal Department	Revenue	2,07,90,000	..	2,07,90,000
		Capital	25,000	..	25,000
61.	Administration of Justice	Revenue	36,70,46,000	*4,36,34,000*	41,06,80,000
62.	Other Expenditure pertaining to Legal Department	Revenue	1,29,67,000	..	1,29,67,000
		Capital	79,87,000	..	79,87,000
63.	Narmada and Water Resources Department	Revenue	1,78,10,000	..	1,78,10,000
64.	Narmada Development Scheme	Capital	8,91,90,37,000	..	8,91,90,37,000
65.	Irrigation and Soil Conservation	Revenue	4,50,48,72,000	..	4,50,48,72,000
		Capital	1,20,81,03,000	..	1,20,81,03,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consoli-dated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
66.	Other Expenditure pertaining to Narmada and Water Resources Department	Revenue	15,00,000	..	15,00,000
		Capital	2,54,79,000	..	2,54,79,000
6.	Panchayats and Rural Housing Department	Revenue	1,09,95,000	..	1,09,95,000
68.	Community Development	Revenue	79,56,78,000	..	79,56,78,000
		Capital	..	*12,50,000*	12,50,000
69.	Rural Housing	Revenue	28,75,30,000	*39,09,50,000*	67,84,80,000
		Capital	2,48,90,000	..	2,48,90,000
70.	Compensations and Assignments	Revenue	14,86,71,000	..	14,86,71,000
71.	Other Expenditure pertaining to Panchayats and Rural Housing Department	Revenue	8,03,30,000	..	8,03,30,000
		Capital	5,52,76,000	..	5,52,76,000
72.	Revenue Department	Revenue	2,84,07,000	..	2,84,07,000
73.	Tax Collection Charges (Revenue Department)	Revenue	25,47,42,000	*25,00,000*	25,72,42,000
74.	District Administration	Revenue	26,39,69,000	..	26,39,69,000
75.	Relief on account of Natural Calamities	Revenue	84,75,00,000	..	84,75,00,000
		Capital	25,00,000	..	25,00,000
76.	Dangs District	Revenue	12,34,89,000	..	12,34,89,000
		Capital	1,00,000	..	1,00,000
77.	Compensations and Assignments	Revenue	6,83,35,000	*42,45,000*	7,25,60,000
		Capital	50,00,000	*34,00,000*	84,00,000
78.	Other Expenditure pertaining to Revenue Department	Revenue	47,89,000	..	47,89,000
		Capital	1,85,25,000	..	1,85,25,000
79.	Roads and Buildings Department	Revenue	3,06,45,000	..	3,06,45,000
80.	Non-Residential Buildings	Revenue	94,98,23,000	*3,12,000*	95,01,35,000
		Capital	33,99,89,000	..	33,99,89,000
81.	Residential Buildings	Revenue	44,85,17,000	..	44,85,17,000
		Capital	7,76,09,000	..	7,76,09,000
82.	Roads and Bridges	Revenue	2,24,95,46,000	..	2,24,95,46,000
		Capital	43,28,00,000	..	43,28,00,000

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No. of Vote/ Appro-priation	Services and purposes		Sums not exceeding		
			Voted	*Charged* on the Consoli-dated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
83.	Ports	Capital	9,65,30,00	..	9,65,30,000
84.	Gujarat Capital Construction Scheme	Revenue	2,11,37,000	..	2,11,37,000
		Capital	8,05,00,000	..	8,05,00,000
85.	Other Expenditure pertaining to Roads and Buildings Department	Revenue	6,03,85,000	..	6,03,85,000
		Capital	1,68,52,000	..	1,68,52,000
86.	Social Welfare and Tribal Development Department	Revenue	92,00,000	..	92,00,000
87.	State Excise	Revenue	2,22,90,000	..	2,22,90,000
88.	Social Security and Welfare	Revenue	65,75,70,000	..	65,75,70,000
		Capital	2,25,00,000	..	2,25,00,000
89.	Welfare of Scheduled Tribes	Revenue	25,60,50,000	..	25,60,50,000
		Capital	64,00,000	..	64,00,000
90.	Other Expenditure pertaining to Social Welfare and Tribal Development Department	Capital	32,56,000	..	32,56,000
91.	Special Component Plan for Scheduled Castes	Revenue	1,09,20,25,000	..	1,09,20,25,000
		Capital	8,57,58,000	..	8,57,58,000
92.	Tribal Area Sub-Plan	Revenue	2,52,80,13,000	..	2,52,80,13,000
		Capital	82,82,44,000	..	82,82,44,000
93.	Urban Development and Urban Housing Department	Revenue	62,50,000	..	62,50,000
94.	Urban Housing	Revenue	13,02,70,000	*8,43,85,000*	21,46,55,000
		Capital	6,58,00,000	..	6,58,00,000
95.	Urban Development	Revenue	47,37,75,000	..	47,37,75,000
		Capital	21,25,00,000	..	21,25,00,000
96.	Compensation Assignment and Tax Collection Charges	Revenue	22,80,80,000	*5,31,23,000*	28,12,03,000
97.	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	1,13,80,000	..	1,13,80,000
		Capital	22,65,000	..	22,65,000
98.	Youth Services and Cultural Activities Department	Revenue	29,00,000	..	29,00,000

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No. of Vote/ Appro-priation	Services and purposes		Sumes not exceeding		
			Voted	*Charged* on the Consoli-dated Fund	Total
1	2			3	
			Rs.	Rs.	Rs.
99.	Youth Services and Cultural Activities	Revenue	8,09,98,000	..	8,09,98,000
100.	Other Expenditure pertaining to Youth Services and Cultural Activities Department	Capital	33,60,000	..	33,60,000
	Total	Revenue	51,52,92,84,000	*10,45,23,61,000*	61,98,16,45,000
		Capital	19,03,57,59,000	*11,72,43,50,000*	30,76,01,09,000
	Grand Total		70,56,50,43,000	*22,17,67,11,000*	92,74,17,54,000

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STATEMENT OF OBJECTS AND REASONS

Article 204(*1*) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet—

(a) the grants so made by the Assembly, and

(b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of this State for the financial year ending on the 31st March, 1994.

The amounts are shown below—	Rs.
(a) Revenue Expenditure	61,98,16,45,000
(b) Capital Expenditure	30,76,01,09,000
Total	92,74,17,54,000

Dated the 19th March, 1993. CHHABILDAS MEHTA.

By order and in the name of the Governor of Gujarat.

B. K. SHAH,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar dated the 19th March, 1993.

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Extra No. 12 REGISTERED NO. G/GNR/2

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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXIV] FRIDAY, MARCH 19, 1993/PHALGUNA 28, 1914

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

PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT TAX ON LUXURIES (HOTELS AND LODGING HOUSES) (AMENDMENT) BILL, 1993.

Gujarat Bill No. 12 of 1993.

A BILL

further to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Act, 1993.

(*2*) It shall come into force on the 1st April, 1993.

Guj. 24 of 1977.

Amendment of section 3 of Guj. 24 of 1977.

2. In the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977, in section 3, in sub-section (*1*), for clauses (*a*) to (*d*), the following clauses shall be substituted, namely:—

"(*a*) Where the charges for lodging are not more than hundred rupees per day per person.	Nil.
(b) Where the charges for lodging are more than hundred rupees but not more than two hundred rupees per day per person.	10 per cent. of such charges.

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(c)	Where the charges for lodging are more than two hundred rupees but not more than three hundred rupees per day per person.	Rs. 20 plus 15 per cent. of such charges in excess of Rs. 200 per person per day.
(d)	Where the charges for lodging are more than three hundred rupees per day per person.	Rs. 35 plus 20 per cent. of such charges in excess of Rs. 300 per person per day.".

STATEMENT OF OBJECTS AND REASONS

In order to promote tourism activities in the State, the Finance Minister has announced specific concessions in the existing rate of luxury tax in his Budget speech in the Legislative Assembly on the 17th February, 1993. This Bill accordingly seeks to amend section 3 of the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977, with a view to giving effect to the proposal contained in the said Budget speech of the Finance Minister.

Dated the 19th March, 1993. CHIMANBHAI PATEL.

By order and in the name of the Governor of Gujarat.

B. K. SHAH,
Secretary to the Government of Gujarat,
Legal Department.

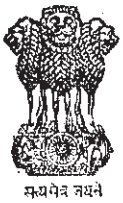
Gandhinagar, dated the 19th March, 1993.

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Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

THE BOMBAY STAMP (GUJARAT AMENDMENT) BILL, 1993.

Gujarat Bill No. 13 of 1993.

A BILL

further to amend the Bombay Stamp Act, 1958.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Stamp (Gujarat Amendment) Act, 1993.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of Schedule I, to Bom. LX of 1958.

Bom. LX of 1958.

2. In the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal Act"), in Schedule I ,—

(1) in article 4, for the words "Ten rupees", the words "Twenty-five rupees" shall be substituted ;

(2) in article 14, for the words "Four rupees", the words "Six rupees" shall be substituted ;

(3) in article 22, for the words "ten rupees", the words "twenty rupees" shall be substituted ;

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(4) in article 29, for the words, brackets and figures "The same duty as a Security Bond (No. 51) for the same amount", the words and figures "Subject to maximum of sixty rupees, six rupees for every Rs. 100 or part thereof of the amount secured" shall be substituted ;

(5) in article 32, for the words "Twenty rupees", the words "Forty rupees" shall be substituted ;

(6) in article 34, for the words "Ten rupees", the words "Two hundred and fifty rupees" shall be substituted ;

(7) in article 38, for the words "Ten rupees", the words "Twenty-five rupees" shall be substituted ;

(8) in article 44,—

(a) in clause (1), for the words "one thousand rupees, one hundred rupees", the words "two thousand rupees, two hundred rupees" shall be substituted;

(b) in clause (2), in sub-clause (*b*), for the words "One hundred rupees", the words "Two hundred rupees" shall be substituted ;

(c) in clause (3), in sub-clause (*b*), for the words "One hundred rupees", the words "Two hundred rupees" shall be substituted ;

(9) in article 48, for the words "forty rupees, four rupees", the words, "sixty rupees, six rupees" shall be substituted ;

(10) in article 49, for the words "forty rupees, four rupees", the words "sixty rupees, six rupees" shall be substituted ;

(11) in article 51, for the words "forty rupees, four rupees", the words "sixty rupees, six rupees" shall be substituted ;

(12) in article 55, for the words "forty rupees", the words "sixty rupees" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Stamp Act, 1958 with a view to giving effect to the proposal contained in the Budget speech of the Finance Minister in the Legislative Assembly on the 17th February, 1993. The rates of the stamp duty which are in force since the year 1932 are proposed to be increased on certain instruments.

DALSUKHBHAI GODHANI,

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MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative power in the following respect :—

Clause 1.— Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 19th March, 1993.

DALSUKHBHAI GODHANI.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 19th March, 1993.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT SALES TAX (AMENDMENT) BILL, 1993

GUJARAT BILL NO. 14 OF 1993

A BILL

further to amend the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Gujarat Sales Tax (Amendment) Act, 1993.

(*2*) It shall come into force on the 1st April, 1993.

Guj. 1 of 1970.

Amendment of section 10 A of Guj. 1 of 1970

2. In the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the principal Act"), in section 10A,—

(*1*) in sub-section (*1*),—

(*a*) for the words "taxable turnover of sales effected by him of all taxable goods", the words "taxable turnover of sales effected by him of all taxable goods and also the goods wholly or partially exempt from payment of tax under sub-section (*2*) of section 49" shall be substituted;

(*b*) in the Table,—

(*i*) in the item at serial No. 4, after the words "exceeds rupees four crores", the words "but does not exceed rupees eight crores" shall be added;

(*ii*) after the item at serial No. 4, the following shall be added, namely :—

"5. Where taxable turnover exceeds rupees eight crores	Rupees ten lakhs plus two per-cent. on the taxable turnover in excess of rupees eight crores.";

(*2*) in sub-section (*2*), clauses (d) and (f) shall be deleted.

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Amendment of section 13 of Guj. 1 of 1970.

3. In the principal Act, in section 13, in sub-section (*1*),—

(*1*) in clause (*A*), in sub-clause (*i*), the words "or by another Licensed dealer to whom he resells the goods" shall be deleted;

(*2*) in clause (*C*), in sub-clause (*a*), for the words "either by the principal himself or by another Licensed dealer to whom that principal will sell the goods", the words "by the principal himself" shall be substituted.

Amendment of section 54 of Guj. 1 of 1970.

4. In the principal Act, in section 54, in sub-section (*1*),—

(*1*) before clause (a), the following new clause shall be inserted, namely:—

"(*aa*) Where refund of any amount becomes due to the dealer by virtue of an order of assessment under section 41, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest at the rate of fourteen per cent. per annum on the said amount from the date immediately following the date of closure of the accounting year to which the said amount relates to the date of order of assessment :

Provided that where dealer has paid any amount after the closure of the accounting year and such amount is required to be refunded, no interest shall be payable for the period from the date of closure of such accounting year to the date of payment of such amount :

Provided further that no interest shall be payable on the amount of refund which does not exceed rupees one hundred:";

(*2*) for the words "twenty four per cent.", the words "fourteen per cent." shall be substituted.

Amendment of section 55A of Guj. 1 of 1970.

5. In the principal Act, in section 55A, in sub-section (*1*), for the words "at the rate of two per cent. of the total value of the works contract executed by him", the words "at the rate or rates as may be fixed by the State Government by notification in the *Official Gazette* having regard to the incidence of tax on the nature of the goods involved in the execution of total value of the works contract" shall be substituted.

Insertion of new section 55B in Guj. 1 of 1970.

6. In the principal Act, after section 55A, the following new section shall be inserted, namely :—

Composition of tax on certain specified sales.

"55B. The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit any dealer engaged in the specified sale of hiring of *Shamiyana* to pay at his option in lieu of the amount of tax leviable from him under this Act in respect of any period, a lump-sum by way of composition at the rate as may be fixed by the State Government by notification in the *Official Gazette*.".

Amendment of section 55 AA of Guj. 1 of 1970.

7. In the principal Act, section 55AA shall be renumbered as section 55C.

Amendment of section 59 A of Guj. 1 of 1970.

8. In the principal Act, in section 59A,–

(*1*) in sub-section (*2*), for the words and figures "Central Sales Tax Act, 1956", the words and figures "Central Sales Tax Act, 1956 or relevant Act in any other State" shall be substituted;

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(2) in sub-section (3), in clause (c), the following shall be added at the end, namely:—

"and keep one copy of declaration with him".

Amendment of Schedule I to Guj. 1 of 1970.

9. In the principal Act, in Schedule I,—

(1) in the entry at serial No. 9, after item (20), the following item shall be added, namely :—

"(21) intra-ocular lens used for cataract operation.";

(2) in the entry at serial No. 15A, for the words "*Gokhla* and *Paniyara*", the words "*Gokhla*, *Paniyara* and hand-made frames of doors and windows" shall be substituted;

(3) entry at serial No. 71 shall be deleted;

(4) after the entry at serial No. 82, the following new entry shall be added, namely:—

"82A. Solar energy equipments.";

(5) entry at serial No. 96 shall be deleted.

Amendment of Schedule II Part A to Guj. 1 of 1970.

10. In the principal Act, in Schedule II, in Part A,—

(1) after the entry at serial No. 13, the following new entries shall be added, namely:—

1	2	3	4
"13A.	Ball bearings	Four paise in the rupee	Four paise in the rupee
13B.	Bolts and nuts	Four paise in the rupee	Four paise in the rupee";

(2) in the entry at serial No. 18, in columns 3 and 4, for the figures and word "4.80 paise", the words "seven paise" shall be substituted ;

(3) in the entry at serial No. 20, in columns 3 and 4, for the words "seven paise", the words "ten paise" shall be substituted;

(4) after the entry at serial No. 22, the following new entry shall be added, namely :—

1	2	3	4
"22A.	Crucibles	Four paise in the rupee	Four paise in the rupee.";

(5) in the entry at serial No. 40, in columns 3 and 4, for the words "fifteen paise", the words "eighteen paise" shall be substituted ;

(6) in the entry at serial No. 44, in the sub-entry (A), in item (xix), for the words "tetrapack containers", the words "tetrapack materials". shall be substituted;

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(7) after the entry at serial No. 61, the following new entry shall be added, namely:—

1	2	3	4
"61A	Winding wires including super enamelled copper winding wire and plastic coated winding wire.	Four paise in the rupee	Four paise in the rupee";

(8) in the entry at serial No. 95, in column (2), the words "and stencils" shall be deleted ;

(9) in the entry at serial No. 115, in columns 3 and 4, for the words "five paise", the words "three paise" shall be substituted;

(10) in the entry at serial No. 116, for the brackets and words "(excluding liquified petroleum gas) and acetylene gas", the brackets and words "(excluding liquified petroleum gas and acetylene gas)", shall be substituted ;

(11) in the entry at serial No. 132, in column 2, for the words "Pan-Masala", the words "Pan-Masala of all types with or without tobacco" shall be substituted;

(12) after the entry at serial No. 139, the following new entry shall be inserted, namely:-

1	2	3	4
"139A	Plastic buttons	Two paise in the rupee	Two paise in the rupee";

(13) entry at serial No. 155 shall be deleted;

(14) for the entry at serial No. 184, the following entries shall be substituted :—

1	2	3	4
"184	*Variali* (Ani seeds)	Two paise in the rupee	Two paise in the rupee
184A	*Jira* (Cumin seeds)	Two paise in the rupee	Two paise in the rupee
184B	*Khas Khas* (Red poppyseeds).	Six paise in the rupee	Six paise in the rupee";

(15) after the entry at serial No. 192, the following entry shall be inserted, namely :—

1	2	3	4
"192A	Wooden handles of *pawarah* and pick-axe.	Two paise in the rupee	Two paise in the rupee";

Amendment in Schedule II Part B of Guj. 1 of 1970.

11. In the principal Act, in Schedule II, in Part B, in the entry at serial No. 4, the words and brackets *"Jira* (Cuminseeds)" shall be deleted.

———

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat Sales Tax Act, 1969 with a view to giving effect to the proposals contained in the Budget speech of the Finance Minister in the Legislative Assembly on the 17th February, 1993.

An opportunity is also taken to amend certain provisions of the Act for smooth implementation of the provisions of the Act.

The following notes on clauses explain the important provisions of the Bill:—

Clause 2.—This clause seeks to amend section 10A. With a view to mobilizing additional resources, it is proposed to introduce a new slab of turnover tax at the rate of 2 per cent. on the turnover exceeding Rs. eight crores.

Sales or resales of goods against certificate as provided in section 13 would henceforth be liable to turnover tax. Likewise, sales of goods wholly or partially exempt from payment of tax under section 49(2) would also be liable to turnover tax.

Clause 3.—This clause seeks to amend section 13. At present, a licensed dealer can purchase goods against prescribed form/declaration for resale in the course of inter-State trade or in the course of export; and such goods are to be resold by himself or by another licensed dealer to whom he resales the goods. A similar facility is also available to a commission agent. It has been noticed that some dealers misuse facility of form meant for inter-State transaction by effecting sales of such goods, within the State. It is, therefore, considered necessary to allow the use of facility of form only in respect of purchases made by a dealer for the inter-State sale to be made by him or his commission agent but not by others.

Clause 4.—This clause seeks to amend section 54. At present if the dealer is not given the amount of refund within the period prescribed in section 54, the Government is required to pay interest at the rate of twenty-four per cent from the date of expiry of specified period till the date of refund. But, such dealer is not entitled to get any interest for the period prior to the date of the order of refund. With a view to grant benefit of interest on refund for the prior period also, it is proposed to amend section 54 in such a manner that the dealer is made entitled to interest at the rate of fourteen per cent. in respect of the period beginning from the date immediately following the date of closure of the accounting year to which the said amount relates till the date of order of assessment. The same rate of fourteen per cent. is proposed to apply for the delayed refund.

Clause 5—This clause seeks to amend section 55A to provide for different rates of composition, as may be fixed by notification, in respect of works contract, so that the Government can fix different rates of composition keeping in view the rates of sales tax on the commodities involved in the works contract.

Clause 6.—New section 55B proposed to be inserted by this clause seeks to introduce a new scheme of option of payment of lump-sum by way of composition, instead of tax payable, by the dealers engaged in the specified sale of hiring of *Shamiyana* at the rate or rates that may be fixed by the Government.

Clauses 9, 10 and 11.—These clauses seek to amend various entries in Schedules I and II in pursuance of the Budget speech of the Finance Minister on the 17th February, 1993.

CHHABILDAS MEHTA

V-Ex-14-(2)

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MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:—

Clause 5.—Section 55A sought to be amended by this clause empowers the State Government to fix by notification, in the *Official Gazette*, the rates of composition in lieu of tax payable by dealers engaged in the works contract.

Clause 6.—New section 55B sought to be inserted by this clause empowers the State Government to prescribe by rules the circumstances and conditions subject to which the Commissioner may permit any dealer engaged in the specified sale of hiring of *shamiyana* to pay, at his option, in lieu of the amount of tax payable by him, a lump sum by way of composition at the rate as may be fixed by Government by notification in the *Official Gazette*.

2. The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 22nd March, 1993. CHHABILDAS MEHTA

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 22nd March, 1993.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A if the Gujarat Legislative Assembly Rules :—

THE BOMBAY LAND REVENUE (GUJARAT AMENDMENT) BILL, 1993.

Gujarat Bill No. 15 of 1993.

A BILL

further to amend the Bombay Land Revenue Code, 1879.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Land Revenue (Gujarat Amendment) Act, 1993.

(*2*) It shall come into force on such date, as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. V of 1879.

Amendment of section 67A of Bom. V of 1879.

2. In the Bombay Land Revenue Code, 1879, in section 67A, in sub-section (3), for the existing Table, the following Table shall be, substituted; namely :—

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"TABLE

Sr. No.	Area, in which land is situated	Rate of conversion tax per square metre of land				
		when land is to be used for temporary non-agricultural purpose.	when land is to be used for residential purpose.	when land is to be used for educational or charitable purpose.	when land is to be used for industrial purpose.	when land is to be used for commercial or any other non-agricultural purpose.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
		Rs.	Rs.	Rs.	Rs.	Rs.
1.	Municipal boroughs and notified areas with a population not exceeding 50,000 and their adjoining areas.	0.50	0.60	0.60	1.25	1.85
2.	Cities and municipal boroughs with a population exceeding 50,000, but not exceeding 1 lakh, and their adjoining areas.	1.00	1.25	1.25	2.50	3.75
3.	Cities and municipal boroughs with a population exceeding 1 lakh but not exceeding 2.5 lakhs and their adjoining areas.	2.00	2.50	2.50	5.00	7.50
4.	Cities and municipal boroughs with a population exceeding 2.5 lakhs but not exceeding 5 lakhs and their adjoining areas.	3.00	3.75	3.75	7.50	11.25
5.	Cities and municipal boroughs with a population exceeding 5 lakhs and their adjoining areas.	4.00	5.00	5.00	10.00	15.00".

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STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Land Revenue Code, 1879 with a view to giving effect to the proposal contained in the Budget speech of the Finance Minister in the Legislative Assembly on the 17th February, 1993. The rates of conversion tax, which are in force since 1st August, 1989, are proposed to be in creased by two and half times more than the existing rates.

DALSUKHBHAI GODHANI.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of power of legislative character in the following respect, namely :—

Clause 1.—Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

2. The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 22nd March, 1993. DALSUKHBHAI GODHANI.

By order and in the name of the Governor of Gujarat.

R. H. GORI,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 23rd March 1993.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reposted).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :—

THE GUJARAT ENTERTAINMENTS TAX (AMENDMENT) BILL, 1993.

Gujarat Bill No. 16 of 1993.

A BILL

further to amend the Gujarat Entertainments Tax Act, 1977.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:--

Short title and commencement.

1. (*1*) This Act may be called the Gujarat Entertainments Tax (Amendment) Act, 1993.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Guj. 16 of 1977.

Amendment of section 2 of Guj. 16 of 1977.

2. In the Gujarat Entertainments Tax Act, 1977 (hereinafter referred to as "the principal Act"), in section 2,--

(*1*) after clause (a), the following clause shall be inserted, namely:--

"(aa) "antenna" means an apparatus which receives television signals which enable viewers to tune into transmissions including national or international satellite transmissions and is erected or installed for exhibition of films or moving pictures or series of pictures, or serials or any other programme by means of transmission of television signals by wire where subscribers' television sets at the residential or non-

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residential place are linked by metallic coaxial cable or optic-fibre cable to a central system called the head-end, on payment by the connection holder of any contribution or subscription or installation charges or connection charges or any other charges collected in any manner whatsoever;";

(2) after clause (*c*), the following clause shall be inserted, namely:--

"(*cc*) "cable television" means a system organised on payment by a connection holder of any contribution or subscription or installation charges or connection charges or any other charges collected in any manner whatsoever, for exhibition of films or moving pictures or series of pictures or serials by means of transmission of television signals by wire where subscriber's television set is linked by metallic coaxial cable or optic-fibre cable to a central system called the head-end, by using a video casette or disc or both, recorder or player or similar such apparatus on which pre-recorded video cassettes or discs or both are played or replayed and the films or moving pictures or series of pictures or serials or any other programme which are viewed and heard on the television receiving set at a residential or non-residential place of a connection holder;";

(3) in clause (*e*), following shall be added at the end, namely:--

"or in the case of television exhibition with the aid of any type of antenna with a cable network attached to it or cable television, for which persons are required to make payment by way of contribution or subscription or installation charges or connection charges or any other charges collected in any manner whatsoever.

Explanation.--For the purpose of this clause, the expression "exhibition" includes any exhibition by cinematograph including video exhibition or television exhibition with the aid of any type of antenna with a cable network attached to it or cable television";

(4) in clause (*g*), after the sub-clause (*vi*), the following sub-clause shall be inserted, namely:--

"(*vii*) any payment made by a person by way of contribution or subscription or installation charges or connection charges or any other charges collected in any manner whatsoever for television exhibition with the aid of any type of antenna with a cable network attached to it or cable television;";

(5) for clause (*j*), the following shall be substituted, namely:--

"(*j*) "proprietor" in relation to any entertainment, includes the owner thereof and any person--

(*i*) responsible for, or for the time being in charge of, the management thereof, or

(*ii*) connected in whatsoever manner with the organisation of the entertainment for any duration, or

(*iii*) charged or entrusted or authorised with the work of admission to the entertainment, or

(iv) responsible for, or for the time being in charge of, management of providing or maintaining or operating cable connection from any type of antenna or cable television;

whether or not he has obtained licence or Certificate of Registration, if any, for such entertainment under any law for the time being in force;";

(6) for clause (*k*), the following shall be substituted, namely :—

"(*k*) "tax" means a tax levied under this Act.".

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3. In the principal Act, in section 6,— Amendment of section 6 of Guj. 16 of 1977.

(*1*) in sub-section (*1*), for the word, figure and letter "section 6A", the words, figures and letters "section 6A and section 6B" shall be substituted;

(*2*) in sub-section (*2*),—

(*a*) the words "designated area or" shall be deleted;

(*b*) for the words, brackets and figures "Gujarat Entertainments Tax (Amendment) Act, 1989", the words, brackets and figures "Gujarat Entertainments Tax (Amendment) Act, 1993" shall be substituted; Guj. 10 of 1989. Guj. of 1993.

(*3*) for sub-section (*5*), the following shall be substituted, namely :—

"(*5*) Where a proprietor has been permitted to pay tax under sub-section (*4*), he shall be liable to pay tax weekly at the rates specified in the Schedule-I irrespective of the number of shows held in a week.

Explanation.—For the purpose of this section,—

(*i*) the expression "specified area" means a local area the population of which as ascertained at the last preceding census and notified by the State Government in the *Official Gazette* after such census and shown in column 3 of the Schedule-I. If any such local area is within a radius of 5 kilometres from the other local area, population of which is higher than such area, that local area shall be considered to be falling within the category of area with larger population;

(*ii*) the expression "gross tax collection" means the amount of tax that would have been leviable at the rates specified in item (I) or (II) of clause (a) of sub-section (*1*) of section 3, on the total amount of payment for admission to an entertainment by cinema in a specified area as if admissions were to the extent of full sitting capacity of the auditorium of cinema as specified in the licence issued by Licensing Authority under the Bombay Cinema Rules, 1954";

(*iii*) the expression "touring cinema" means an out fit comprising the cinematograph apparatus and plant and enclosures taken from place to place for giving cinematograph exhibition in local theatres or halls";

(*4*) in sub-section (6), in clause (*a*), in the proviso, for the words, brackets and figures "before the assent to the Gujarat Entertainments Tax (Amendment) Act, 1989 is first published in the *Official Gazette*, the words, brackets and figures "before the commencement of the Gujarat Entertainments Tax (Amendment) Act, 1993" shall be substituted. Guj. 10 of 1989. Guj. of 1993.

4. In the principal Act, after section 6A, the following new sections shall be inserted, namely :— Insertion of new sections 6B, 6C and 6D in Guj. 16 of 1977.

"**6B.** (*1*) Notwithstanding anything contained in section 3, 4, 6 or 6A of this Act, there shall be levied and paid by the proprietor to State Government for exhibition of films or moving pictures or series of pictures or serials or any other programme with the aid of any type of antenna or cable television, a tax at the annual rate of Rs. 120/- per cable connection holder in the case of urban area and Rs. 60/- per connection holder in the case of other areas. Tax on exhibition of entertainment by means of any type of antenna or cable television.

(*2*) Where the number of connection holders increases in any quarter during the financial year, the proprietor shall have to pay the tax per connection holder at one-fourth of the rate prescribed under sub-section (*1*) for such quarter in which increase takes place.

(*3*) The tax leviable under this section shall be paid in advance in quarterly instalment of one-fourth of the annual rate within such period and in such manner as may be prescribed.

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Explanation.—For the purpose of this section,—

(*a*) the expression "urban area" means—

Bom. L X of 1949.

(*i*) a City as constituted for the time being under the Bombay Provincial Municipal Corporations Act, 1949;

Guj. XXXIV of 1964.

(*ii*) a municipal borough or a notified area as constituted or as deemed to have been constituted for the time being under the Gujarat Municipalities Act, 1963;

II of 1924.

(*iii*) a cantonment as constituted for the time being under the Cantonments Act, 1924;

(*b*) the expression "other area" means the area which is not covered by urban area;

(*c*) "quarter" means a period of three months commencing on the 1st day of April, 1st day of July, 1st day of October or the 1st day of January of each year ; and the term "quarterly" shall be construed accordingly;

(*d*) the number of connection holders shall be considered as on the 1st April of every year.

Registration.

6C. (*1*) No proprietor providing an entertainment with the aid of any type of antenna or cable television shall carry on television exhibition without obtaining a valuid Certificate of Registration from the Collector of Entertainments Tax.

(*2*) The provisions of sub-section (*1*) shall not be deemed to have been contravened if the proprietor having applied for such registration as provided in this section within three months from the date of the commencement of the Gujarat Entertainments Tax (Amendment) Act, 1993, carries on television exhibition with the aid of any type of antenna with a cable network attached to it or cable television. Guj. of 1993.

(*3*) Every proprietor providing an entertainment with the aid of any type of antenna or cable television shall apply in such form, in such manner and on payment of such fee as may be prescribed to the Collector of Entertainments Tax of the district where the place of entertainment is situate.

(*4*) If the Collector of Entertainments Tax is satisfied that the requirements of provisions of this Act and the rules made thereunder have been complied with, he shall issue a Certificate of Registration.

Power to revoke or suspend the Certificate of Registration.

6D. In the event of any contravention by the holder of Certificate of Registration of any of the provision of this Act or rules made thereunder or any of the conditions or restriction upon or subject to which Certificate of Registration is granted or in the public interest, the Collector of Entertainments Tax may revoke or suspend the Certificate of Registration or suspend it for such period, as he may think fit.".

Amendment of section 7 of Guj. 16 of 1977.

5. In the principal Act, in section 7, in sub-section (1), after the word and figure "section 4", the words, figures and letter " or section 6 or section 6A" shall be inserted.

Amendment of section 8 of Guj. 16 of 1977.

6. In the principal Act, in section 8, sub-section (1) shall be renumbered as clause (*a*) of sub-section (1) of that section and after clause (*a*) as so re-numbered, the following clause shall be inserted, namely:—

"(*b*) Every proprietor providing an entertainment with the aid of any type of antenna or cable television shall furnish such return relating to number of connection holders and the payment of tax, to such officer, in such manner and within such period as may be prescribed;";

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Amendment of section 9 of Guj. 16 of 1977.

7. In the principal Act, in section 9,—

(*1*) in sub-section (*1*),—

(*i*) after the words "assesment to tax", the words "or the proprietor has failed to pay tax payable under section 6B" shall be inserted;

(*ii*) after the words "payment or ticket" the words, figure and letter "or on failure to pay tax under section 6B" shall be inserted;

(*2*) in sub-section (*6*), for the words, figures and letter "under section 6 or 6A", the words, figures and letters, "under section 6, 6A or 6B" shall be substituted;

(*3*) in the marginal note, the words, figures and letter "and assessment on failure to pay tax under section 6B" shall be added at the end.

Amendment of section 12 of Guj 16 of 1977.

8. In the principal Act, in section 12, in sub-section (*1*), after the words and figures "or section 20" the words, figures and letters "or by the decision of the Collector of Entertainments Tax under sections 6C or 6D" shall be inserted.

Amendment of section 13 of Guj. 16 of 1977.

9. In the principal Act, in section 13,—

(*1*) in sub-section (*1*), after the words "of its own motion", the words "or on application of any aggrieved proprietor made within ninety days from the date of order" shall be inserted;

(*2*) in sub-section (*3*), after the words "The Commissioner of Entertainments Tax", the words "where he is not an appellate authority" shall be inserted.

Amendment of section 23 of Guj. 16 of 1977.

10. In the principal Act, in section 23, in sub-section (1), after the words "as a place of entertainment", the words "or any place connected with the management of providing cable connection from any type of antenna with a cable network attached to it or cable television", shall be inserted.

Amendment of section 31 of Guj. 16 of 1977.

11. In the principal Act, in section 31, in sub-section (2), after the clause (aa), the following new clauses shall be inserted, namely :—

"(*ab*) the manner in which and the period within which the tax shall be payable under section 6B;

(*ac*) the form in which, the manner in which and fees on payment of which the proprietor shall apply under section 6C;".

Amendment of section 32 of Guj. 16 of 1977.

12. In the principal Act, in section 32, for the words "the Schedule", the words and figure "the Schedule-II" shall be substituted.

Amendment of Schedule to the Guj. 16 of 1977.

13. In the principal Act, the existing Schedule shall be renumbered as the Schedule-II and before the Schedule-II as so re-numbered, the following Schedule shall be inserted, namely :—

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"THE SCHEDULE-I

(*See* section 6)

The specified areas and the rates of tax.

Sr. No.	Class of specified area	Limit of population	Rate of tax for cinema (other than touring cinema)	Rate of tax for touring cinema
(1)	(2)	(3)	(4)	(5)
1.	A	1 to 10000	20 per cent. of gross tax collection of a show multiplied by twelve.	20 per cent. of gross tax collection of a show multiplied by seven.
2.	B	10001 to 30000	30 per cent. of gross tax collection of a show multiplied by fourteen.	30 per cent. of gross tax collection of a show multiplied by seven.
3.	C	30001 to 50000	35 per cent. of gross tax collection of a show multiplied by twenty-two.	35 per cent. of gross tax collection of a show multiplied by seven.
4.	D	50001 to 75000	35 per cent. of gross tax collection of a show multiplied by twenty-four.	35 per cent. of gross tax collection of a show multiplied by seven.
5.	E	75001 to 300000	40 per cent. of gross tax collection of a show multiplied by twenty-six.	35 per cent. of gross tax collection of a show multiplied by seven. ".

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STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat Entertainments Tax Act, 1977 with a view to giving effect to the proposals contained in the Budget speech of the Finance Minister in the Legislative Assembly on the 17th February, 1993.

Since the scheme for the payment of consolidated tax applicable to the villages, and towns having the population upto 30 thousand found smoother and convement for operation, it is considered necessary to extend this scheme to the villages, towns and urban areas having population upto three lacs.

The technological development led to wide spread use of cable television network and transmitting T. V. programmes through satellite communications by use of disc-antenna. The television sets hooked to disc-antenna receive national and inter-national programme which include news, serials, movies, different kinds of films and shows which provide variety of entertainments relayed round the clock. The operators or proprietors who provide such enterainment through cable television or disc-antenna cable network have flourishing business. With a view to augment the revenue of the State, it is proposed to levy tax annually on the entertaiment provided through cable television, disc-antenna at the fixed rate per cable connection.

The following notes on clauses explain the important provisions of the Bill:—

Clause 2.—This clause mainly defines the terms antenna, cable television and proprietor.

Clause 3.— This clause seeks to amend sub-section (5) of section 6 of the Act with a view to extend the facility of the payment of consolidated tax at the rates prescribed in the Schedule-I, to the villages, towns and urban areas having population upto three lacs.

Clause 4.—(*i*) Section 6B proposed to be inserted by this clause provide for levy of tax annually on the proprietor providing entertainments through cable television and disc-antenna at a rate of Rs. 120/— per cable connection in urban area and Rs. 60/— in other areas.

(*ii*) section 6C proposed to be inserted by this clause provides for manner and method of obtaining Certificate of Registration by the proprietor from the Collector of the Entertainments Tax.

CHIMANBHAI PATEL

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MEMORANDUM REGARDING DELEGATED LEGISLATION.

This Bill involves delegation of legislative powers in the following respect :—

Clause 1.—Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette,* the date on which the Act shall come into force.

Clauses 4and 11.—(*1*) New section 6B and new clause (ab) in section 31 proposed to be inserted by clauses 4 and 11 respectively, empower the State Government to prescribe by rules the manner in which and the period within which the proprietor shall pay the tax for television exhibition through cable net work.

(*2*) New section 6C and new clause (*ac*) in section 31 proposed to be inserted by clauses 4 and 11 respectively empower the State Government to prescribe by rules the form in which, manner in which and the payment of fee on which the proprietor shall apply to the Collector of Entertainments Tax for obtaining Certificate of Registration.

Clause 6.—new clause (ii) proposed to be inserted in sub-section (1) of section 8 by this clause empowers the State Government to prescribe by rules the manner in which, period within which and the officer to whom the return shall be furnished by the proprietor.

2. The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 23rd March, 1993. CHIMANBHAI PATEL.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 23rd March, 1993.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on 23rd March, 1993 by Shri Jaynarayan Vyas, M.L.A. is published under Rule, 127-A of the Gujarat Legislative Assembly Rules for general information:—

"Gujarat Bill No. 17 of 1993.

THE GUJARAT RESTRICTION ON ESTABLISHMENT OF A NEW OR A SUBSIDIARY COMPANY, SOCIETY OR ASSOCIATION BILL, 1993.

A BILL

to provide for restriction on establishment of a new or a subsidiary company, society or association in the State of Gujarat and for matters connected therewith.

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 Restriction on Establishment of a New or a Subsidiary Company, Society or Association Act, 1993. Short title, extent and commencement.

(*2*) It extends to the whole of the State of Gujarat.

(*3*) It shall come into force at once.

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

(*a*) "Association" means an association constituted by the State Government under any law, rule, by-law or a notification.

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(*b*) "company" means a company established by the State Government under the Companies Act, 1956,

(*c*) "corporation" means a corporation established by the State Government under any state Act, rule or notification,

(*d*) "Prescribed" means prescribed by the rules made under this Act,

(*e*) "rules" means rules made under this Act.

(*f*) "society" means a society formed by the State Government and registered under the Gujarat Co-operative societies Act, 1961, x of 1962.

Restriction for establishment of a new or a subsidiary company, society or association.

3. (*1*) Notwithstanding anything contained in any State law for the time being in force in the State of Gujarat, the State Government or any corporation constituted by the State Government, shall not establish a new or a subsidiary company, society or association except under the provisions made under sub-section (*2*) and (*3*) of this section.

(*2*) A new or a subsidary company, society or association shall be established by the State Government after a resolution passed by the State Legislative Assembly in this behalf.

(*3*) The resolution under sub-section (*2*) shall contain in short the objectives, powers and function of a new or a subsidiary company, society or association and also an estimate of expenditure to be incurred from the Consolidated Fund of the State.

Power to make rules.

4. (*1*) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(*2*) All rules made by the State Government under this Act shall, be laid before the State Legislature as soon as possible after they are made and shall be subject to such modification or rescission as the State Legislature may make during the session in which they are so laid or the session immediately following.

(*3*) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

STATEMENT OF OBJECTS AND REASONS

It has been observed that the State Government or any Corporation established by the State Government is creating a new or a subsidiary companies, societies or associations which increase burden on the State Exchequer. In a parliamentary democracy when a new or a subsidiary company, society or association is to be established which has the effect of increasing financial burden on the State Exchequer, the proposal should be considered and approved by the State Legislature. This Bill therefore seeks to provide for the approval of the State Legislature before establishing a new or a subsidiary company, society or association.

Hence the Bill.

Dated the 15th February, 1993.

JAYNARAYAN VYAS,
M.L.A.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (*1*) of section 4 of the Bill empowers the State Government to make rules by notification in the *Official Gazette* for carrying out the purposes of this Bill.

The delegation of Legislaive powers as aforesaid is necessary and is a normal character.

Dated the 15th February, 1993.

JAYNARAYAN VYAS,
M.L.A."

Gandhinagar, dated 23rd March, 1993.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on 23rd March, 1993 by Shri Laxmansinh Parmar, M.L.A. is published under Rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

"Gujarat Bill No. 18 of 1993.

THE BOMBAY PROHIBITION (GUJARAT AMENDMENT) BILL, 1993

A BILL

further to amend the Bombay Prohibition Act, 1949 in its application to the State of Gujarat.

It is hereby enacted in the Forty-fourth year of the Republic of India as follows :—

1. (*1*) This Act may be called the Bombay Prohibition (Gujarat Amendment) Act, 1993. **Short title, extent and commencement.**

(*2*) It extends to the whole of the state of Gujarat.

(*3*) It shall come into force at once.

Bom. XV 1949.

2. In the Bombay Prohibition Act, 1949, sections 15, 16, 32, 61, 64 and 64-A shall be deleted. **Deletion of sections 15, 16, 32, 61, 64 and 64-A of Bom. XV of 1949.**

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STATEMENTS OF OBJECTS AND REASONS

Sections 15, 16 of the Bombay Prohibition Act, 1949 prohibits an import, export of sweet toddy and tapping of toddy. Section 32 provides for licences for tapping for neera. Section 61 provides for control of export, import, transport, sell or possession of molasses. Section 64 and 64-A prohibits possession of rotten gur in excess of prescribed limit and regulates manufacture, use or consumption of rotten gur.

The main job of the persons living in tribal areas are tapping of toddy and selling of neera. They also use molasses and rotten gur for their medical purposes. The aforesaid sections prohibit them doing so and therefore, they become victim of the said sections. The tribal people being illiterate they do not know the details of the provisions of the Act, In the tribal areas, people use the aforesaid products and commodities for medical purposes.

Restrictions imposed by the aforesaid sections have created much hardships to the people living in tribal areas. For the development of tribal areas, and for the upliftment of the tribal people it is expendient to liberalise the aforesaid provisions of the Act, by deletion of the aforesaid sections.

This Bill seeks to achieve the aforesaid objects.

Gandhinagar,
Dated the 3rd March, 1993.

LAXAMANSINH PARMAR,
M. L. A."

N. K. KATHIRIA,
Secretary,
Gujarat Legislature Assembly.

Gandhinagar, dated the 23rd March, 1993.

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PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on 23rd March, 1993 by Shri Purshottam Rupala M.L.A.. is published under Rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

"Gujarat Bill No. 19 of 1993.

THE BOMBAY TENANCY AND AGRICULTURAL LANDS (GUJARAT AMENDMENT BILL, 1993.

A BILL

further to amend the Bombay Tenancy and Agricultural Lands Act, 1948 in application to the State of Gujarat.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:—

Short title extent and commencement.

1. (*1*) This Act may be called the Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1993.

(*2*) It extends to the whole of the State of Gujarat.

(*3*) It shall come into force at once.

Bom. LXVII of 1948.

Amendment of section 43 of Bom. LXVII of 1948.

2. In the Bombay Tenancy and Agricultural Lands Act, 1948, in section 43,—

(*1*) in sub-section (*1*), the words "and no such land or any interest therein shall be partitioned without the previous sanction of the Collector" shall be deleted.

(*2*) in sub-section (*2*), the words "or partition" shall be deleted.

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STATEMENT OF OBJECTS AND REASONS

It has been observed that in case of partition, transfer of land is not permitted and entries are not certified under the existing provisions of the Bombay Tenancy and Agricultural Lands Act, 1948. On account of the said provisions in the statute book brothers cannot get right over the land which they are entitled to get as ancestral property. It is therefore, absolutely necessary to provide that in case of partition, there should not be any bar to the land being transferred in the name of the claimants of the hereditary right irrespective of the size of the land and hence this Bill.

Gandhinagar,

Dated the 3rd March, 1993.

PURSHOTTAM RUPALA,
M.L.A".

N. K. KATHIRIA,
Secretary,
Gujarat Legislature Assembly.

Gandhinagar, Dated 23rd March, 1993.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on 23rd March, 1993 by Shri Virjibhai Thummar, M.L.A. is Published under Rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

" GUJARAT BILL NO. 20 OF 1993.

THE BOMBAY PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS (GUJARAT AMENDMENT) BILL, 1993.

A BILL

further to amend the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 in its application to the State of Gujarat.

It is hereby enacted in the Forty-fourth year of the Republic of India as follows:—

1. (*1*) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings (Gujarat Amendment) Act, 1993. Short title, extent & commencement.

(*2*) It extends to the whole of the State of Gujarat.

(*3*) It shall come into force at once.

2. In the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, in section 31— Amendment of section 31 of Bombay LXII of 1947.

(*1*) in sub-section (*1*), in clause (*b*), for the words "with the permission in writing of the Collector" the words "on the ground of providing share to the successor-in-interest" shall be substituted.

(*2*) in sub-section (*2*), in clause (*a*), the words "and does not create any fragment" shall be deleted.

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STATEMENT OF OBJECTS AND REASONS

It is prohibited to transfer the land of any block as per provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. It is noticed that after the fixation of the block, the owner of the land in such block cannot transfer or sub-divide the land in favour of his successor-in-interest, without the permission of the Collector. During the passage of time, it is noticed that the Collector neither gives such permission for years together nor makes any entry in the records of land. In order to alleviate such hardship it is proposed to amend the said Act. This Bill, therefore, seeks to achieve the aforesaid object.

VIRJIBHAI THUMMAR
M. L. A."

N. K. KATHIRIA,
Secretary,
Gujarat Legislature Assembly.

Gandhinagar, dated the 23rd March, 1993.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT PANCHAYATS (SECOND AMENDMENT) BILL, 1993.

GUJARAT BILL NO. 21 OF 1993.

A BILL

further to amend the Gujarat Panchayats Act, 1961.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

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.

Amendment of section 2 of Guj. VI of 1962.

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.

Amendment of section 312 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.

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Repeal and savings.

4. (*1*) The Gujarat Panchayats (Amendment) Ordinance, 1993 is hereby repealed. **Guj. Ord. 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.

STATEMENT OF OBJECTS AND REASONS

Section 13A of the Representation of the People Act, 1950 empowers the Election Commission to designate an officer of the State Government to be a Chief Electoral Officer for the State for the purpose of election to the House of People and the Legislature of the State. The Election Commission has strongly urged the State Government that the Chief Electoral Officer so appointed by the Commission should not be entrusted with any other work by the State Government. According to sub-clause (*c*) of clause(*8A*) of section 2 of the Gujarat Panchayats Act, 1961, the Chief Electoral Officer for the State of Gujarat is also the Election Authority for the purpose of election to the taluka panchayats and the district panchayats. In order to relieve the Chief Electoral Officer of the State from the work of the election to the taluka panchayats and district panchayats as desired by the Election Commission and to empower the State Government to appoint in his place any other officer not below the rank of Secretary to the Government as an Election Authority for the purposes of election to the taluka panchayats and the district panchayats, it was considered necessary to amend the said clause (*8A*) of section 2 of the Panchayats Act.

Sub-section (*1*) of section 312 of the Panchayats Act provides that for the purpose of constituting district panchayat for the district of Dangs, the State Government shall divide the gram panchayats into groups and the number of such groups shall not exceed ten and each group shall consist of not more than eight grams. It was also considered necessary to amend sub-section (*1*) of section 312 to make the intention clear that such group shall consist of gram panchayats.

As the Gujarat Legislative Assembly was not in session, the Gujarat Panchayats (Amendment) Ordinance, 1993 was promulgated to amend the Gujarat Panchayats Act, 1961 to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

LILADHAR WAGHELA

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of Legislative power in the following respect, namely:—

Clause 2.—Sub-clause (*c*) of clause (*8A*) of section 2 proposed to be amended by this clause empowers the State Government to appoint, by general or special order, an officer not lower in rank than that of Secretary to Government as an Election Authority for the purpose of election to the taluka and district panchayats.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 29th July, 1993.

LILADHAR WAGHELA,

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to the Government of Gujarat,
Legal Department.

Gandhinagar, dated the 29th July, 1993.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to [redacted] 127A of the Gujarat Legislative Assembly Rules:—

THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS (GUJARAT AMENDMENT) BILL, 1993.

GUJARAT BILL NO. 22 OF 1993.

A BILL

further to amend the Bombay Provincial Municipal Corporations Act, 1949.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1993.

(*2*) It shall be deemed to have come into force on the 16th June, 1992.

Amendment of section 129 of Bom. LIX of 1949.

Bom. LIX of 1949.

2. In the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the principal Act") in section 129, for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

"(*a*) a water tax at such percentage of their rateable value as the Corporation shall deem reasonable, for providing a water supply for the City :

Provided that the Corporation shall, with the previous sanction of the State Government, fix the minimum amount of such tax to be levied and may fix different minima for different classes of properties :

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Provided further that the minimum amount of such tax to be levied shall,—

(*i*) in respect of any one separate holding of land or of any one building (not being premises used exclusively for residential purpose) or of any one portion of a building which is let as a separate holding and which is not used exclusively for residential purpose, be not less than five rupees per mensem for any official year commencing on the first day of April, 1993 ;

(*ii*) in respect of any premises used exclusively for residential purpose, be not less than three rupees per mensem for any official year commencing on the first day of April, 1993 ;

(*b*) a conservancy tax at such percentage of their rateable value as will in the opinion of the Corporation suffice to provide for the collection, removal and disposal of all excrementitions and polluted matters from privies, urinals and cess-pools and for efficiently maintaining and repairing the municipal drains constructed or used for reception or conveyance of such matters :

Provided that Corporation shall, with the previous sanction of the State Government, fix the minimum amount of such tax to be levied and may fix different minima for different classes of properties :

Provided further that the minimum amount of such tax to be levied in respect of any one separate holding of land or of any one building or of any one portion of a building which is let as a separate holding shall be not less than two rupees per mensem for any official year commencing on the first day of April, 1993 and that the amount of such tax to be levied in respect of any hotel, club, industrial premises or other large premises may be specially fixed under section 137 :

Provided also that while determining the rate of such tax under section 99 or 150, the Corporation may determine different rates for different classes of properties ;".

Repeal and savings.

3. (*1*) The Bombay Provincial Municipal Corporations (Gujarat Amendment) Ordinance, 1993 is hereby repealed. Guj. Ord. 1 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.

STATEMENT OF OBJECTS AND REASONS

Section 129 of the Bombay Provincial Municipal Corporations Act, 1949 provides for the levying of the water tax as well as the conservancy tax on buildings and lands in the City. The Municipal Corporations have to incur huge amounts for providing necessary water and other conservancy amenities. As against the expenditure incurred for providing these amenities, the income derived by way of taxes is meagre. The said section 129 prescribes minimum rate of water tax at Rs. 5/- per mensem for non-residential and Rs. 3/- for residential premises and Rs. 2/- per mensem as conservancy tax which are not adequate to cover the cost of such amenities. Moreover, it does not empower the Corporation to raise the said minimum rate of tax from time to time. In order to enable Corporations to meet with the development expenditure for providing water and conservancy facilities and to augment their financial resources, it was considered necessary to amend the said section 129 so as to empower the Corporation to fix, subject to the previous sanction of the State Government, the minimum rate of tax. It was also considered necessary to empower the Corporations to fix different rates of minimum tax for different classes of properties. It had been further provided that while fixing

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the minimum rate of tax, the Corporations can not fix lesser than minimum amount of water tax of Rs. 3/- per mensem for residential premises and Rs. 5/- for other premises and not less than Rs. 2/- per mensem as conservancy tax.

As the Gujarat Legislative Assembly was not in session, the Bombay Provincial Municipal Corporations (Gujarat Amendment) Ordinance, 1993 was promulgated to amend the said Act to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

NARHARI AMIN.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects:-

Clause 2—Clauses (a) and (b) of section 129 proposed to be substituted by this clause empowers the Municipal Corporation to levy the water tax and the coservancy tax at such percentage as corporation may determine. It also empowers the corporation to fix minimum amount of such tax with the previous sanction of State Government and different minima may be fixed for different classes of properties.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 30th July, 1993. NARHARI AMIN.

By order and in the name of the Governor of Gujarat,

R. H. GORI,
Secretary to the Government of Gujarat
Legal Department.

Gandhinagar, dated the 30th July, 1993.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS (GUJARAT SECOND AMENDMENT) BILL, 1993.

Gujarat Bill No. 23 of 1993.

A BILL

further to amend the Bombay Provincial Municipal Corporations Act, 1949 to give effect to the Constitution (Seventy-fourth Amendment) Act, 1992.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Bombay Provincial Municipal Corporations (Gujarat Second Amendment) Act, 1993.

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Amendment of section 2 of Bom. LIX of 1949.

2. In the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the principal Act"), in section 2, -

(1) for clause (8), the following clause shall be substituted, namely:-
"(8) "the City" means a larger urban areas as specified under sub-clause (2) of article 243Q of the Constitution of India and includes other local areas already declared to be a City prior to the commencement of the Bombay Provincial Municipal Corporations (Gujarat Second Amendment) Act, 1993;";

(2) after clause (18), the following clause shall be inserted, namely :—
"(18A) "election" means and includes entire election process commencing from the delimitation of constituencies to be known as wards and all stages culminating into election of a councillor and it is always deemed to have meant and included entire election process as aforesaid;";

(3) after clause (21), the following clause shall be inserted, namely :—
"(21A) "Finance Commission" means a Finance Commission constituted under article 243-I of the Constitution of India;";

(4) after clause (34), the following clauses shall be inserted, namely:-
"(34A)" Metropolitan area" means an area as specified under clause (c) of article 243 P of the Constitution of India;
"(34B)"Municipal area" means the territorial area of a Corporation as referred to in clause (d) of article 243 P of the Constitution of India;";

(5) for clause (45A), the following clause shall be substituted, namely:-
"(45A)"Population" in relation to City means the population as ascertained at the last preceeding census of which the relevant figures have been published;";

(6) after clause (62), the following clause shall be inserted, namely:-
"(62A)" State Election Commission" means a State Election Commission referred to in article 243K of the Constitution of India;".

Deletion of sections 3 and 5A of Bom. LIX of 1949.

3. In the principal Act, sections 3 and 5A shall be deleted.

Amendment of section 3A of Bom. LIX of 1949

4. In the principal Act, in section 3A,—

(1) for the words,brackets and figures "under sub-section (3) of section (3)" wherever they occur, the words, brackets, figures and letter "clause (2) of article 243Q of Constitution of India" shall be substituted;

(2) in sub-section (3), for paragraphs (i), (ii), and (iii), the following shall be substituted namely:-

"(i) in a case falling under clause (a), the interim increase in the number of Councillors shall be filled by election of additional members from amongst such persons entitled to vote at such election from such area, as the State Government may determine and the term of such councillor shall be for the remainder of the duration of the Corporation;

(ii) in a case falling under clause (b), the removal of councillors, who in the opinion of the State Government shall represent the area so excluded from the City.

(3) In Explanation (1), in clause (3), the words and figures "under section 3" shall be deleted.

Amendment of section 5 of Bom. LIX of 1949.

5. In the principal Act, in section 5, —

for sub-sections (2) to (4), the following sub-sections shall be substituted, namely:-

"(2) Each Corporation shall consist of councillors chosen by direct election.

(3) Where general election is to be held immediately after,—

(i) "a larger urban area" as specified under clause (2) of article 243Q of the Constitution of India, is made, or

37 of 1949. (ii) the census is taken under the Census Act, 1948 and the relevant figures of which have been published, or

(iii) the limits of a City are altered,—

(a) the State Government shall, by notification in the *Official gazette*, determine the number of wards into which the city shall be divided, the number of councillors to be elected to the Corporation and the number of seats to be reserved in favour of the Scheduled Castes, the Scheduled Tribes, the backward classes and women as provided in this section, and

(b) the State Election Commission thereafter shall carry out the determination of the boundaries of the wards and the allocation of seats reserved in favour of the Scheduled Castes, Scheduled Tribes, the backward classes and women among the wards in the prescribed manner.

(4) Seats shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes in every Corporation 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 the Corporation as the population of the Scheduled Castes and Scheduled Tribes in City bears to the total population of the City and such seats may be allotted by rotation to different wards in the City in the prescribed manner.

(5) One-third of the total number of seats reserved under sub-section (4) shall be reserved by the State Government for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(6) One-tenth of the total number of seats to be filled by direct election in every Corporation shall be reserved for persons belonging to backward classes and one third of the seats so reserved for backward classes shall be reserved for women belonging to the backward classes.

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(7) One-third (including the number of seats reserved for women belonging to the Scduled Castes, the Scheduled Tribes and the backward classes) of the total number of seats to be filled by direct election in the Corporation shall be reserved for women and such seats may be allotted by rotation to different wards in the City in the prescribed manner.

(8) The reservation of seats under sub-sections (4) (5) and (6) the reservation of office of Mayor under section 19 (other than the reservation for women under sub-section (7) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India:

Provided that any person elected to any of such reserved seats shall continue as a councilor during the term of the office for which he was validly elected, notwithstanding that the reservation of seats has so ceased to have effect.

EXPLANATION : For the purposes of this section,-

(1) "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;

(2) "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; and

(3) "backward classes" means classes declared as Socially and Educationally Backward Classes by the State Government from time to time.".

Substition of section 6 of Bom. LIX of 1949.

6. In the principal Act, for section 6, the following sections shall be substituted, namely:-

Duration of Corporation.

"6.(1) Every Corporation, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer.

(2) A Corporation constituted upon the dissolution before the expiration of its duration shall continue only for the remainder of the period for which it would have continued under sub-section (1) had it not been so dissolved.

Term of office of Councillors.

6A. The term of the office of the Councillors shall be co-extensive with the duration of the Corporation.

Election to constitute the Corporation.

6B. An election to constitute a Corporation shall be completed, -

(a) before the expiration of its duration specified in sub-section (1) of section 6;

(b) before the expiration of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Corporation for such period;.

Transitory provision. Guj. ..... of 1993.

"6 C(1) Notwithstanding anything contained in section 6B, where the duration of the Corporation has already expired before the commencement of the Bombay Provincial Municipal Corporations (Gujarat Second Amendment) Act, 1993 (hereinafter referred to as "the said date") or is due to expire within one year from the said date, the election to constitute such Corporation shall be held in accordance with the provisions of the said amended Act and completed within one year from the said date.

(2) Where the duration of existing Corporation expires after one year from the said date, the election to constitute such Corporation shall be completed before the expiry of its duration.".

Amendment of section 7A of Bom. LIX of 1949.

7. In the principal Act, in section 7A, for sub- section (1), the following shall be substituted, namely:-

"(1) Where, -

(i) the duration of a Corporation has already expired or is due to expire during the transitory period as referred to in sub- section (1) of section 6C and election to constitute the Corporation could not be completed before the expiry of its duration, or

(ii) due to unforseen circumstances such as natural calamity, riots, communal disturbances, the election to constitute Corporation could not be completed before the expiry of its duration, the State Government may, by order published in the Official Gazette appoint a person as an Administrator to manage the affairs of the Corporation during the period from the date specified in the order upto the date immediately preceding the date of the first meeting, after general election.".

Amendment of section 9 of Bom. LIX of 1949.

8. In the principal Act, in section 9, in sub-section (1), after the words "voter for a ward", the words and figures "and has attained the age of twenty-one years on the last date fixed for making nomination for election" shall be inserted.

Amendmen tof section 10 of Bom. LIX of1949.

9. In the principal Act, in section 10, in sub-section (1), after clause (h), the following . clause shall be inserted, namely:-

"(i) is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State:

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Provided that no person shall be disqualified on the ground that he is less than twenty- five years of age, if he has attained the age of twenty-one years.".

Substitution of section14 of Bom. LIX of 1949.

10. In the principal Act, for section 14, the following section shall be substituted, namely:-

Election by State Election Commiss ion.

"14.(1) The superintendence, direction and control of the preparation of electoral rolls for, and conduct of, all the elections of the Corporations shall be vested in the State Election Commission.

(2) The State Election Commission shall hold the election as per the rules made by the State Government.

Bom. I of 1904.

(3) The provisio of section 7 of the Bombay General Clauses Act, 1904 shall not apply to anything done or suffered under the provision repealed or substituted by the Bombay Provincial Municipal Corporations (Gujarat Second Amendment) Act, 1993 (hereinafter referred to as "the said Act") :

(4) The State Election Commissioner shall be appointed within two months of the coming into force of the said Act.

(5) The State Government shall when so required by the State Election Commission, make available to it the staff as may be necessary for the discharge of the function conferred it by clause (1) of article 243K of the Constitution of India.

(6) The State Election Commissioner appointed immediately after the commencement of the said Act shall commence the work of delimitation of the constituencies to be known as wards within one month from the date of his appointment as per the last published census figures.

(7) Notwithstanding anything contained in the principal Act or in any decree, order or direction of any court, the election of the Corporation shall be held in accordance with the provisions of the Constitution (Seventy-fourth Amendment) Act, 1992 on Municipalities and the provisions of the Bombay Provincial Municipal Corporations Act, 1949 as amended by the said Act and the rules made by the State Government in this behalf".

Bom. LIX of 1949.

Amendment of section 18 of Bom. LIX of 1949.

11. In the principal Act, in section 18, in sub-section (1), for the words "the Commissioner", the words "State Election Commission" shall be substituted.

Amendment of section 19 of Bom. LIX of 1949.

12. In the principal Act, in section 19, -

(1) after sub-section (1), the following sub- section shall be inserted, namely:-

(a) The office of the Mayor in every Corporation shall be reserved by the State Government for Scheduled Castes, Scheduled Tribes, backward classes and women in the prescribed manner.

(b) The reservation made under clause (a) shall as nearly as may be, in the same proportion as provided in their favour under section 5.".

(2) to sub-section (3), the following proviso shall be inserted, namely:-

"Provided that Mayor shall be eligible for re-election subject to the provisions of sub-section (1A).".

Insertion of new section 29A in Bom. LIX of 1949

Constitution of Wards Committee

13. In the principal Act, after section 29, the following new section shall be inserted, namely:-

"29A.(1) Where the population of the City is three lakhs or more, there shall be constituted by the State Government Wards Committee or Committees consisting of one or more wards within the territorial area of a Corporation.

(2) Each Wards Committee shall consist of -

(a) Councillors of the Corporation representing a ward within the territorial area of the Ward Committee;

(b) such other members, not exceeding five, having interest in civic administration, as may be nominated by the State Government:

Provided that a person shall be disqualified for being appointed, and for being a member of the Wards Committee, if under the provisions of this Act or any other law for the time being in force, he would be disqualified for being elected as, and for being, a councillor.

(3) The Wards Committee shall at its first meeting after its constitution under sub- section (1) and at its first meeting in the same month in each succeeding year shall elect, -

where the Wards Committee consists of -

(a) one ward, the Councillor representing that ward in the Corporation; or

(b) two or more wards, one of the Councillors representing such wards in the Corporation elected by the members of the Wards Committee,

to be the Chairperson of that Committee.

(4) the Chairperson shall hold office until his successor has been elected and shall be eligible for re- election.

(5) The Chairperson shall vacate office as soon as he ceases to be a Councillor.

(6) In the event of the office of the Chairperson falling vacant before the expiry of his term, the wards committee shall, as soon as conveniently may be after the occurrence of the vacancy, elect new Chairperson in accordance with sub-section (3):

Provided that a Chairperson so elected shall hold office so long only as the person in whose place he is elected would have held it if such vacancy had not occurred.

(7) The duration of the wards committee shall be co-extensive with duration of the Corporation.

(8) The State Government shall by rules define the functions and duties of the Wards Committee, the territorial areas of such committee and the procedure to be adopted by such committee for transaction of its business.

(9) The Chairperson and members of the Wards Committee shall be paid such conveyance charges for attending the meeting of the committee as may be prescribed by the rules.".

Amendment of section 63 of Bom. LIX of 1949.

14. In the principal Act, in section 63, in sub-section (1),-

(1) in clause (3), the words "and solid waste management" shall be added at the end;

(2) in clause (12), after the words "slaughter houses" wherever they occur at two places, the words "and tanneries" shall be added;

(3) in clause (13), the words "and prevention of cruelty to animal" shall be added at the end;

(4) after clause (23), the following clauses shall be inserted, namely:-

"(23A)The preparation of plans for economic development and social justice;

(23B) The performance of functions and the implementation of schemes that may be entrusted by the State Government.".

Amendment of section 66 of Bom. LIX of 1949.

15. In the principal Act, in section 66, for clause (8), the following clauses shall be substituted, namely:-

"(8) Urban Forestery, protection of the environment and promotion of ecological aspects.

(8A) Promotion of cultural, educational and asthetical aspects.

(8B) Urban Planning including town planning and regulation of land use.".

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Insertion of new Chapter XAA to Bom. LIX of 1949.

16. In the principal Act, before Chapter X-A the following Chapter shall be inserted, namely:-

"CHAPTER - XAA

FINANCE COMMISSION

Finance Commission.

126AA. (1) The Finance Commission shall review the financial position of the Corporation and make recommendation as to -

(a) the principles which should govern -

(i) the distribution between the State and the Corporations of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them and the allocation between the Corprations at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Corporations;

(iii) the grants-in-aid to the Corporations from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Corporation,

(c) any other matter referred to the Finance Commission in the interest of sound finance of the Corporations.

(2) Every recommendations made by the Commission together with an explanatory memorandum as to the action taken thereon shall be laid before the State Legislature.".

Amendment of section126A of Bom. LIX of1949.

17. In the principal Act, in section 126 A, in sub-sections (1) and (2), for the words "Gujarat Municipal Finance Board," the words "Finance Commission or otherwise" shall be substituted.

Amendment of section 452 o fBom. LIX of 1949.

18. In the principal Act, in section 452, -

(1) in sub-section (1), for the words beginning with 'superseded for a period' and ending with 'under this section', the word "dissolved" shall be substituted;

(2) in sub-section (2), for the word "supersession" wherever they occur, the word "dissolution" shall be substituted;

(3) sub-section (3) shall be deleted;

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

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"(4) The Corporation shall be re-constituted within a period of six months from the date of dissolution by the election of the Councillors at the general election held in accordance with the provisions of this Act:

Provided that the person or persons appointed under clause (c) of sub-section (2) shall continue to exercise the powers and perform the duties of the Corporation, Standing Committee and, as the case may be, the Transport Committee until the first meeting of the Corporation re-constituted by election of Councillors as aforesaid shall have been held.";

(5) in the marginal note, for the word "supersede", the word "dissolve" shall be substituted.

Amendmen tof section 454 of Bom. LIX of 1949.

19. In the principal Act, in section 454, after the words "provisions of this Act", the words "and the rules made by the State Government under this Act" shall be inserted.

Amendment of section 456 of Bom. LIX of 1949.

20. In the principal Act, in section 456, sub-sections (1) and (2) shall be re-numbered as sub-sections (6) and (7) respectively and before sub- section (6) as so re-numbered, the following sub- sections shall be inserted, namely:-

" (1) The State Government may, by notification in the *Official Gazette* make, rules to provide for matters expressly required or allowed by the Act to prescribe by rules or for such other matters for carrying out the purposes of this Act.

(2) All the rules made under sub-section (1) shall be subject to condition of previous publication:

Provided that the State Government may, for sufficient reasons, dispense with the requirement of previous publication.

(3) All the rules made under sub-section (1) 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 rescission or to such modification as the Legislature may make during the session in which they are so laid, or the Session immediately following.

(4) Any recission or modifications so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

(5) Any rules made by the Corporation which are inconsistant with the rules made by the State Government shall be null and void to the extent of inconsistancy.".

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Amendment of section 457 ofBom. LIX of 1949.

21. In the principal Act, in section 457, in clause (1), entries (b) to (i) shall be deleted.

Amendment of Appendix IV of Bom. LIX of 1949.

22. In the principal Act, in the Appendix IV -

(1) in rules 5A, 6A and 22, the words and figures "under section 3" shall be deleted;

(2) in rule 22, in clause (a), for the words "a two and half years", the words "one year" shall be substituted.

Amendment of Schedule A to Bom. LIX of 1949.

23. In the principal Act, in Schedule A, Chapter I relating to Election Rules, shall be deleted.

STATEMENT OF OBJECTS AND REASONS

In order to take power to the people and to strengthen the set up of local-self government, the Constitution (Seventy-third Amendment) Act, 1992 for rural areas and the Constitution (Seventy-fourth Amendment) Act, 1992 (hereinafter referred to as the said Act) for urban areas have been enacted. The latter Act has become effective from June 1, 1993. The salient features of the said Act are as follows :—

(1) It provides for the constitution of three types of local authorities for urban areas-a nagar panchayat for a transitional area, a municipality for a smaller urban area and a municipal corporation for a larger urban area.

(2) (*a*) It provides that among the seats to be filled by direct election, seats shall be reserved for Scheduled Castes and Scheduled Tribes in proportion to their population in the area, and that one-third of the seats so reserved shall be further reserved for women belonging to such castes.

(*b*) One-third of the total number of seats to be filled by direct election (including seat reserved in favour of women belonging to the Scheduled Castes and Scheduled Tribes) shall be reserved for women.

(*c*) the reservation in favour of backward class citizens is optional.

(*d*) the reservation in favour of Scheduled Castes, Scheduled Tribes and women in the posts of Chairpersons is also mandatory. However, the reservation of such posts in favour of backward classes is optional.

(3) The duration of the elected body is to be five years and no longer. Elections to constitute a new body shall have to be completed before the expiry of the duration of a body.

(4) The elected bodies may be dissolved after affording a reasonable opportunity before its dissolution. However, fresh elections to constitute a new body shall have to be held within six months of such dissolution.

(5) In the case of urban areas with a population of more than three lakhs, wards committees shall have to be formed for one or more wards. The composition and the areas of the ward committees may be decided by the State Government.

(6) A Finance Commission to be constituted by the State shall make recommendations regarding the principles that should govern the distribution of the net proceeds of taxes, duties, etc. leviable by the State between the State and the municipalities, the grants that could be made to the municipalities and such other matters.

(7) The superintendence, direction and control of the elections to the municipal bodies shall be with a State Election Commission constituted under article 243K of the Constitution of India.

(8) Any provisions in the State laws inconsistent with the aforesaid constitutional provisions become invalid on the expiry of one year from the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992 *i. e.* from June 1, 1993 unless sooner amended or repealed by the State Legislature. The municipalities existing on June 1, 1993 can continue till the expiration of their duration. However, the State legislature can dissolve them sooner by a resolution passed to that effect.

The following notes on clauses explain important provisions of the Bill:—

Clause 2 : This clause seeks to define certain words incorporated in the Act on the lines of constitutional amendment.

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Clause 4 : The existing sub-section(3)of section 3A emplowers the State Government either to appoint a councillor or to hold election for additional members where some area has been included in the city. By this clause the powers to appoint additional councillor has been removed from the existing provision and the additional members to the Corporation by elections only.

Clause 5 : This clause substitutes the existing sub-section (2) to (4) of section 5 and inserts new sub-section (2) to (8) in its place

(1) New sub-section (2) provides that seats of councillors to the Corporations shall be filled by direct election.

(*ii*) Sub-section(3)provides that where general election is to be held after declaration of any area as larger Urban area or as per last census figures or after alteration of limits of City, the State Government shall determine the number of wards, number of councillors and seats reserved for Scheduled Castes, Schduled Tribes, Backward Class and Women for the purposes of election, Thereafter, the Election Commission shall determine the boundaries of wards and allocation of seats reserved for Scheduled Castes, Scheduled Tribes, Backward Class and Women.

(*iii*) Sub-sections(4)to(8) provides for reservation of seats. The reservation of seats for the Scheduled Caste, Scheduled Tribe, Backward Classes and Women are on the lines of the Constitutional Amendment. The seats of Councillors for the Scheduled Caste and Scheduled Tribes in the Corporation shall be as nearly as the same proportion to the total number of seats to be filled by direct election in the Corporation as the population of the Scheduled Caste and Scheduled Tribe in the city. The seats so reserved shall be allotted by rotation to the different wards. one-tenth of the total number of seats is to be reserved for backward classes. The provision has also been made to reserve one-third of the total number of seats for women which is also to be allotted by rotation to different wards. Out of total number of seats reserved for the Scheduled Caste, Scheduled Tribe and for backward classes, one-third shall be reserved for women belonging to Scheduled Caste, Scheduled Tribe and Backward classes. The reservation of such seats other than women shall cease to have effect after the period prescribed in Article 334 of the Constitution of India.

Clause 6 : This clause proposes to insert new Section 6, 6A, 6B and 6C in the Act. (1) Section 6 provides for duration of Corporation. It shall be for a period of 5 years and no longer. When a Corporation is reconstituted after dissolution, the duration of such Corporation shall be only for the remainder period.

(2) Proposed new section 6A provides the term of office of the Councillors which shall be co-extensive with the duration of corporation.

(3) Proposed new Section 6B provides for election to constitute a Corporation. It become necessary to hold election to constitute a Corporation before expiration of its period of five years and in a case of dissolution, before expiration of six months. Where the durationof dissolved corporation is less than 6 months, it will not be necessary to hold election.

(4) New Section 6C provides for transitory provisions. The term of councillors of the Corporation which has already expired or is due to expire within one year from the date of amendment proposed in the Act, the election to reconstitute such corporation will have to be held in accordance with the amendment made in the Act. Taking into consideration the census figures of 1991, the number of wards and territorial area of wards and number of councillors of the Corporation are to be decided afresh. Reservation for seats to Scheduled Caste, Scheduled Tribes and Backward Classes is required to be provided. Besides, one-third of the total number of seats of the Councillors so determined will have to be reserved for women as per the Constitutional mandate. The power to conduct the election is at present vested with Municipal Commissioner but the same powers now are required to be vested in the State Election Commissioner to be appointed by the Governor. This is a time consuming process. The provision is, therefore, made in this clause about the Corporations of which the term has already been expired or is due to expire within one year of the amendment to the Act, the election of such Corporation shall have be held within one year and inaccording with the to amended Law.

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Clause 7 : This clause proposes to amend Section 7A which provides that where the duration of the Corporation already expired or is due to expire during the transitory period as referred to under Section 6C. and the election to constitute Corporation could not be completed before expiration of its duration or for unforeseen reasons like natural calamities, riots, disturbances, the election could not be held the power has been given to State Government to appoint Administrator to manage the affairs of the Corporation.

Clause 8 : The existing Section 9 provides that a person who has enrolled as a voter for the ward is qualified to be a councillor. The age of 18 years is one of the qualifications for voters. As per the Constitutional Amendment, a person below 21 years is disqualified to be chosen as a Councillor in the Corporation and hence a provision has been made in section 9 by this clause so that the voter who had attained the age of 21 years can be qualified to be councillor.

Clause **9.** This clause adds one more disqualification in section 10 for being a councillor. If any person is disqualified under any law for election of legislative assembly of the State, he would also disqualify for being a councillor.

Clause **10** : This clause amends section 14. The powers of superin-tendence, direction and control of preparation of electoral rolls and conducts of election shall be vasted in the State Election Commission. The election for the Councillors of Corporation shall be held in accordance with the rules framed by the State Government. The State Election Commission shall be appointed within two months from coming into force of the Amendment made in the Act. As per the constitutional requirement, a provison has been made that the State Government shall make available to the State Election Commissionthe staff required for discharrging its fuctions. The Election Commissioner shall commence the work of delimintation of the wards within one months from his appointment.The provisions of section 7 of the Bombay General Clauses Act, 1904 shallnot apply to anything done or sufferred under the provisions repeal or subsituted by the amended Act. The election of the Corporation hence-fourth shall be held in accodance with the provisions of the amended Act.

Clause **11** : This is consequential amendment.

Clause **12** : This clause amends section 19 which provides for reservation of office of the Mayor in the same proporation as provided in section 5 for Scheduled Caste, Scheduled Tribe, Backward Classes and for Women in the prescribed manner.

Clause **13** : This clause inserts new section 29A which provides for constitution of wards Committee where a population of city is more than 3 lakhs. The wards Committee has to be constituted from the councillors of the Corporation representing a ward and such other members not exceeding 5 as may be nominated by the State Government. The duration of Wards Committee shall be co-extensive with the duration of the Wards Committee and powers and duties of such Committee and the areas of such committee shall be defined by the rules to be framed by the State Government.

Clauses **14** *and* **15**.—These clauses insert new items in sections 63 and 66, asper the amendment made in the Constitution.

Clause **16**.—This clause insert new section 126AA which provides that Finance Commission constituted under article 243-I shall review the financial position of the Corporation andshall make recommen-dation in regard to distribution between State and Corporation of the net proceeds of taxes, duties, etc leviable by State; determination of taxes, etc which may be assigned to the Corporation and grant-in-aid to the Corporation from the Consolidated Fundof the State. The Commission may also recommend the measures for improving the financial position of the Corporation. The recommendation so made by the Commission shall have to be laid before the State Legislature.

Clause **17**.—The existing section 126 provides the grants to be made by the State Government to the Corporation on the basis of recommendation of the Gujarat Municipal Board. Since the Finance Commission is to be constituted as per constitution amendment, now recommendation is to be made by the Finance Commission instead of Board. This clause amend section accodingly.

Clause **18.**—The existing section 452 provides for supersession of the Corporation. Since Constitutional amendment provides for the dissolution of the Corporation only, the consequential amendment has been made accordingly in section 452. In case of dissolution of the Corporation, election to reconstitute such Corporation shall be held within a period of six months.

Clause **19.**—This clause amends section 454 with a view that alteration and amend ments of Rules made by Corporation should also be consistent with the Rules made by the State Government under the Act.

Clause **20.**—This clause amends section 456 which seeks to empower the State Government to frame Rules for matters which required by Act to be prescribed by Rules.

Clauses **21** *and* **23**.—Since the powers of superintendence, control and direction of election is now vested in the State Election Commission, the existing rules in Schedule A and in section 457 so far as they relate to conduct of election have been proposed to be deleted by this clauses.

Clause **22**.—This is consequential amendment in Appendix IV appended to the Act. The period to appoint authorities mentioned in rules 22 of appendix IV has been reduced to one year

NARHARI AMIN

FINANCIAL MEMORANDUM

Article 243K of the Constitution of India inserted by the Constitution (Seventy-fourth Amendment) Act, 1992 provides for State Election Commission consisting of an Election Commissioner to be appointed by the Governor for the purpose of conducting the election of the Local Authorities. It is necessary as per constitutional provision to make available to the Election Commission such staff as may be required by it for discharging its function. Sub-clauses (4) and (5) of clause10 of the Bill provide for appointment of Election Commissioner and the staff. This provision if enacted and brought into operation would involve an estimated annual expenditure of about rupees thirty-two lakhs from the Consolidated Fund of the State, out of which rupees twenty lakhs would be of recurring nature and rupees tweive lakhs would be of non-recurring nature.

Similarly, article 243-I of the Constitution of India inserted by the said Constitutional Amendment provides for constitution of the Finance Commission by the State for the purpose of reviewing the financial position of the Local Authorities and to make recommendation. Clause 16 of the Bill provides for the functions of the Finance Commission. Some staff also required to be appointed in the Commission to enable it to carry out its function. This provision if enacted and brought into operation would involve expenditure of about rupees twenty lakhs from the Consolidated Fund of the State, out of which rupees fifteen lakhs would be of recurring nature and rupees five lakhs would be of non-recurring nature.

The aforesaid expenditure would be for all the local authorities.

NARHARI AMIN

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respect, namely:—

Clause 4: Paragraph (1) of sub-section (3) of Section 3A proposed to be substituted by this clause empowers the State Government to determine the number of additional councillors for an area included in the City.

Clause 5: (i)(a) sub-clause (a) of Sub-section (3) of Section 5 proposed to be amended by this clause empowers the State Government to determine by notification, the number of wards, number of councillors and the number of seats reserved for Scheduled Caste, Scheduled Tribes, Backward Classes and Women.

(b) Sub-clause (b) of sub-section (3) of section 5 proposed to be amended by this clause empowers the state Government to priscribe the manner in which the state Election Commissioner shall determine the boundaries of wards and allocate reserved seats.

(ii) Sub-section (*4*) of Section 5 proposed to be substituted by this clause empowers the State Government to prescribe the manner in which the seats reserved for scheduled castes and Scheduled tribes would be allotted by rotation to the different wards in the City.

(iii) Sub-section (7) of section 5 aproposed to be inserted by this clause empowers the State Government to prescribe the manner in which seats reserved for women would to be allotted by rotation to different wards in the City.

(iv) Paragraph (3) of the explanation proposed to be inserted by this clause empowers the State Government to declare socially and educationally backward classes for the purpose of reservation of seats of the councillors.

Clause 7: Sub-section (*1*) of section 7A proposed to be substituted by this clause empowers the State Government to appoint by order published in the *Official Gazette* a person as an Administrator to manage the affairs of the Corporation in circumstances referred to therein.

Clause 10: Sub-section (*2*) of Section 14 proposed to be inserted by this clause empowers the State Government to frame rules for election of the Councillors to the Corporation.

Clause 12: Sub-section (*1A*) of Section 19 proposed to be amended by this clause empowers the State Government to prescribe the manner in which the office of Mayor in the Corporation shall be reserved for Scheduled Caste, Scheduled Tribes, Backward Classes and Women.

Clause 13: (i) Sub-section (*2*) of Section 29A proposed to be inserted by this clause empowers the State Government to nominate the members not exceeding the 5 in each Ward Committees.

(ii) Sub-section (*8*) of Section 29A empowers the State Government to prescribe by rules the functions, duties, territorial areas and procedure for transaction of business of the Ward Committees.

(iii) Sub-section (*9*) of Section 29 A empowers the State Government to prescribe by rules the conveyance charges to be paid to the Chair Persons and the members of the Ward Committees for attending the meetings.

Clause 20: Sub-section (*1*) of Section 456 proposed to be inserted by this clause empowers the State Government to make rules by notification in *Official Gazette* to provide matters required by Act to be prescribed by rules.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 2nd August, 1993.

NARHARI AMIN

By order and in the name of the Governor of Gujarat,

R. H. GORI
Secretary to the Government of Gujarat.
Legal Department.

Gandhinagar, dated the 2nd August, 1993.

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

PART V

Bill introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

THE GUJARAT MUNICIPALITIES (AMENDMENT) BILL, 1993.

GUJARAT BILL NO. 24 OF 1993.

A BILL

further to amend the Gujarat Municipalities Act, 1963 to give effect to the Constitution (Seventy-fourth Amendment) Act, 1992 on Municipalities.

It is hereby enacted in the Forty-fourth Year of the Republic of India as follows:-

Short title and commencement.

1. (1) This Act may be called the Gujarat Municipalities (Amendment) Act, 1993.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette, appoint.*

V-EX. 24-1

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Amendment of section 2 of Guj.34 of 1964.

2. In the Gujarat Municipalities Act, 1963 (hereinafter referred to as 'the principal Act'), in section 2, - Guj. 34 of 1964

(1) after clause (1), the following new clause shall be inserted, namely :-

"(1A) "Assembly" means the Gujarat Legislative Assembly;";

(2) after clause (3), the following new clause shall be inserted, namely:-

"(3A)"Central law" means the Representation of the People Act, 1950;"; Act No.43 of 1950

(3) after clause (7), the following new clause shall be inserted, namely:-

"(7A) "election" means and includes the entire election process commencing from the division of wards and all stages culminating into election of a councillor and it is always deemed to have meant and included the entire election process as aforesaid.

"(7B) "Finance Commission" means the Finance Commission constituted under article 243I of the Constitution of India;";

(4) for clause (13), the following shall be substituted, namely:-

"(13) "Municipal Borough" means a transitional area, or as the case may be, a smaller urban area, as specified in clause (2) of article 243Q of the Constitution of India and includes other local areas already declared to be a municipal borough prior to the commencement of the Gujarat Municipalities (Amendment) Act, 1993;"; Guj. of 1993

(5) for clause (14), the following shall be substituted, namely:-

"(14)"Municipality" means Nagar Panchayat constituted under section 5(1) or as the case may be, "Municipal Council" constituted under section 5(2);";

(6) for clause (20), the following shall be substituted, namely:-

"(20)" Population" in relation to the municipal borough means the population as ascertained in the last preceding census of which the relevant figures have been published;

(20A)"prescribed" means prescribed by rules made under section 277;";

(7) after clause (24), the following new clause shall be inserted, namely:-

"(24A)"State Election Commission" means State Election Commission referred to in article 243K of the Constitution of India;".

Deletion of section 3 of Guj.34 of 1964.

3. In the principal Act, section 3 shall be deleted.

Amendment of heading of Chapter II of Guj. 34 of 1964.

4. In the principal Act, in Chapter II, in the heading, the words "MUNICIPAL BOUROUGH AND", and the words, brackets and figures"(1) Municipal Bouroughs" shall be deleted.

Deletion of sections 4 and 4A of Guj.34 of 1964.

5. In the principal Act, sections 4 and 4A shall be deleted.

Substituion of section 5 of Guj.34 of 1964.

6. In the principal Act, for section 5, the following shall be substituted, namely:-

Incorporation of nagar Panchayat and Municipal Council.

"5(1) In every transitional area there shall be a NagarPanchayat and every such Nagar Panchayat shall be a body corporate by the name of "the ..... Nagar Panchayat" and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name through its chief officer. ";

(2) In every small urban area there shall be a Municipal Council and every such Municipal Council shall be a body corporate by the name of "the .....Municipal Council" and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name through its chief officer.

Substitution of section 6 of Guj.34 of 1964.

7. In the principal Act, for section 6, the following shall be substituted, namely:—

Municipality to consist of elected Councillors.

"6.(1) Every municipality shall consist of elected councillors..

(2)The number of such councillors shall be -

(a) 21, in the case of a nagar panchayat,

(b) 27, if the population of the municipal borough exceeds 25,000 but does not exceed 50,000,

(c) 36, if the population of the municipal borough exceeds 50,000 but does not exceed 1,00,000,

(d) 42, if the population of the municipal borough exceeds 1,00,000 but does not exceed 2,00,000, and

(e) 51, if the population of the municipal borough exceeds 2,00,000.

(3) Out of the total number of seats of councillors in a municipality, there shall be reserved seats for Scheduled Castes, Scheduled Tribes, backward classes and women as follows, namely:-

(a) Seats shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes in every municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion

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to the total number of seats to be filled by direct election in that municipality as the population of the Scheduled Castes in that municipal area or of the Scheduled Tribes in that municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a municipality in the prescribed manner.

(b) One-third of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(c) One-tenth of the total number of seats to be filled by direct election in every municipality shall be reserved for persons belonging to backward classes and one-third of the seats so reserved for backward classes shall be reserved for women belonging to the backward classes. Such seats may be allotted by rotation to different constituencies in the prescribed manner.

(d) One-third (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the backward classes) of the total number of seats to be filled by direct election in every municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a municipality in the prescribed manner.

(e) The reservation of seats under clauses (a), (b), and (c) (other than the reservation for women) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India.

(4) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission.

(5) Subject to the provisions of this Act, an election shall be held in accordance with the rules made by the State Government in that behalf.

Guj. of 1993.

(6) The State Election Commissioner shall be appointed within two months of the coming into force of the Gujarat Municipalities (Amendment) Act, 1993.

(7) The State Government shall, when so required by the State Election Commission, make available to it the staff as may be necessary for the discharge of the functions conferred on it by clause (1) of article 243K of the Constitution of India.

(8) Notwithstanding any vacancy due to failure to elect the full number of councillors which under this section might be elected the municipality shall be deemed to be constituted on the date of its first meeting.

Explanation:- For the purpose of this section, -

(a) "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;

(b) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within such tribe 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." and

(c) "backward classes" means classes declared as Socially and Educationally Backward Classes by the State Government from time to time. ".

Deletion of section 7AA of Guj.34 of 1964.

8. In the principal Act, section 7AA shall be deleted.

Substitution of section 7 of Guj.34 of 1964.

9. In the principal Act, for section 7, the following sections shall be substituted, namely:-

Determination of number of coucillors to be elected and determination of wards.

"7.(1) Each municipality shall consist of councillors chosen by direct election.

(2) Where general election is to be held immediately after,—

(i) the specification of a local area as a 'transitional area' or as the case may be, a 'smaller urban area'. under article 243Q of the Constitution of India is made, or

(ii) the census is taken under the Census Act, 1948, and the relevent figures of which have been published, or **Act No 37 of 1948.**

(iii) the limits of a municipal borough are altered,

(a) the State Government shall, by notification in the *Official Gazette,* determine thee number of wards into which the municipal borough shall be divided, the number of councillors to be elected to the municipality and the number of seats to be reserved in favour of the Scheduled Castes, the Scheduled Tribes, the backward classes and women as provided in sub-section (3) of section 6.

(b) the State Election Commission thereafter shall carry out the determination of the boundaries of the wards and the allocation of seats reserved in favour of the Scheduled Castes, Scheduled tribes, backward classes and women among the wards in the prescribed manner.

Substitution of section 8 of Guj.34 of 1964.

10. In the principal Act, for section 8, the following sections shall be substituted, namely:-

Duration of the municipalities, and the councillors.

"8.(1) Every municipality, unless sooner dissolved shall continue for five years from the date appointed for its first meeting and no longer.

(2) The term of office of the councillors shall be co-extensive with the duration of the municipality.

(3) An election to constitute amunicipality shall be completed before the expiry of its duration specified under sub-section (1)";

Appointment of an officer to exercise the powers of the municpality in unforeseen circumstances.

8 A. Where it is not possible to hold the election to constitute a municipality as provided in section 8 of the Act on account of unforeseen circumstances such as natural calamity, riots, communal disturbances, all powers and duties of the municipality shall be exercised and performed by such officer as the State Government may, by order, appoint from time to time in this behalf. "

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Amendment of section 9 of Guj. 34 of 1964.

11. In the principal Act, in section 9, for sub- section (2), the following sub-sections shall be substituted namely:-

"(2) The list of voters shall be the same as the electoral roll of the Gujarat Legislative Assembly prepared and revised in accordance with the provisions of the Central Law for the time being in force and as revised modified, up-dated, and published in accordance with the provisions of sub-section (2A).

(2A) Subject to the superintendence, direction and control of the State Election Commission, the list of voters shall be revised, modified, up-dated and published by such officer as may be designated by the State Election Commission in this behalf in the prescribed manner.".

Amendment of section 10 of Guj. 34 of 1964.

12. In the principal Act, in section 10, -

(i) in sub-section (2), after the words "every person", the words " who has attained the age of twenty-one years on the last date fixed for filing the nominations and" shall be inserted;

(ii) in sub-section (3), for the words "vote or is qualified or is not qualified to be elected, as the case may be," the word "vote" shall be substituted.

Amendment of section 11 of Guj. 34 of 1964.

13. In the principal Act, in section 11, in sub- section (1), after clause (f), the following clause shall be added, namely:-

"(g) who is disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State:

Provided that where the disqualification was only on the ground that he was less than twenty-five years of age, he may be a Councillor if he has attained the age of twenty-one years before last date for filing nominations.".

Amendment of section 32 of Guj34 of 1964.

14. In the principal Act, in section 32, -

(i) for sub-section (1) the following shall be substituted, namely:-

"(i) After a general election to a municipality the Collector shall call the first general meeting of the municipality for the election of the President and the Vice-President within the prescribed period.".

(ii) in sub-section (3), the words "the determination of the term of the office of the President and Vice-President and" shall be deleted.

Amendment of section 33 of Guj.34 of 1964.

15. In the principal Act, in section 33, -

(1) for sub-section (1), the following shall be substituted, namely:-

"(1) (a) The term of the office of the President shall be for a period of one year.

(b) Subject to the other provisions of this section, the President shall be eligible for re-election."

(2) for sub-section (3), the following shall be substituted, namely:-

"(3). The office of the President in every municipality shall be reserved by the State Government for Scheduled Castes, Scheduled Tribes, backward classes and women in the prescribed manner. Such reservation

shall be made as nearly as may be, in the same proportion as is made under sub-section (3) of section 6 in their favour in the total number of seats to be filled in by direct election.".

Substitution of section 42 of Guj. 34 of 1964.

16. In the principal Act, for section 42, the following section shall be substituted, namely:—

Filling of vacancies.

"42. (1) When any vacancy occurs due to failure to elect the full number of councillors at a general election or due to the non-acceptance of office by a person elected to be a councillor, or due to an election set aside under provisions of sub- section (2) of section 14, or any vacancy of a councillor occurs due to any reason, the Chief Officer of the municipality and in the absence of the Chief Officer, such officer as the Collector may, by a general or special order, designate for the purpose shall within fifteen days from the date on which the vacancy occurs give a notice thereof to the State Election Commission.

(2) On receipt of a notice under sub-section (1), the State Election Commission shall arrange for holding an election to fill the vacancy within six months from the date on which such vacancy has arisen.

(3) When any vacancy of a president or vice-president occurs due to any reason, the Chief Officer of the municipality and in the absence of the Chief Officer, such officer as the Collector may, by a general or special order, designate for the purpose shall within fifteen days from the date on which the vacancy occurs give a notice thereof to the Collector.

(4) On receipt of a notice under sub-section (3), the Collector shall call, within twenty five days from the date of the receipt of the notice, a general meeting of the municipality for the election of the president or, as the case may be, vice-president and the provisions of sections 31 and 32 shall *mutatis mutandis* apply to such meetings and election.

(5) A person elected as a councillor under sub-section (2) of this section or elected as a president or vice- president under sub- section (4) of this section shall hold office so long only as the councillor, president or vice president in whose place he is elected, would have held office had the vacancy not occurred.

(6) Notwithstanding any thing contained in sub-section (2),where any vacancy of a councillor occurs within six months preceding the date on which the duration of the municipality expires, it shall not be filled.

(7) When the office of both president and the vice-president become vacant simultaneously, any councillor as the Collector may authorize in this behalf, shall, pending the election of the president exercise all the powers and perform all the functions and duties of the president.".

Amendment of section 91 of Guj, 34 of 1964.

17. In the principal Act, in section 91, in para "D", the following shall be inserted, namely:-

"(e) the preparation of plans for economic development and social justice;

(f) the performance of functions and the implementation of the schemes that may be entrusted by the State Government to it, including those in relation to the matters listed in the Twelfth Schedule to the Constitution of India."

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Insertion of new chapter in Guj. 34 of 1964.

18. In the principal Act, after Chapter IX, the following new Chapter shall be inserted, namely:-

"Chapter IX A

Finance Commission.

Finance Commission.

(1) The Finance Commission shall review the financial position of the municipalities and make recommendations to the State Government as to -

(a) the principles which should govern -

(i) the distribution between the State and the municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them and the allocation between the municipalities at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the municipalities;

(iii) the grants-in-aid to the municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the municialities;

(c) any other matter referred to the Finance Commission in the interest of sound finances of the municipality.

(2) Every recommendation made by the Finance Commission together with an explanatory memorandum as to the action taken thereon shall be laid before the State Legislature.".

Amendment of section 144 of Guj. 34 of 1964.

19. In the principal Act, in section 144, in sub-sections (1) and (2), for the words, "Gujarat Municipal Finance Board", the words "Finance Commission or otherwise" shall be substituted.

Amendment of section 263 of Guj. 34 of 1964.

20. In the principal Act, in section 263, -

(1) in sub-section (1), -

(i) the words beginning with the words "or supersede it" and ending with the words "superseded under this section" shall be deleted;

(ii) the proviso shall be deleted,

(2) in sub-section (2), -

(a) the words "or superseded" and the words "or supersession" wherever they occur shall be deleted;
(b) in clause (a), the words "in the case of supersession as from the date of the order of supersession and" shall be deleted;

(c) clauses (c) and (d) shall be deleted;

(3) for sub-section (3), the following shall be substituted, namely:-

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Constitution of Municipality after dissolution.

"(3) (a) An election to constitute a municipality shall be completed 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 municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the municipality for such period;

(b) A municipality constituted upon the dissolution of municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved municipality would have continued had it not been so dissolved.";

(4) sub-sections(4) and (5) shall be deleted.

Deletion of section 263A of Guj.34 of 1964.

21. In the principal Act, section 263A shall be deleted.

Substitution of section 264A of Guj.34 of 1964.

22. In the principal Act, for section 264A, the following shall be substituted, namely:-

Notified area

"264A. For the purpose of this Chapter, notified area means an urban area or part thereof specified to be an industrial township area under the proviso to clause (1) of article 243Q of the Constitution of India.".

Deletion of section 264D of Guj. 34 of 1964.

23. In the principal Act, section 264 D shall be deleted.

Amendment of section 264E of Guj.34 of 1964.

24. In the principal Act, in section 264 E, -

(i) for sub-section (1), the following shall be substituted, namely:-

"(1) When any area ceases to be a notified area, the property (including arrears of taxes) and rights which, prior to such cessation, vested in the persons or committee appointed for such area under clause (c) of sub-section (1) of section 264B shall, subject to all charges and liabilities effecting the same, vest in the municipality, if any, constituted for such area or within the limits of which such area is included or if there be no such municipality, in the State Government.";

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

"(2) Any arrears of taxes vesting in a municipality under sub-section (1) shall be recoverable under the provisions of this Act as if the taxes were imposed and recovered under this Act:

Provided that steps to recover such arrears of taxes shall be initiated within a period of three years from the date on which they so vest in the municipality.".

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Amendment of section 265 of Guj. 34 of 1964.

25. In the principal Act, in section 265, in clause (d), the words "or nagar" shall be deleted.

Amendment of section 266 of Guj. 34 of 1964.

26. In the principal Act, in section 266, -

(i) in sub-section (1), -

(a) for clause (i), the following shall be substituted, namely:-

"(i) in a case falling under clause (a), the election of the councillors for the additional area shall be held within a period of six months from the appointed day in accordance with the provisions of the Act. The duration of such Councillor shall be for the remainder duration of municipality to which new area is added;

(b) for clause (iii), the following shall be substituted, namely:-

"(iii) in a case falling under clause (c) and (d), the municipalities shall stand dissolved on the appointed day and the municipality shall be reconstituted within a period of six months from the appointed day in accordance with the provisions of this Act. The duration of such reconstituted municipality and the councillors shall be same as provided in section 8 of this Act;";

(c) clauses (iv) and (v) shall be deleted.

(d) in clause (vi), the words "or the State Government" shall be deleted;

(ii) sub-section (3) shall be deleted.

Amendment in heading of chapter XVII-A in Guj.34 of 1964.

27. In the principal Act, in Chapter XVIIA, in the heading, the words "or nagar" shall be deleted.

Amendment of section 266A of Guj.34 of 1964.

28. In the principal Act, in section 266A, clauses (c), (d) and (e) shall be deleted.

Amendment of section 266B of Guj. 34 of 1964.

29. In the principal Act, in section 266B,

(i) in the marginal note, for the word "nagar" the word "gram" shall be substituted,

(ii) for the portion beginning with "whereunder" and ending with words" ensue that is to say," the following shall be substituted, namely:-

"Where an area comprised in a gram is specified as a transitional area or, as the case may be, a small urban area, under clause (2) of article 243Q of the Constitution of India, then with effect from the date on which such area is so specified, the following consequences shall ensue that is to say; -";

(iii) clause (c) shall be deleted;

(iv) for clause (d), the following shall be substituted, namely:-

"(d)the State Government shall appoint an officer as an administrator to exercise the powers and perform the duties and functions of municipality for such area until a municipality is constituted for such area under this Act.";

(dd) the municipality shall be reconstituted within a period of six months from the said date in accordance with the provisions of this Act. The duration of such reconstituted municipality and the Councillors shall be the same as provided in Section 8 of this Act.";

(v) in clause (e), the words "or the nagar fund" and the word "interim" shall be deleted.

(vi) in clause (h), the word "interim" shall be deleted.

(vii) in clause (i), the words, "interim" and the word "interim municipality or as the case may be "shall be deleted.

Deletion of sections 266C, 266D and 266E of Guj.34 of 1964.

30. In the principal Act, sections 266C, 266D and 266E shall be delcted.

Deletion of section 270A of Guj.34 of 1964.

31. In the principal Act, section 270 A shall be defeted.

Insertion of new section 281 in Guj. 34 of 1964.

32. In the principal Act, after section 280, the following new section shall be added, namely:-

Transitory provision. Guj. of 1993.

"281.(1) Notwithstanding anything contained in this Act, where the duration of the municipality has already expired before the date of the commencement of the Gujarat Municipalities (Amendment) Act, 1993, (hereinafter referred to as "the said date" in this section) or is due to expire within one year from the said date, the election to constitute such municipality shall be completed within one year from the said date in accordance with the provisions of this Act.

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(2) Where the duration of the existing municipality expires after one year from said date, the election to constitute such municipality shall be completed before the expiry of its duration in accordance with the provisions of this Act.

(3) Where an area is specified as transitional area, or as the case may be, a smaller area, under clause (2) of article 243Q of the Constitution of India during the period of six months from the said date, the election to constitute the municipality for such area shall be completed within one year from the said date in accordance with the provisions of this Act.

(4) Where an elections to constitute municipality could not be completed or it is not possible to hold the election to constitute a municipality as provided in this section on account of unforseen circumstances such as natural calamity, riots, communal disturbances, all powers and duties of the municipality shall be exercised and performed by such officer as the State Government may by order appoint in this behalf.".

STATEMENT OF OBJECTS AND REASONS

In order to take power to the people and to strengthen the set up of local self Government, the Constitution (Seventy-third Amendment) Act, 1992 for rural areas and the Constitution (Seventy-fourth Amendment) Act, 1992 (hereinafter referred to as "the said Act") for urban areas have been enacted. The latter Act has become effective from June 1, 1993. The salient features of the said Act are as follows :--

(1) It provides for the constitution of three types of local authorities for urban areas--a nagar panchayat for a transitional area, a municipality for a smaller urban area and a municipal corporation for a larger urban area.

(2) (a) It provides that among the seats to be filled by direct election, seats shall be reserved for Scheduled Castes and Scheduled Tribes in proportion to their population in the area, and that one-third of the seats so reserved shall be further reseved for women belonging to such classes.

(b) One-third of the total number of seats to be filled by direct election (including the seats reserved in favour of women belonging to the Scheduled Castes and Scheduled Tribes) shall be reserved for women.

(c) The reservation in favour of backward classes citizens is optional.

(d) The reservation in favour of Scheduled Castes, Scheduled Tribes and women in the posts of Chairpersons is also mandatory. However, the reservation of such posts in favour of backward classes is optional.

(3) The duration of the elected body is to be five years and no longer. Elections to constitute a new body shall have to be completed before the expiry of the duration of a body.

(4) The elected bodies may be dissolved after affording a reasonable opporunity before its dissolution. However, fresh elections to constitute a new body shall have to be held within six months of such dissolution.

(5) A Finance Commission to be constituted shall make recommendations regarding the principles that should govern the distribution of the net proceeds of taxes, duties, etc. leviable by the State between the State and the municipalities, the grants that could be made to the municipalities and such matters.

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(6) The superintendence, direction and control of the elections to the municipal bodies shall be with a State Election Commission constituted under article 243K of the Constitution of India.

(7) Any provision in the State laws inconsistent with the aforesaid Constitutional provisions become invalid on the expiry of one year from the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, i.e. from June 1, 1993 unless sooner amended or repealed by the State Legislature. The municipalities existing on June 1, 1993 can continue till the expiration of their duration. However, the State Legislatures can dissolve them sooner by a resolution passed to that effect.

The following notes on clauses explain in brief, the important provisions of the Bill :--

Clause 2.—This clause defines words mainly Finance Commission, State Election Commission and Election. It also amends the terms 'municipal borough' and 'municipality'.

Clause 6.—This clause provides for constitution of nagar panchayat for transitional area and Municipal Council for a smaller urban area.

Clause 7(i).—Sub-clause (3) of this clause provides for resevation of seats for the Scheduled castes, Scheduled Tribes, backward classes and women on the lines of the Constitutional Amendment. The seats of Councillors for the Scheduled Castes and Scheduled Tribes in a municipality shall be as nearly as the same proportion to the total number of seats to be filled by direct election in the municipality as per the population of the Scheduled Castes and Scheduled Tribes in the municipal borough. The seats so reserved shall be allotted by rotation to the different wards. One-tenth of the total number of seats is to be reserved for backward classes. The provision has also been made to reserve one-third of the total number of seats for women which is also to be allotted by rotation to different wards. Out of total number of seats reserved for the Scheduled Castes, scheduled Tribes and backward classes, one-third shall be reserved for women belonging to Scheduled Castes, Scheduled Tribes and backward classes. The reservation of such seats other than women shall cease to have effect after the period prescribed in article 334 of the Constitution of India.

(ii) Sub-clause (4) of this clause provides that superintendence, direction and control of elections to the municipal bodies shall be with the State Election Commission.

(iii) Sub-clause (5) of this clause provides that election shall be held in accordance with the rules made in that behalf.

(iv) Sub-clause (6) of this Act provides for appointment of the State Election Commissioner within two months of the coming into force of this Act.

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Clause 9.—This clause provides for determination of number of councillors to be elected to the municipality, the number of seats to be reserved in favour of Scheduled Castes, Scheduled Tribes, backward classes and women and the number of wards into which municipal borough shall be divided.

Clause 10.—This clause provides for duration of the municipalities and the councillors. By this clause power has also been given to the State Government to appoint an officer to exercise the powers and to perform the duties of the municipalities when it is not possible to hold the election on account of unforseen circumstances.

Clause 12.—The existing section 10 provides that a person whose name is in the list of voters shall be qualified to be elected. The age of eighteen years is one of the qualifications for voters. As per the Constitutional Amendment, a person below twenty-one years is disqualified to be a Councillor in the municipality and hence a provision has been made in the Act so that a person who has attained the age of twenty-one years can be qualified to be elected.

Clause 13.—This clause adds one more disqualification for being a councillor. If any person is disqualified under any law for election of Legislative Assembly of the State, he would also disqualify for being a councillor.

Clause 15.—This clause provides for the term of the office of Chairpersons and reservation of the office of the President in the same proportion as provided in section 6 for Scheduled Castes, Scheduled Tribes, backward class and for women in the prescribed manner.

Clause 17.—This clause provides for discretionary functions to be discharged by the municipality for the matters listed in the Twelfth Schedule to the Constitution of India.

Clause 18.—This clause provides for the function of the Finance Commission constituted under article 243 I shall review the financial position of the municipality and shall make recommendation in regard to distribution between State and the municipality of the net proceeds of taxes, duties, etc. leviable by State, determination of taxes, etc. which may be assigned to the municipality and grants-in-aid to the municipality from the Consolidated Fund of the State. The Commission may also recommend the measures for improving the financial position of the municipality. The recommendation so made by the Commission shall have to be laid before the State Legislature.

Clause 22.—This clause defines the term 'notified area' as per an area specified to be an industrial township under the proviso to clause (1) of article 243Q of the Constitution of India and the matters connected therewith.

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Clause 32.—This clause provides that where duration of the municipality has already expired or is due to expire within one year from commencement of the Gujarat Municipalities (Amendment) Act, 1993 and the area which is specified as transitional area within the period of six months from the commencement of the said Act, the election of such municipalities shall be completed within one year from the said Act in accordance with the provisions of amended Act. Where an election to constitute such municipality could not be completed or is not possible to hold the election on account of unforseen circumstances, power has been given to appoint an officer to exercise the power and to perform the duties of the municipalities.

NARHARI AMIN

FINANCIAL MEMORANDUM

Article 243K of the Constitution of India inserted by the Constitution (Seventy-fourth Amendment) Act, 1992 provides for State Election Commission consisting of an Election Commissioner to be appointed by the Governor for the purpose of conducting the election of the Local Authorities. It is necessary as per constitutional provision to make available to the Election Commission such staff as may be required by it for discharging its function. Sub-clauses (6) and (7) of clause 7 of the Bill provide for appointment of Election Commissioner and the staff. This provision if enacted and brought into operation would involve an estimated annual expenditure of about rupees thirty-two lakhs from the Consolidated Fund of the State, out of which rupees twenty lakhs would be of recurring nature and rupees twelve lakhs would be of non-recurring nature.

Similarly, article 243-I of the Constitution of India inserted by the said Constitutional Amendment provides for constitution of the Finance Commission by the State for the purpose of reviewing the financial position of the Local Authorities and to make recommendation. Clause 18 of the Bill provides for the functions of the Finance Commission. Some staff also required to be appointed in the Commission to enable it to carry out its function. This provision, if enacted, and brought into operation would involve expenditure of about rupees twenty lakhs from the Consolidated Fund of the State out of which rupees fifteen lakhs would be of recurring nature and rupees five lakhs would be of non recurring nature.

The aforesaid expenditure would be for all the local authorities.

NARHARI AMIN

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MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves delegation of legislative powers in the following respects :—

Clause 1.—sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 7.—(i) Clauses (a), (c) and (d) of sub-section (3) of section 6 proposed to be substituted by this clause empowers the State Government to prescribe the manner in which the reserved seats to be allotted by rotation to the different constituencies in a municipality.

(ii) sub-section (5) of section 6 proposed to be substituted by this clause empowers the State Government to make rules to provide for election.

(iii) Sub-section (6) of section 6 of this clause empowers the State Government to ..... the State Election Commissioner.

(iv) Paragraph (c) of the Explanation below section 6 proposed to be added by this clause empowers the State Government to declare socially and educationally backward classes for the purpose of resevation of seats of the councillors.

Clause 9.—(i) Section 7 proposed to be substituted by this clause empowers the State Government to determine the number of wards into which the municipality shall be divided, the number of Councillors to be elected to the municipality and the number of seats to be reserved in favour of Scheduled Castes and Scheduled Tribes, Backward Classes and women.

Clause 10.—Section 8A proposed to be inserted by this clause empowers the State Government to appoint an officer to exercise the powers and to perform the duties of municipalities in unforseen circumstances.

Clause 11.—Sub-section (2A) of section 9 proposed to be inserted in section 9 by this clause empowers the State Election commission to designate the officer to revise, modify, up date and publish the list of voters.

Clause 14.— Sub-section (1) of section 32 proposed to be substituted by this clause empowers the state Government to prescribe the period for calling the first general meeting after a general election to a municipality is held.

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Clause 15.— Sub-section (3) of section 33 proposed to be substituted by this clause empowers the State Government to prescribe the manner in which the office of the President shall be reserved for Scheduled Castes, Scheduled Tribes, backward Classes and women.

Clause 16.—(i) Sub-section (1) of section 42 proposed to be substituted by this clause empowers the Collector to designate the officer to give a notice to the State Election Commission in respect of vacancy of a councillor arises.

(ii) Sub-section (7) of section 42 proposed to be substituted by this clause empowers the Collector to authorise a councillor to exercise all the powers and perform all the functions and duties of the President and Vice-President when their offices become vacant simultaneously.

Clause 29.—Sub-clause (d) of section 266B proposed to be substituted by this clause empowers the State Government to appoint an officer to exercise the powers and perform the duties and function of the municipality when an area comprised in a gram is specified as a transitional area or smaller urban area.

Clause 32.—Sub-section (4) of section 281 proposed to be inserted by this clause empowers the State Government to appoint an officer to exercise powers and perform duties of the municipality where an election to constitute municipality could not be completed or it is not possible to hold election on account of unforseen circumstances.

The delegation of the legislative power as aforesaid is necessary and is of a normal character.

Dated the 2nd August, 1993.

NARHARI AMIN

By order and in the name of the Governor of Gujarat,

R. H. GORI
Secretary to the Government of Gujarat.
Legal Department.

Gandhinagar, dated the 2nd August, 1993.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART V

Bills introduced in the Gujarat Legislative Assembly.

THE GUJARAT PANCHAYATS BILL,1993

GUJ.BILL NO. 25 of 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 :-

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CHAPTER-I

PRELIMINARY.

Short title, extent and commencement.

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.

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 door-steps 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, rams, lambs, goats and kids;

(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 notification;

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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,

(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-I of the Consitution;

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

(12) "Land Revenue Code" means the Bombay Land Revenue Code, 1879 in force in the State of Gujarat;

Bom. V of 1879

(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

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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 Commision" 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

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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 village panchayat for each village.

(2) a taluka panchayat for each taluka and

(3) a district panchayat for each district.

Gram sabha

4. There shall be a gram sabha for a village for performing such functions as are provided by or under this Act;

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 purposes 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 amongst 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 cantonment 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.

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Recommendation of 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 Gujerat.

(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

Constitution of Village panchayats.

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 shallbe 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 that 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

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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.

Constitution of taluka panchayats.

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.

(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 eeucationally backward classes and such seats shall be allotted by the State Election

Commission by rotation to different territorial constitutiencies 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 panchyat,, but such invitees shall not have the right to vote in the meetings of the Taluka panchayat:

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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 Panchayats.

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.

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(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.

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(c) One third (including the number of seats reserved for women belonging to the Scheduled 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 constsrued to be that of a member of the District Panchayat referred to in clauses (3) and (4) of article 243C of the Constitution of India.

Location of head quarters of a district or taluka panchayat.

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.

(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.

Duration of panchayats and their reconstitution.

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.

(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.

INDEX

Definitions.

14. In this Chapter, unless the context otherwise requires, -

(a) "Assembly" means the Gujarat Legislative Assembly;

43 of 1950

(b)"Central Act" means the Representation of the People Act, 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

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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

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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

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alteration, if ary, made under sub-section (4) be an electoral division.

List of voters for every 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.

Preparation of list of voters.

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 consultating 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.

Persons qualified to be registered as 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.

List of 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.

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(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.

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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 or exclusion of any entry in

or from that list, is without reasonable cause,

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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.

Persons 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.

Restriction on simultaneous or double membership.

29. (1) No person shall, save as expressly authorised by this Act, be a member of two or more panchayats.

(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

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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 thereupon 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.

XXII of 1955
Bom. XXV of 1949.
Disqualification

30.(1) No person shall be a member of a panchayat or continue as such who -

(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 or 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 VI 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,

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(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 sub-section 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 or 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 (f) an

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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.

(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.

Determination of validity of election, inquiry by judge and procedure.

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.

(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

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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 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.

V of 1908

(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

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such application for compromise or withdrawal or the application for such alteration or amendment is bona fide and not collusive.

(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

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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.

Disability from continuing as members.

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,

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.

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Fresh election if election is invalid.

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.

Power of State Election Commission to require services of panchayat staff for election.

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.

ELECTION OFFENCES

Prohibition of canvassing in or near polling station.

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:-

(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.

Penalty for disorderly conduct in or near polling station.

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

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(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 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.

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(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

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(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. 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.

Removal of ballot papers from polling station to be offence.

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.

(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

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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.

Other offences and penalties therefor

42. (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.

43. (1) 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 officer authorised by the State Government in this behalf (for conduct of elections under this Act) (hereinafter referred to

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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) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such

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property is required for any of the purposes mentioned in that sub-section.

(i) 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;

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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 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

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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.

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 of entry into and inspection of premises etc.

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.

(2) In this section, the expressions "premises" and "vehicles" have the same meaning as in section 44.

Eviction from requisitioned premises.

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.

(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.

Release of premises from requisition.

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

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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.

(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.

V/ Gazette-11

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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 Sarpanch and 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 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.

(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

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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 of a 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 Sarpanch and Upa-Sarpanch shall be transacted.

(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.

Duty of retiring Sarpanch, etc. to hand over chage of office

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.

(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.

Term of office of members of village panchayats and of Sarpanch etc. thereof.

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,

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

Resignation of members, Sarpanch or Upa-Sarpanch

54. (1) The Sarpanch or, as the case may be, 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 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.

Executive functions of Sarpanch, or Upa-Sarpanch.

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.

(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

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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

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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 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.

57. (1) 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 perfoeming his duties and functions;

Provided that an action under this sub-

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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.

Leave of absence.

58. (1) Any member of a village panchayat who, during his term of office -

(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 referreed 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.

Suspension of Sarpanch or Upa-Sarpanch.

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.

(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.

Eligibility of certain members for reelection.

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.

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.

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(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 proceeding of panchayat and Committee not vitiated by disqualification, 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) Until 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

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if no vacancy had occurred.

PART II

TALUKA PANCHAYATS

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

(b) (i) One third of the total number of offices of President and Vice-President of Taluka Panchayats in the State reserved under clause (a) and

(ii) One third of the total number of offices of President and Vice-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

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of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.

Duty of retiring President etc. to hand over charge of office.

64. (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.

(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.

Honorarium allowances etc. to President and Vice-President and travelling allowances to members.

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 ther 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

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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.

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.

(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

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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 sub-section, and the reasons therefor, to the Executive Committee or any appropriate Standing Committee at its next meeting.

(2) The Vice-President shall -

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(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

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under this section shall be called within a period offifteen 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.

71. (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 necessay, 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 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

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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.

72. (1)Any member other than an associate 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 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

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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 timebeing 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 disqualification 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 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.

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PART III

DISTRICT PANCHAYAT

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

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.

(2)(a) The offices of President and Vice-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 and Vice-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 and Vice-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.

(b) (i) One third of the total number of offices of President and Vice-President of District Panchayats in the State reserved under clause (a) and

(ii) One third of the total number of offices of President and Vice-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

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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.

Duty of retiring President etc. to handover charge.

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.

(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.

Honorarium and allowance etc. to President and Vice-President and travelling allowances to members.

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.

(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 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.

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.

Resignation.

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

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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 sub-section, 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.

Motion of No Confidence.

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.

(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 resignedearlier; and thereupon the office held by such President or Vice-President shall be deemed to be vacant.

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(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,

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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 other than an associate 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

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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

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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.

Acts and proceedings of panchayat and Committee not vitiated by dis-qualifications etc. of members thereof.

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

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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.

(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.

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Meeting of panchayats.

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

Provided that the Sarpanch 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.

Village Panchayat Committees, their constitution, powers, functions and duties.

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.

(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

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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

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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

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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.

Meetings of Gram Sabha.

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:

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

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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.

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

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 -

(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.

Procedure in respect of meetings.

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.

Questions to be decided by majority of votes.

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:

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.

Modification or cancellation of resolutions.

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.

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.

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(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

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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.

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Local inquiry and reports by village panchayat.

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;

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(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 jurisdictiion 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.

Powers of panchayat to manage institutions or execute work transferred to it by taluka or district panchayat.

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

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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.

Control on erection of buildings.

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 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)

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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.

(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

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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.

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.

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(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 therein 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, for 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

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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 premises

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 Officer to require owner to provide water closet or privy accommodation

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

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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.

Bom. L VII of 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

Government may vest certain lands in panchayats.

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.

(2) Subject to any condi ions 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

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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.

Bom. LV 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.

I of 1894

Other property of village panchayat.

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.

IV of 1882

XVI of 1908

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

Limitation on power of panchayat to transfer immovable property

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.

(2) In the case of a lease of immovable property other than the property vesting in the panchayat under section 108, no such previous sanct shall be necessary, if the period of lea: oes not exceed three years.

Village fund.

111. (1) There sh ll be in ea h 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

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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 or any right in or over any property is claimed by or on behalf of the panchayat

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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 comunication of any order passed by the final appellate authority as determined according to section 204 of the Bombay Land Revenue Code, 1870 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.

V of 1879

(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

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panchayats.

Secretary and servants of panchayats.

114. (1) Subject to the provisions of this Act and the rules made thereunder -

(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 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 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.

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:

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.

Annual 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 -

(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

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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-

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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

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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

Meeting of Taluka Panchayat.

122. 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.

Taluka Panchayat Committees, their constitution, powers, functions and duties.

123. (1) A taluka panchayat shall constitute the following committees, namely :-

(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

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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 a 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

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such committee and if he declines to hold the office, the Vice-President shall be the ex-officio Chaiorman 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

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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 occuring 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

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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

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(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.

Honorarium to Chairman of Social Justice Committee.

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.

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 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.

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

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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

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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 taluka 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

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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

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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.

Entrustment of work etc. to taluka panchayat by district panchayat.

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.

(C) PROPERTY AND FUND

Property of taluka panchayat.

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

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panchayat, namely :

(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 revest 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 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

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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 a 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.

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(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

Secretary, Officers and servants of taluka panchayats.

136. (1) Subject to the provisions of this Act and the rules made thereunder -

(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.

Powers and functions of Taluka Development Officer.

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 :

(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

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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

Annual 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 .

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

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.

(2) If on a pressing emergency any sum is expended otherwise than in accordance with sub-section (1) the circumstances shall be

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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.

Accounts of income and 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.

Annual Administration Report.

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.

(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

Audit of accounts.

143. The Gujarat Local Fund Audit Act, 1963 shall apply to the auditing of the accounts of taluka panchayats.

PART III
PROVISIONS RELATING TO DISTRICT PANCHAYAT

(A) CONDUCT OF BUSINESS

Meetings of district panchayat.

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

Provided that the President of the panchayat, may

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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.

District Panchayat committees, their constitution, powers, functions and duties.

145. (1) A district panchayat shall constitute the following committees, namely :-

(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

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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.

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(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 clause (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 nold 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

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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 otner than the aforesaid two committees snall 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 tne Education Committee snall be co-extensive with tne duration of the district panchayat.

(b) (i) Tne term of the other committees constituted under sub-section (1), snall be two years and on the expiry of the term it shall be reconstituted:

Provided that where the unexpired part

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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 of 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.

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(13)The committees, other than the Education Committee constituted under this section shall, in the performance of their functions, excercise 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

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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.

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 then 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 thereupon 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

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right to vote).

(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 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

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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 allowances 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.

Travelling Allowance to members of a committee who are not members of district panchayat.

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.

Procedure in respect of meetings.

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.

Questions to be decided by majority of votes.

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.

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.

Modification or cancellation of resolution.

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.

Invitees at meetings of district panchayats and committees.

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 -

(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

Administrative Powers of Panchayats.

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.

Other functions 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.

(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

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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 suboridinate 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

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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, buildinng 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)

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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 revest 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.

District Fund.

158. (1) There shall be in each district a fund which shall be called a 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;

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(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 decuting 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.

Application of District Fund.

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:

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

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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.

District Family Welfare 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 -

(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 fun 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;

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(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.

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

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

(d) supervise and contro, 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;

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(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 worm 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) excercise 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 powers 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

Budget Estimates of District Panchayat and Re-appropriation of Fund.

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:

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

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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 atthe 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, 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 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 due 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.

Certain class of officers posted under panchayat to be revenue officers and their powers.

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

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other revenue officer under the Land Revenue Code.

(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.

Right of State Government to collect land revenue unaffected.

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

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officers to recover the land revenue or, as the case may be, the cesses.

Collector to appoint officer on suspension of powers of panchayat.

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.

(B) Delegation of the functions under the Gujarat Co-operative Societies Act, 1961

Delegation of powers of Registrar of Co-operative Societies to panchayats.

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.

(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 bye-laws of co-operative societies,

(c) appeals arising out of non-admission of members in a co-operative society;

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(d) maintenance of register of co-operative societies;

(e) change in the name or classsification of a co-operative society;

(f) permission to co-operative soceities 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 Office

(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

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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.

Withdrawal of powers, functions etc from district panchayat

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 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.

CHAPTER VII

Provision as to devolution of powers and responsibilities upon panchayats with respect to development plans and implementation of certain schemes.

Preparation of development plans by panchayat

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.

(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 develpment plan for economic development and social justice in relation to matters with respect to which the executive power vests in the State Government.

Entrustment of schemes to panchayats for implementation

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:

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.

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(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, indluding 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.

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(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) or (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

Cattle Trespass Act to cease to apply

181. In any local area which is declared to be a village, the provisions of the Cattle Treaspass 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:

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.

Power to establish cattle pounds and appoint pound keepers

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.

(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.

Penalty for allowing cattle to stray in street or to trespass upon private or public property

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 -

(i) for the first offence, with imprisonment for a term which may extend to one month or with fine which may extend to one thousand two hundred rupees, or with both;

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(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 two thousand rupees, or with both:

Provided that in absence of adequate and special reasons to the contrary to be mentioned in the judgement of the Court, -

(i) for a first offence, such fine shall not be less than four hundred rupees, and

(ii) for a second or subsequent offence, such fine shall not be less than one thousand rupees.

(2) The Magistrate trying the offence under sub-section (1), may order, -

(a) that the acccused shall pay such compensation not exceeding one thousand 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-

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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 two thousand 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 187.

(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

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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 187 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

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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

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.

(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.

Complaints of illegal seizure or detention

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.

(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

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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

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.

(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 adjuged 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.

Removal of cattle to specified places

190. (1) If in any local area to which the State Government may, by notification in the Official Gazette, apply this section, a Mamalatdar or Mahalkari is satisfied -

(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 -

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(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 -

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(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 furtner that the amount of cess shall, if not a multiple of five paise be increased to the next nighest 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:-

(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.

Rules for Assessment.

192. In the assessment of the said cess on villages alienated as defined in the Bombay Land Revenue Code, 1879:-

(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

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rough survey being borne half by the district panchayat and half by the holder or proprietor of such village.

Levy of cess on water rate. Bom.VII of 1879.

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.

Manner of levying cess described in Sec. 191.

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:

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.XCLX of 1959.

Manner of levying cess described in Sec.193. Bom.VII of 1879.

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.

Assistance to superior holders.

196. The provision of law relating to the assistance to be given to superior holders and owners of water-courses for the recovery of their dues from their tenants and occupants under them, or from persons authorised to use 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

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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.

Collection 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 witnin 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. 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 tnis behalf, it shall be competent to a village panchayat to levy all or any of the

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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 not 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

Bom.LVX of 1958

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;

(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

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be such as may be prescribed.

(3) Rules made under sub-section (1) may, interalia 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

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panchayat.

(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.

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 panchayat may, 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.

(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).

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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

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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.

204. (1) If the income of a village panchayat falls

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Power of taluka panchayat to increase taxation of panchayat.

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.

Recovery of cost of watch and ward.

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.

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PART III
TAXATION BY TALUKA PANCHAYAT

Taxes and fees which may be imposed by taluka panchayat and mode of collection thereof.

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:

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.

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.

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(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.

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(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

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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.

Increase of stamp duty for a district panchayat.

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.

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 district shall be increased to the extent

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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 -

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(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 village 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 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 village panchayat, in such manner as the district panchayat may determine.

Default in payment by panchayat.

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

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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.

(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 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

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(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, witnin 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 snall 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 tnereof.

(2) Any such proposal shall be dealt with according to tne procedure laid down in section 212 for the imposition of a new tax or fee; and the notification of tne 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.

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(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 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

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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, CESSES AND OTHER DUES.

Recovery of taxes 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.

(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 tne 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 conspicious 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.

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(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 of 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

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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:

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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 per cent, of the balance shall be distributed among the village 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 village, 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 221,

(b) 7½ percent, of the balance shall be paid into the District Gram Encouragement Fund established under Section 222.

State Equalisation Fund.

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

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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.

(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.

District Equalisation Fund.

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.

(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.

District Village Encouragement Fund

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

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village panchayats to encourage them to raise their income by levying taxes and fees leviable by them under this Act.

(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.

District Development Fund.

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.

(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.

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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 per cent 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;

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(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;

(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

Panchayat service to be regulated by rules.

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.

(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

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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 remedy in respect of such obligat liability or default, and any investigation, disciplinary action remedy may be instituted, continued enforced in accordance with the applicable thereto during the said pe of service by such authority as State Government may by general 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 Goverr may make in this behalf, the expenditure tov the pay and allowances of and other ben 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, as it may deem fit,

(ii) all officers and servants of the nagar panchayats 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

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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 tne 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

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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 -

(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.

Posting under panchayats of officers and servants in the State service.

232. (1) For the purpose of enabling the panchayats to discharge their functions and duties

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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 Aministrative 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.

(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 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 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

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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.

Loan Services of Government officer to panchayats.

233. Any panchayat may, subject to the rules made in this behalf, obtain the services of any officer of Government on loan.

No compensation payable for transfer of service.

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.

Gujarat Panchayat Service Selection Board, its constitution and function.

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.

(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:

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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 as 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

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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 Statewide 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;

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(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.

Panchayat to invite designated officer or person to attend meetings

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.

(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 such 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

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paid such allowances at such rates as may be prescribed.

Power of Government to issue directions

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 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 works or schemes, grant-in-aid and acquisition of property.

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.

(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

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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.

Appeals against order of village panchayat

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.

(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.

Appeal Committee to exercise appellate powers of district panchayats

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.

(2) The President of the panchayat shall be ex-officio Chairman of the Appeal

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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

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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

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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.

Powers of officer of State Government regarding 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 on 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.

Reduction of establishment.

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.

(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

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.

(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 occuring 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

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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

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.

(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-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.

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.

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(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-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 of 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.

Dissolution or supersession of panchayats for default.

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

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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 -

(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

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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.

Consequences of alteration of limits of village

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 -

(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 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

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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

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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 vest in the State Government to be utilized for the benefit of the area as the State Government may think fit.

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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;

Power of State Government to appoint officer when elections not held for reconstituting panchayat

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 said expiry of duration for reconstituting the panchayat, on account of any 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.

(2) A notification issued under sub-section (1) in relation to a 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

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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.

Inquiry by officers of panchayat

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.

(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.

V of 1908

(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.

State Government may call for proceedings

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.

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CHAPTER XV

PROVISIONS FOR CONVERSION OF A NAGAR PANCHAYAT INTO A VILLAGE PANCHAYAT AND FOR AMALGAMATION AND DIVISION OF PANCHAYATS

Interpretation

260. For the purpose of this Chapter, unless the context otherwise requires -

(a) "municipal borough" means a municipal borough within the meaning of the Gujarat Municipalities Act, 1963;

(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.

Effect of conversion of nagar panchayat into village panchayat

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 -

(a) the nagar panchayat functioning in such local area or part thereof shall cease to exist;

(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 253 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

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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

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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 subjuect 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 invalided 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

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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 pnchayat 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

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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.

Effect of amalgamation of villages

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 "as 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

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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 unexpended balance of the village funds and all the properties including areas of rates, taxes and fees belong ing 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

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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

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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

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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.

Effect of division of villages

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 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 any 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;

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(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

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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

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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.

Consequences of alteration of limits of district or taluka

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 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).

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(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 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

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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

Joint committees of two or more local bodies

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 -

(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.

266. (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 Panchayats Organization of the State;

(B) Vice-Chairman.

(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;

(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

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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;

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(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 inthe case of the resignation of a member elected by that Assembly.

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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 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 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

Power of authorised officer to recover record and money.

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.

(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 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 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

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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.

Liability to pay rent for unauthorised occupation or possession of property or 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 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 X shall mutatis mutandis apply to the recovery thereof.

Bar of action against panchayat etc. and previous notice before institution.

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

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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.

(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 defendent after such tender.

Delegation of powers.

271. (1) The State Government may, by notification in the Official Gazette, autnorise any officer of Government to exercise any of the powers exercisable by the State Government under this Act except tne power to make rules.

(2) Subject to tne general or special orders wnicn the State Government may issue from time to time -

(i) a district panchayat may delegate to a District Development Officer,

(ii) a taluka pancnayat may delegate to a Taluka Development Officer, and

(iii) a competent authority may delegate to any officer suoordinate to it, any powers exercisable by it under this Act.

Members etc. of panchayats, and servants etc. to be public servants.

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.

XLV of 1860.

Previous sanction for prosecution against Sarpanch, Chairman, President etc.

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 tne 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.

274. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out tne purposes of this Act.

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(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.

(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.

(7) Any modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

Bye-laws.

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.

(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 prohibiton 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

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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 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 bazaars 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 [illegible]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 the 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

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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,

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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 Equilisation 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;

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(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, bye-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 tne 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 tnis 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

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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 provisions 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.

Power of State Government to adapt laws.

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.

(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.

Removal of difficulties.

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.

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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;

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(o) regulating the keeping of cattle and taking necessary steps against stray cattle 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, 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 section 28 of the Indian Forest Act, 1927, XVI of 1927 and tanks and wells (other than tanks and wells for irrigation);

(d) lighting of the village;

(e) control of fairs, bazars, tonga-stand and cart-stands;

(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 staf and village functionaries of the panchayat;

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(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 scracity;

(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;

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(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 or 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 residents thereof;

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(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 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;

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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 -

(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.

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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;

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(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 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 development programmes entrusted to it by the State Government.

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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 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 busbandary -

(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-

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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.

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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 A TALUKA PANCHAYAT

It shall be the duty of a taluka panchayat -

(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

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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 then 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

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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 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;

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(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 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;

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(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;

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(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 buildings 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;

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(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 -

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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-

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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 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 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

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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.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to replace the Gujarat Panchayats Act, 1961 by incorporating provisions as required by part IX of the Constitution of India inserted by the Constitution (Seventy-thirs Amendment) Act,, 1992.

Article 243N in the said Part allows the continuation of the provision of any law relating to panchayats in force in a State which are inconsistent with the provisions of Part IX, only for a period of one year from the commencement of Constitution (Seventy-third Amendment) Act,1992, that is upto 11th of April,1994. It is, therefore, incumbent upon the State to enact legislation with a view to amending the law relating to panchayats so as to bring it in conformity with the provisions of the said Part IX before 11th April, 1994. It has, therefore, become necessary to bring the law relating to panchayats in the State in conformity with the said Part IX and for that purpose this Bill seeks to replace the Gujarat Panchayats Act, 1961.

The following are the salient features of the Bill :

(1) The three-tier system of Panchayati Raj Organisation is maintained by providing panchayats at the village, taluka and district levels. The institution of Nagar Panchayats does not now form part of the three-tier panchayat organisation as according to the said Part IX, the nagar being a transitional area within the meaning of Part X of the Constitution, would have a nagar panchayat under the fold of Municipal Organisation.

(2) While providing for the constitution of village panchayats, taluka panchayats, and district panchayats, the ratio between the population of the territorial area of the panchayat and the number of seats to be filled by election in each level of panchayat has been so far as practicable kept the same throughout the State.

(3) Similarly, provision is made for division of territorial constituencies in such a manner that the ratio between the population of the constituency and the number of seats allotted to it has been so far as practicable kept the same throughout the panchayat area.

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(4) Provision is made for reservation of seats ;for Scheduled Castes and Scheduled Tribes according to the proportion of their population to the total population in the panchayat area.

Commensurate with the provision relating to reservation of seats for the Scheduled Castes and Scheduled Tribes, provision is also made for reservation of ten percent of seats for the socially and educationally backward classes of persons in the panchayat area.

(5) Provision is also made for reservation of one third of the total number of seats reserved for the Scheduled Castes, Scheduled Tribes and socially and educationally backward class for women belonging to the Scheduled Castes, Scheduled Tribes and socially and educationally backward class.

(6) Provision is also made for reservation of one third of the total number of seats to be filled in by direct election for women.

(7) Similarly, provision is made for reservation of offices of the chairpersons in panchayats at village, taluka and district level for the Scheduled Castes, Scheduled Tribes and socially and educationally backward classes.

(8) Provision is made for election of Sarpanch by members of the Village Panchayat from amongst themselves.

(9) A new chapter is introduced with a view to provide for the preparation of plans for economic development and social justice by the panchayat at each level and also for entrusting schemes for economic development and social justice to the panchayats for their implementation.

(10) Provision is also made for constitution of a Finance Commission to review the financial position of the panchayats at each level. The work relating to the division of wards and territorial constituencies, preparation and maintenance of electoral rolls and the conduct of elections of panchayats has been entrusted to the State Election Commission.

Opportunity has been taken to amend the law relating to panchayats in the following respects:

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(11) It has been the experience that although it is optional for a person to approach the Nyaya Panchayats or courts for remedying the grievances, nobody takes recourse to the nyaya panchayat. Hence provisions relating to constitution of conciliation panch and nyaya panchayats and their functions and powers in the present Act have been omitted.

(12) Provision relating to specified area and special provisions for districts of Gandhinagar and Dangs are also omitted from the present Act as they have become inconsistent with the provisions of Part IX of the Constitution.

(13) A provision relating to the Gramdan are also omitted from the present Act as they have become redundant in the present scenario.

(14) Provisions relating to inclusion of associate members in the constitution of panchayats have been omitted from the present Act.

(15) Provision is made requiring panchayats to pass their budget on or before the 31st March of the current year; and non passing of the budget by that date could invite supersession or dissolution of panchayat.

(16) The Taluka Development Officer has been empowered to remove, obstruction or encroachment in a village in case of failure to do so by a village panchayat.

The following notes explain provisions of the Bill-

CHAPTER I : This chapter deals with preliminary matters.

CHAPTER II : This chapter deals with establishment of panchayats and their areas of jurisdiction and constitution of panchayats and their duration.

CHAPTER III : This chapter relates to election of members of panchayats, election disputes, election offences and recquisition of premises etc. for the purposes of election.

CHAPTER IV : This chapter deals with holding of first meeting of panchayats, term of office of members of panchayats, their removal, leave of absence and filling of vacancies.

CHAPTER V : This chapter deals with conduct of business of the meetings of the panchayats, their

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administrative powers and duties, property and funds and maintenance of accounts.

CHAPTER VI : This chapter deals with transfer of functions relating to recovery of land revenue and cess under the Land Revenue Code and the law relating to collection of cesses, delegation of functions under the Gujarat Co-operative Societies Act, 1961 and transfer of functions of Government to district panchayats.

CHAPTER VII : This chapter contains provisions as to devolution of powers and responsibilities upon panchayats with respect to development plans and entrustment of schemes for implementation.

CHAPTER VIII : This chapter relates to cattle pounds.

CHAPTER IX : This chapter provides for taxation by State Government, village panchayats, taluka panchayats and district panchayats and the procedure for levying taxes or fees by taluka panchayats and district panchayats.

CHAPTER X : This chapter lays down the procedure for recovery of taxes and other dues of the panchayats.

CHAPTER XI : This chapter deals with the financial assistance to panchayats.

CHAPTER XII : This chapter deals with composition of Finance Commission, qualification of its members and its powers.

CHAPTER XIII : This chapter contains provisions relating to services.

CHAPTER XIV : This chapter deals with matters of control over panchayats.

CHAPTER XV : This chapter contains provisions for conversion of a nagar panchayat into a

village panchayat and for amalgmation and division of panchayats.

CHAPTER XVI : This chapter contains provisions of miscellaneous matters.

LILADHAR K. WAGHELA

FINANCIAL MEMORANDUM

Article 243K of the Constitution of India inserted by the Constitution (Seventy-third Amendment) Act, 1992 provides for State Election Commission consisting of an Election Commissioner to be appointed by the Governor for the purposes of conducting the election of the Local Authorities. It is necessary as per constitutional provision to make available to the Election Commission such staff as may be required by it for discharging its function. This would involve an estimated annual expenditure of about rupees thirty-two lakhs from the Consolidated Fund of the State, out of which rupees twenty lakhs would be recurring nature and rupees twelve lakhs would be of non-recurring nature.

Similarly, article 243-I of the Constitution of India inserted by the said Constitutional Amendment provides for constitution of the Finance Commission by the State for the purpose of reviewing the financial position of the Local Authorities and to make recommendation. Clause 226 of the Bill provides for the functions of the Finance Commission. Some staff is also required to be appointed in the Commission to enable it to carry out its function. This provision if enacted and brought into operation would involve expenditure of about rupees twenty lakhs from the Consolidated Fund of the State, out of which rupees fifteen lakhs would be recurring nature and rupees five lakhs would be of non-recurring nature.

The aforesaid expenditure would be for all the local authorities.

JILADHAR K. WAGHELA

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MEMORANDUM REGARDING DELEGATED LEGISLATION

The following provisions of the Gujarat Panchayats Bill, 1993 provides for delegation of powers of Legislative nature, namely :-

Clause 1. - This clause empowers the State Government to bring into force different provisions in respect of different classes of panchayats in different districts on different dates.

Clause 174. - This clause provides for power to the State Government to delegate to panchayats certain powers of the Registrar under the Gujarat Co-operative Societies Act, 1961.

Clause 175. - This clause empowers the State Government to transfer to panchayats the statutory functions of Government under any enactment.

Clause 181. - This clause empowers the State Government to entrust to a district panchayat the implementation of schemes of economic development and social justice.

Clause 203. - This clause empowers the State Government to increase the rate of local cess on a proposal from panchayat.

Clause 207 and 209. - These clauses empower the State Government to increase on a proposal from taluka or district panchayat the rate of stamp duty on instruments of any kind of transfer of immovable property.

Clause 274. - This clause empowers the State Government to make rules in respect of matters to be prescribed by rules.

Clause 275. - This clause empowers district panchayats to make bye-laws to regulate certain matters.

Clause 277. - This clause empowers the State Government to adapt laws, whether by way of repeal or amendment so as to bring them in accordance with the provisions of the proposed Act.

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Clause 278. - This clause empowers the State Government to make such orders as may be necessary for removing any difficulty which may arise in giving effect to provisions of the proposed Act.

The delegation of powers as provided in the Bill is necessary and is of a normal character.

DATE : 5TH AUGUST, 1993. LILADHAR K. WAGHELA

By order and in the name of the Government of Gujarat,

R. H. GORI,

Secretary to the Government of Gujarat,

Legal Department.

Gandhinagar, dated the 6th August, 1993.

Government Central Press, Gandhinagar.

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Extra No. 26 REGISTERED NO. G/GNR/2.

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Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 12th August, 1993 by Shri Jaynarayan Vyas, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

Gujarat Bill No. 26 of 1993.

THE NORTH GUJARAT UNIVERSITY (AMENDMENT) BILL, 1993

A BILL

further to amend the North Gujarat University Act, 1986.

It is hereby enacted in the Forty-fourth year of the Republic of India as follows :

Short title and commencement.

1 (*1*) This Act may be called The North Gujarat University (Amendment) Act, 1993.

(*2*) It shall come into force at once.

Guj. XXII of 1986.

Substitution of Section 48 of Guj XXII of 1986.

2. In the North Gujarat University Act, 1986, for section 48, following shall be substituted, namely :

"48. (*1*) All post graduate instruction, teaching and training within the University area shall be conducted by the University at its Headquarters.

(*2*) Until the University establishes a department for post-graduate instruction, teaching and training in respect of any subject for the purpose mentioned in sub-section (*1*), it shall continue to maintain the University Centres existing immediately before the commencement of this Act of such instruction, teaching and training in that subject.

(*3*) If the University has established a department for post graduate instruction, training and teaching at any place other than the head quarters or the University Centre established by the Gujarat University before the commencement of this Act. it shall immediately be discontinued and shifted to the head quarters or the University centre as the case may be.

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Explanation.—For the purposes of this section, "University Centre" shall mean a centre established by the Gujarat University immediately before the commencement of this Act, where post-graduate studies are imparted as determined by the Statutes, Ordinances and Regulations of the Gujarat University made in this behalf".

STATEMENT OF OBJECTS AND REASONS

In the original Act the North Gujarat University Act, 1986 enacted by the State Assembly it was provided that all the post graduate departments will be established at the head quarters of the University. However, by making an amendment in the aforesaid Act in 1990 it was provided that the departments of the University can be established at any place as may be prescribed by the Statute of the University. In view of this provision, the University has started establishing its post graduate centres at different places of the University area, which makes the University difficult to control the functioning of the post graduate centres. It is always emphasised that the academic leadership should be provided by the University itself. But as the Departments are at remote places, it is difficult for the University to provide such leadership. In case of Gujarat University, the post graduate departments have been established by the University near the University campus. With a view to have this type of department in the North Gujarat University headquarters, it is necessary to replace the present Section 48 of the North Gujarat University Act, 1986.

Hence this Bill.

Gandhinagar,
Dated 7th April, 1993.

JAYNARAYAN VYAS
M.L.A.

Gandhinagar,
Dated the 12th August, 1993.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

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PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 12th August, 1993 by Shri Jaynarayan Vyas, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

Gujarat Bill No. 27 of 1993.

THE GUJARAT SALES TAX (AMENDMENT) BILL 1993.

A BILL

further to amend the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Forty-fourth year of the Republic of India as follows :

Short title and commencement.

1 (*1*) This Act may be called the Gujarat Sales Tax (Amendment) Act,1993.

(*2*) It shall come into force at once.

Amendment of section 49 of Guj. I of 1970.

Guj. I of 1970.

2. In the Gujarat Sales Tax Act, 1969, in section 49—

(*1*) in sub-section (*2*), the following proviso shall be added at the end, namely:—

"Provided that no notificaton referred to in this sub-section shall be issued in respect of a dealer."

(*2*) for sub section (*3*), the following shall be substituted, namely :—

"(*3*) Every notification issued under sub section (*2*) shall have the same force and effect as an amendment to this Act and shall remain in force for a period of six months unless it is adopted by the State Legislature on a substantive motion."

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STATEMENT OF OBJECTS AND REASONS

Sub-section (2) of section 49 empowers the State Government to exempt, by notification in the Official Gazette, any specified class of sales or of specified sales or purchase from payment of the whole or any part of the tax payable under the Gujarat Sales Tax Act, 1969. The practice of issuing tax concessions by way of a notification issued under section 49(2) severely damages the authority of the Legislature. It is learnt that over 200 notifications have been issued under this section exempting from the payment of tax to the tune of crores of rupees. This adversely affects the ways and means position of the State. No doubt it is appreciable if the exemption is given for the class of industries. But in some cases the exemption has been given for an individual units also. The Sales Tax study team appointed by the State Government have also pointed out that notification under section 49(2) very sparingly be used and only when the alternative of amending the schedule cannot be availed of. It is also learnt that most of the notifications have been issued after the budget is passed by the Assembly. In principle all changes in the tax rate should come as a part of the annual Budget proposals and should be effective from the beginning of the financial year. Piece meal relief through notification is not proper. With a view to curb the Government power of issuing this type of notification, an amendment is proposed in Section 49 of the Gujarat Sales Tax Act, 1969. Hence, this Bill.

Gandinagar,
Dated 27th April, 1993.

JAYNARAYAN VYAS,
M.L.As

Gandhinagar,
Dated the 12th August, 1993.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

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PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 12th August, 1993 by Shri Jaynarayan Vyas, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

Gujarat Bill No. 28 of 1993.

THE NORTH GUJARAT UNDERGROUND WATER RECHARGE AUTHORITY BILL, 1993.

A BILL

to provide for establishment of an authority to make special provision and to undertake special programmes for increasing underground waterlevel of the North Gujarat areas of the State and for matters and purposes connected therewith.

It is hereby enacted in the Forty—fourth year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the North Gujarat Underground Water Recharge Authority Act, 1993.

(*2*) It extends to the areas of the North Gujarat comprising the districts of Mehsana, Sabarkantha and Banaskantha and such other adjacent areas as may be specified by the State Government.

(*3*) It shall come into force at once.

Definitions.

2. In this act, unless the context otherwise requires:—

(*a*) "Authority" means the North Gujarat Underground Water Recharge Authority established by the State Government under section 3 of this Act;

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(*b*) "North Gujarat" means the areas comprising of the districts of Mehsana, Sabarkantha and Banaskantha and such other adjacent areas as may be specified by the State Government.

(*c*) **"prescribed"** means prescribed by rules made under this Act.

(*d*) "State Government" means the Government of the State of Gujarat.

(*e*) "underground water" means water below the ground level which is drawn for the domestic, agriculture or for any other purposes.

Establishment of the North Gujarat Underground Water Recharge Authority.

3. (*1*) The State Government, with effect from such date as may be notified in the *official Gazette*, shall establish an Authority for increasing the underground water level of North Gujarat.

(*2*) The Authority established under sub-section (1) shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its name and shall be competent to acquire and hold property both movable and immovable and to contract and do all things necessary for the purposes of this Act.

(*3*) For the purposes of this Act, the Authority established under sub-section (*1*) shall be deemed to be a Local Authority.

Constitution and term of office of the Authority.

4. (*1*) The Authority shall consist of the Chairman and five other members as may be appointed by the State Government:

Provided that the Chairman and members shall be persons having adequate technical knowledge and experience in the matter:

Provided further that out of the five members to be appointed by the State Government,

(*i*) One member shall be the President or a Member of the District Panchayat from amongst the District Panchayats of the North Gujarat area, having technical knowledge and aptitude;

(*ii*) One member shall be M.L.A, from the North Gujarat area;

(*iii*) One member shall be from the College of Engineering attached to the North Gujarat University.

(*2*) The term of office of the chairman and the members of the Authority shall be three years from the date of their appointment :

Provided that the President or a member of the District Panchayats and the member of Legislative Assembly shall cease to be Members of the Authority as soon as they cease to be Members of the respective Bodies.

(*3*) The salaries, other allowances, conditions of service and other matters concerning the chairman and the members of the Authority shall be such as may be prescribed by the State Government by a notification published in the *Official Gazette*.

Functions of the Authority.

5. (*1*) For the purposes of this Act, the Authority shall programme and implement the schemes for the recharge of underground water of the North Gujarat. The schemes shall be prepared by the Authority using the latest available technology and shall have proven result in the field of recharge of underground water.

(*2*) For the purposes of undertaking the schemes and subject to the rules and regulations made under this Act, the Authority shall have a right to enter or use any land of the North Gujarat specified under this Act.

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(3) The detailed rules for undertaking the work of the scheme shall be framed by the Authority and shall come into force after it is approved by the State Government.

Funds and accounts of the Authority.

6. (1) The State Government shall provide necessary fund to the Authority for carrying out its activities.

(2) The Authority shall have power to borrow money or raise funds through a suitable financial instrument from public or any institution recognised by the State Government or Central Government and shall have also power to accept donations.

(3) The Authority shall deposit the fund or money received by it with the State Bank of India or any other Bank approved by the State Government and the Bank account shall be operated by such persons of the Authority as may be authorised by it.

(4) The accounts of the Authority shall be maintained in such form as may be prescribed by the State Government.

Annual Report.

7. The Authority shall prepare a report at the end of each year which shall consist of its programmes, the activities undertaken and the accounts of the Authority. The report shall be submitted to the State Government and shall be laid on the Table of the State Legislature.

Power to make rules.

8. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication make rules for carrying out the purposes of this Act.

(2) Rules made under this section shall be laid before the State Legislature as soon as possible after they are made and shall be subject to such modifications as the State Legislature may make in the session in which they are so laid,

(3) Any modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Regulations.

9. The authority may, from time to time with the previous sanction of the State Government, make regulations consistent with the provisions of this Act and the rules made thereunder for carrying out its day to day business.

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STATEMENT OF OBJECTS AND REASONS

In the areas of North Gujarat, the rivers are not perennial and, therefore, it is not possible to provide canal irrigation. In absence of canal irrigation, the agriculture has to rely on the underground water and for this reason day by day the number of tube-wells are being increased. It is therefore obviously seen that the underground water level is going down day by day. It is also apprehended that in some areas of North Gujarat, the quantum of underground water is going to be exhausted in a couple of ensuing years. The potable water is also not provided for the purpose of drinking and the people of this area have to rely on the available underground water which consists of floride and other dissolved impurities which in turn cause serious health hazards. No systematic programme has been undertaken by the State Government for the recharge of the underground water. With a view to overcome this serious problem, it is suggested to establish the North Gujarat Underground Water Recharge Authority which will look after this problem and undertake the schemes.

Hence this Bill.

Dated the 6th May, 1993.

JAYNARAYAN VYAS,
M.L.A.

FINANCIAL MEMORANDUM

Sub-clause (3) of Clause 4 provides for salaries and other allowances to the Chairman and members of the Authority and clause 6 of the Bill provides for necessary fund for carrying out the activities of the Authority. This Bill if enacted, and brought in to operation, would involve recurring expenditure of approximately Rs. 2 crores from the Consolidated Fund of the State.

Dated the 6th May, 1993.

JAYNARAYAN VYAS,
M.L.A.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (2) of clause 1 empowers the State Government to specify areas other than the areas comprising the districts of Mehsana, Sabarkantha and Banaskantha.

Sub-clause (1) of clause 3 empowers the State Government to appoint an authority to be called "The North Gujarat Under Ground Water Recharge Authority" and to appoint a date on which it shall be effective.

Sub-clause (1) of clause 4 empowers the State Government to appoint to the Authority, the Chairman and five other members.

Sub-clause (3) of clause 4 empowers the State Government to prescribe the salaries, other allowances, conditions of service and other matters concerning the Chairman and the members of the Authority.

Sub-clause (2) of clause 5 empowers the State Government to make rules and regulations subject to which the Authority shall have right to enter or use any lan dof the North Gujarat Area.

Sub-clause (3) of clause 5 empowers the State Government to approve the detailed rules framed by the Authority for undertaking the works of the scheme.

Sub-clause (3) of clause 6 empowers the State Government to approve any Bank, other than State Bank of India, in which the Authority shall deposit the fund or money received by it.

Sub-clause (4) of the clause 6 empowers the State Government to prescribe a form, in which the accounts of the Authority shall be maintained.

Sub-clause (1) of the clause 8 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is essential and of normal character.

Dated the 6th May, 1993.

JAYNARAYAN VYAS,
M.L.A.

Gandhinagar,
Dated the 12th August, 1993.

N. K. KATHIRIA,
Secretary,
Gujarat Legislative Assembly.

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