

Extra Ordinary Part - IV / 1996

Extra No.	Date	Department
Extra No.1	08-03-1996	Legislative & Parliamentary Affairs Department
Extra No.2	08-03-1996	Legislative & Parliamentary Affairs Department
Extra No.3	08-03-1996	Legislative & Parliamentary Affairs Department
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The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXVII FRIDAY, MARCH 8, 1996/PHALGUNA 18, 1917

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

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 6th March, 1996 is hereby published for general information.

SMT. K. R. TRIVEDI,
 Secretary to the Government of Gujarat,
 Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 1 OF 1996

(First published, after having received the assent of the Governor in the *Gujarat Government Gazette*, on the 8th March, 1996).

AN ACT

further to amend the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960.

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

1. (1) This Act may be called the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Act, 1996.

Short title
 and
 Commence-
 ment.

(2) It shall be deemed to have come into force on the 9th September, 1995.

Guj. 1
 of 1960.

2. In the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960 (hereinafter referred to as "the principal Act"), in the Schedule, after entry 30, the following entry shall be added, namely:—

Amend-
 ment of
 Schedule
 to Guj. 1
 of 1960.

"31. The office of Chairman or Director of Sardar Sarovar Narmada Nigam Limited."

Repeal
and
savings.

3. (1) The Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) (Second) Ordinance, 1995 is hereby repealed.

Guj. Ord.
7 of 1995.

(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.

GOVERNMENT CENTRAL PRESS, GANDHIHAGAR



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

VOL. XXXVII]

FRIDAY, MARCH 8, 1996/PHALGUNA 18, 1917

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PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 7th March, 1996 is hereby published for general information.

SMT. K. R. TRIVEDI,
 Secretary to the Government of Gujarat,
 Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 2 OF 1996

(First published, after having received the assent of the Governor in the *Gujarat Government Gazette*, on the 8th March, 1996.)

AN ACT

further to amend the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960.

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

Guj. 1 of 1960. 1. This Act may be called the Gujarat Legislative Assembly Members (Removal of Short title. Disqualifications) (Second Amendment) Act, 1996.

2. In the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960, in the Schedule, after entry 31, the following entry shall be added, namely:—

Amendment
 of Schedule to
 Guj. 1 of 1960.

32. The office of Chairman or Director of the Gujarat State Forest Development Corporation Limited.



The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XXXVII]

FRIDAY, MARCH 8, 1996/PHALGUNA 18, 1917

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separate compilation.

PART—IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on
the 7th March, 1996 is hereby published for general information.

SMT. K. R. TRIVEDI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 3 OF 1996

(First published, after having received the assent of the Governor in the *Gujarat Govern-
ment Gazette*, on the 8th March, 1996.)

AN ACT

further to amend the Gujarat Maritime Board Act, 1981.

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

1. (1) This Act may be called the Gujarat Maritime Board (Amendment) Act, 1996.

Short title
and commen-
cement.

(2) It shall be deemed to have come into force on the 8th September, 1995.

2. In the Gujarat Maritime Board Act, 1981 (hereinafter referred to as "the principal Act"),
in section 3, for sub-section (4), the following shall be substituted, namely :—

Amendment of
section 3 of
Guj. 30 of
1981.

"(4) The Board shall consist of such number of members, not being less than five and not more than twelve, who shall be appointed by the State Government as follows, namely:—

(a) three members appointed by virtue of their office amongst officers of the State Government, of whom —

(i) one shall be a representative of the department in-charge of the administration of minor ports in the State,

(ii) one shall be the Commissioner of Fisheries, and

(iii) one shall be a representative of the Finance Department;

(b) the other members appointed from amongst the persons who are, in the opinion of the State Government, having expertise or experience in or capable of representing any one or more of the interests of shipping, navigation, ports, sailing vessels, fisheries, trade, commerce, finance, industry, workers of minor ports and such other interests, as in the opinion of the State Government, ought to be represented on the Board."

Amendment of
section 8 of
Guj. 30 of
1981.

3. In the principal Act, in section 8; in sub-section (1), for the words, brackets and figure "sub-section (5)", the words, brackets and figure "sub-section (6)" shall be substituted.

Amendment of
section 10 of
Guj. 30 of
1981.

4. In the principal Act, in section 10, in sub-section (4), the portion beginning with the words "and no business" and ending with the words "such meeting" shall be deleted.

Substitution of
section 15 of
Guj. 30 of
1981.

5. In the principal Act, for section 15, the following shall be substituted, namely:—

Delegation of
powers.

"15. The Board may, with the approval of the State Government, direct that such of the powers and duties conferred or imposed upon the Board by or under this Act as may be specified in such direction, may also be exercised or performed by the Chief Executive Officer, subject to such conditions and restrictions as may be specified in such direction:

Provided that the Chief Executive Officer shall exercise the powers and perform the duties specified in the direction subject to the supervision and the control of the Board."

Substitution of
section 17 of
Guj. 30 of
1981.

6. In the principal Act, for section 17, the following shall be substituted, namely:—

Chief Executive
Officer and other
officers and
servants of the
Board.

"17. (1) (a) The State Government shall appoint such person, as it may think fit, to be the Chief Executive Officer of the Board.

(b) The terms and conditions of service of the Chief Executive Officer shall be such as may be prescribed by the rules.

(2) The Board shall appoint such person, as it may think fit, to be the Financial Controller-cum-Chief Accounts Officer with the previous sanction of the State Government. The State Government may sanction such appointment on such terms and conditions as it thinks fit.

(3) The Board may create such other posts and appoint such other officers and employees as it considers necessary for the efficient performance of the functions of the Board and determine by regulations their conditions of appointment and service and the remuneration payable to them:

Provided that no person shall be appointed as a pilot at any port who is not for the time being authorised by the State Government under the Indian Ports Act, 1908 to pilot vessels at that port.

(4) The Board shall from time to time prepare and sanction a Schedule of the officers and employees of the Board for whom it deems necessary, adequate and proper to maintain for the purposes of this Act and such Schedule shall indicate therein the designation and grades of such officers and employees and the salaries, fees and allowances which are proposed to be paid to them."

7. In the principal Act, section 18 shall be deleted.

Deletion of
section 18 of
Guj. 30 of
1981.

8. In the principal Act, for section 19, the following shall be substituted, namely:—

Substitution of
section 19 of
Guj. 30 of
1981.

"19. (1) Subject to any regulations, the power of granting extension of service to, granting leave to, suspending, reducing, removing or dismissing or of disposing of any other question relating to the services of the officers and employees of the Board, including the power of dispensing with the service of any such officer and employee otherwise than by reason of the misconduct of such officer and employee, shall be exercised by the Board or such authority as may be prescribed by regulations.

Disciplinary
control over of-
ficers and
employees by
Board.

(2) Any officer or employee of the Board aggrieved by an order involving his reduction in rank, removal or dismissal may, within such time and in such manner as may be provided for by regulations, prefer an appeal—

(a) to the State Government, where such order is passed by the Chairman;

(b) to the Chairman, where such order is passed by any such authority as may be prescribed by regulations."

9. In the principal Act, in section 24,—

Amendment of
section 24 of
Guj. 30 of
1981.

(1) in clause (a), for the word "Chairman", the words "Chief Executive Officer" shall be substituted;

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

"(b) (i) No contract in respect of leasing of waterfront, jetty, waterway and corresponding infrastructural facilities thereof for a term exceeding five years shall be made unless it is previously approved by the State Government, on such terms and conditions as it may think fit.

(ii) Subject to sub-clause (i) of this clause, no contract for acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years shall be made unless it is previously approved by the State Government, on such terms and conditions as it may think fit."

10. In the principal Act, in section 74, in sub-section (2), in clause (a), after the figures "1970", the words "or in any corporation or financial institution controlled and managed by the State Government" shall be inserted.

Amendment of
section 74 of
Guj. 30 of
1981.

11. In the principal Act, in section 80, for the word "Chairman" where it occurs at two places, the words "Chief Executive Officer" shall be substituted.

Amendment of
section 80 of
Guj. 30 of
1981.

12. In the principal Act, in section 82, in sub-section (2), for the word "Chairman" where it occurs at three places, the words "Chief Executive Officer" shall be substituted.

Amendment of
section 82 of
Guj. 30 of
1981.

Amendment of
section 87 of
Guj. 30 of
1981.

13. In the principal Act, in section 87, in sub-section (2), for the word "Chairman", the words "Chief Executive Officer" shall be substituted.

Amendment of
section 92 of
Guj. 30 of
1981.

14. In the principal Act, section 92 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:-

"(2) The State Government shall cause such report to be laid for not less than thirty days before the State Legislature as soon as may be after such report is received by the Government."

Amendment of
section 107 of
Guj. 30 of
1981.

15. In the principal Act, in section 107, for the word "member", the words "member or officer" shall be substituted.

Amendment of
section 108 of
Guj. 30 of
1981.

16. In the principal Act, in section 108, for the word "member", the words "member or officer" shall be substituted.

Amendment of
section 109 of
Guj. 30 of
1981.

17. In the principal Act, in section 109,—

(1) in sub-section (2), after clause (a), the following clause shall be inserted, namely:-

"(aa) the terms and conditions of service of the Chief Executive Officer under sub-section (1) of section 17;"

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

"Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with previous publication of any rule to be made under this section."

Amendment of
section 110 of
Guj. 30 of
1981.

18. In the principal Act, in section 110, in sub-sections (2), (3), and (6), for the word "employees", the words "officers and employees" shall be substituted.

Repeal and
savings.

19. (1) The Gujarat Maritime Board (Amendment) (Second) Ordinance, 1995 is hereby repealed.

Guj.
Ord.
6 of
1995.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

VOL XXXVII]

TUESDAY, MARCH 26, 1996/CAITRA 6, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 26th March, 1996 is hereby published for general information.

SMT. K. R. TRIVEDI,

Secretary to the Government of Gujarat,

Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 4 OF 1996

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 26th March, 1996).

AN ACT

further to amend the Bombay Court-fees (Gujarat Amendment) Act, 1995.

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

1. (1) This Act may be called the Bombay Court-fees (Gujarat Amendment) Amending Act, 1996.

Short title and commencement.

(2) It shall be deemed to have come into force on the 28th August, 1995.

2. The Government Notification in the Legal Department No. GK/19/95/CFA/1002/1295/I dated the 3rd August, 1995 issued under sub-section (2) of section 1 of the Bombay Court-fees (Gujarat Amendment) Act, 1995 (hereinafter referred to as "the amending Act") shall be and shall be deemed always to have been rescinded and on such rescission, the express insertion and substitution made in the Bombay Court-fees Act, 1959 (hereinafter referred to as "the principal Act") by the amending Act shall cease to have effect and the provisions of the principal Act existing immediately before such insertion or substitution shall stand revived and shall have the same force and effect as they had immediately before such amendments.

Rescission of Notification dated 3rd August, 1995 and revival of provisions of principal Act.

3. In the amending Act, in section 1, for sub-section (2), the following sub-section shall be substituted, namely :—

Amendment of section 1 of Guj. 12 of 1995.

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

Repeal
savings.

and

4. (1) The Bombay Court-fees (Gujarat Amendment) Amending (Second) Ordinance, 1995 is hereby repealed.

Guj.
Ord. 5
of
1995.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the provisions of this Act.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXVII]

SATURDAY, MARCH 30, 1996 / CAITRA 10, 1918

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

PART—IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 29th March, 1996 is hereby published for general information.

Smt. K. R. TRIVEDI,

Secretary to the Government of Gujarat,

Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 5 OF 1996.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 30th March, 1996).

AN ACT

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, 1996.

It is hereby enacted in the Forty-seventh Year of the republic of India as follows :—

Short title.

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 1996.

Issue of Rs. 14,06,65,24,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 1995-96.

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 one thousand four hundred six crores, sixty-five lakhs, twenty-four 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, 1996, 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.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
1	Agriculture, Co-operation and Rural Development Department	Revenue	3,40,000	3,40,000
2	Agriculture	Revenue	6,000	9,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	5,44,64,000	5,44,64,000
4	Animal Husbandry and Dairy Development	Revenue	4,16,91,000	4,17,02,000
		Capital	1,50,00,000	1,50,00,000
5	Co-operation	Revenue	2,26,47,000	2,26,47,000
6	Other expenditure pertaining to Agriculture	Revenue	2,12,000	2,12,000
	Co-operation and Rural Development Department.	Capital	74,22,000	74,22,000
7	Education Department	Revenue	19,25,000	19,25,000
8	Education	Revenue	1,11,68,81,000	1,16,50,66,000
9	Other expenditure pertaining to Education Department	Revenue	55,10,000	55,10,000
		Capital	2,000	2,000
12	Energy Projects	Revenue	3,87,20,00,000	3,87,20,00,000
13	Other expenditure pertaining to Energy and Petro-Chemicals Department	Capital	3,94,000	3,94,000
14	Finance Department	Revenue	40,63,000	40,63,000
15	Tax Collection Charges (Finance Department)	Revenue	3,30,77,000	3,30,77,000
16	Treasury and Accounts Administration	Revenue	2,19,16,000	2,19,98,000
17	Pension and Other Retirement Benefits	Revenue	1,18,34,00,000	1,18,34,00,000
18	Other expenditure pertaining to Finance Department	Revenue	27,000	27,000
		Capital	31,35,38,000	31,35,38,000
19	Repayment of Debt pertaining to Finance Department and its servicing	Revenue	17,33,09,000	17,33,09,000
20	Food and Civil Supplies Department	Revenue	36,28,000	36,28,000
21	Civil Supplies	Revenue	77,47,44,000	77,47,44,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
22	Food	Revenue	13,90,000	13,90,000
		Capital	2,64,000	2,64,000
23	Other expenditure pertaining to Food and Civil Supplies Department	Capital	13,82,000	13,82,000
24	Forest and Environment Department	Revenue	6,00,000	6,00,000
25	Forests	Revenue	4,23,27,000	4,28,26,000
		Capital	12,16,77,000	12,16,77,000
26	Environment	Revenue	3,00,00,000	3,00,00,000
27	Other expenditure pertaining to Forest and Environment Department	Capital	25,32,000	25,32,000
28	Governor	Revenue	..	20,66,000
30	Elections	Revenue	12,53,95,000	12,53,95,000
32	General Administration Department	Revenue	46,40,000	46,40,000
33	Economic Advice and Statistics	Revenue	75,95,000	75,95,000
34	Other expenditure pertaining to General Administration Department	Revenue	9,26,02,000	9,26,04,000
35	State Legislature	Revenue	..	2,50,000
36	Loans and Advances to Government Servants in Gujarat	Capital	5,53,000	5,53,000
	Legislature Secretariat	Revenue	23,48,000	23,48,000
37	Health and Family Welfare Department	Revenue	24,84,73,000	24,85,13,000
38	Medical and Public Health	Revenue	9,77,37,000	9,77,37,000
39	Family Welfare	Revenue	..	40,000
40	Water Supply	Revenue	16,00,00,000	16,00,00,000
		Capital	2,00,00,000	2,00,00,000
41	Other expenditure pertaining to Health and Family Welfare Department	Revenue	30,000	30,000
		Capital	1,10,05,000	1,10,05,000
42	Home Department	Revenue	52,10,000	52,10,000
43	Police	Revenue	50,44,40,000	50,44,40,000
44	Jails	Revenue	2,37,04,000	2,37,04,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
45	Transport	Revenue	44,92,34,000	44,92,34,000
46	Other expenditure pertaining to Home Department	Revenue	..	16,000
		Capital	92,33,000	92,33,000
47	Industries and Mines Department	Revenue	11,98,000	11,98,000
48	Stationery and Printing	Revenue	2,34,10,000	2,34,10,000
49	Industries	Revenue	21,46,25,000	21,46,25,000
		Capital	31,01,90,000	31,01,90,000
50	Mines and Minerals	Revenue	2,25,00,000	2,25,00,000
51	Other expenditure pertaining to Industries and Mines Department	Revenue	..	1,43,000
		Capital	20,78,000	20,78,000
52	Information, Broadcasting and Tourism Department	Revenue	4,00,000	4,00,000
55	Other expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue	4,75,000	4,75,000
		Capital	10,08,000	10,08,000
56	Labour and Employment Department	Revenue	10,57,000	10,57,000
57	Labour and Employment	Revenue	1,41,99,000	1,42,57,000
58	Other expenditure pertaining to Labour and Employment Department	Capital	26,60,000	26,60,000
59	Legal Department	Revenue	24,70,000	24,70,000
60	Administration of Justice	Revenue	1,70,27,000	6,16,30,000
61	Other expenditure pertaining to Legal Department	Capital	18,59,000	18,59,000
64	Narmada and Water Resources Department	Revenue	4,75,000	4,75,000
65	Narmada Development Scheme	Capital	1,42,40,00,000	1,42,40,00,000
66	Irrigation and Soil Conservation	Revenue	22,61,09,000	22,79,60,000
		Capital	49,44,92,000	51,32,46,000
67	Other expenditure pertaining to Narmada and Water Resources Department	Revenue	13,08,000	2,02,45,000
		Capital	1,12,55,000	1,12,55,000
68	Panchayats and Rural Housing Department	Revenue	15,60,000	15,60,000
69	Community Development	Revenue	35,10,57,000	35,10,57,000
70	Rural Housing	Revenue	27,30,000	10,41,35,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
71	Compensation and Assignments	Revenue	3,71,75,000	3,71,75,000
72	Other expenditure pertaining to Panchayats and Rural Housing Department	Revenue	2,80,55,000	2,81,95,000
		Capital	1,10,09,000	1,10,09,000
73	Fisheries	Revenue	2,01,24,000	2,01,42,000
		Capital	1,50,15,000	1,50,15,000
75	Other expenditure pertaining to Ports and Fisheries Department	Revenue	3,13,000	3,17,000
		Capital	7,17,000	7,17,000
76	Revenue Department	Revenue	84,60,000	84,60,000
77	Collection Charges pertaining to Revenue Department	Revenue	1,31,30,000	1,31,30,000
78	District Administration	Revenue	2,26,65,000	2,30,10,000
80	Dang District	Revenue	1,09,25,000	1,09,25,000
81	Compensation and Assignments	Revenue	5,81,90,000	5,81,92,000
82	Other expenditure pertaining to Revenue Department	Capital	51,64,000	51,64,000
83	Roads and Buildings Department	Revenue	1,80,000	1,80,000
84	Non-Residential Buildings	Revenue	7,03,06,000	7,03,35,000
		Capital	8,52,000	14,38,000
85	Residential Buildings	Revenue	45,15,000	45,15,000
		Capital	91,000	91,000
86	Roads and Bridges	Revenue	16,68,50,000	17,40,43,000
		Capital	25,50,01,000	25,94,29,000
87	Gujarat Capital Construction Scheme	Revenue	69,55,000	69,55,000
		Capital	2,27,13,000	2,46,15,000
88	Other expenditure pertaining to Roads and Buildings Department	Revenue	29,69,000	2,06,93,000
		Capital	2,35,95,000	2,35,95,000
89	Social Welfare and Tribal Development Department	Revenue	7,50,000	7,50,000
90	State Excise	Revenue	2,85,000	2,85,000
91	Social Security and Welfare	Revenue	5,32,49,000	5,92,58,000
93	Other expenditure pertaining to Social Welfare and Tribal Development Department	Capital	24,77,000	24,77,000

IV-EX-5-2

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
94	Special Component Plan for Scheduled Castes	Revenue 1,000	..	1,000
		Capital 1,000	..	1,000
95	Tribal Area Sub Plan	Revenue 4,000	13,22,000	13,26,000
		Capital 4,38,58,000	17,64,000	4,56,22,000
96	Urban Development and Urban Housing Department	Revenue 24,80,000	..	24,80,000
97	Urban Housing	Revenue ..	2,27,25,000	2,27,25,000
		Capital 3,56,03,000	..	3,56,03,000
98	Urban Development	Revenue 2,20,56,000	..	2,20,56,000
		Capital 40,00,000	..	40,00,000
99	Compensation, Assignment and Tax Collection Charges	Revenue ..	7,64,00,000	7,64,00,000
100	Other expenditure pertaining to Urban Development and Urban Housing Department	Capital 9,96,000	..	9,96,000
101	Youth Services and Cultural Activities Department	Revenue 70,000	..	70,000
102	Youth Services and Cultural Activities	Revenue 9,44,000	..	9,44,000
103	Other expenditure pertaining to Youth Services and Cultural Activities Department	Capital 5,76,000	..	5,76,000
Total :		Revenue 10,34,32,68,000	52,36,10,000	10,86,68,78,000
		Capital 3,17,21,21,000	2,75,25,000	3,19,96,46,000
Grand Total :		13,51,53,89,000	55,11,35,000	14,06,65,24,000



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXVII] SATURDAY, MARCH 30, 1996 / CAITRA 10, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 29th March, 1996 is hereby published for general information.

Smt. K. R. TRIVEDI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 6 OF 1996.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 30th March, 1996).

AN ACT

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, 1997.

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

1. This Act may be called the Gujarat Appropriation Act, 1996.
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 twelve thousand, two hundred fifty-two crores, eighty-six lakhs, eighty-one thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1996-97, in respect of the services and purposes specified in column 2 of the Schedule.

Short title.

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.

Withdrawal of Rs. 1,22,52,86,81,000 from and out of the Consolidated Fund of the State of Gujarat for the financial year 1996-97.

SCHEDULE

(See Section 2 and 3)

No. of Vote/ Appropriation	Services and Purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
2			3	
1	Agriculture, Co-operation and Rural Development Department	Revenue 2,68,04,000	..	2,68,04,000
2	Agriculture	Revenue 2,82,56,94,000 Capital 5,00,000		2,82,56,94,000 5,00,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue 37,86,11,000 Capital 1,03,50,000		37,86,11,000 1,03,50,000
4	Animal Husbandry and Dairy Development	Revenue 39,03,17,000 Capital 4,00,000		39,03,17,000 4,00,000
5	Co-operation	Revenue 20,45,68,000 Capital 12,62,85,000		20,45,68,000 12,62,85,000
6	Other expenditure pertaining to Agriculture, Co-operation and Rural Development Department	Capital 3,25,00,000	..	3,25,00,000
7	Education Department	Revenue 1,56,60,000	..	1,56,60,000
8	Education	Revenue 19,21,83,60,000 Capital 5,20,000	57,61,00,000 ..	19,79,44,60,000 5,20,000
9	Other expenditure pertaining to Education Department	Revenue 5,77,54,000 Capital 32,02,32,000		5,77,54,000 32,02,32,000
10	Energy and Petro-Chemicals Department	Revenue 63,75,000	..	63,75,000

No. of Vote/ Appropriation	Services and Purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
11	Tax Collection Charges (Energy and Petro- Chemicals Department)	Revenue 3,49,35,000	..	3,49,35,000
12	Energy Projects	Revenue 3,45,52,00,000	..	3,45,52,00,000
		Capital 1,95,57,00,000	..	1,95,57,00,000
13	Other expenditure pertaining to Energy and Petro-Chemicals Department	Capital 2,22,97,000	..	2,22,97,000
14	Finance Department	Revenue 3,26,50,000	..	3,26,50,000
		Capital 5,00,000	..	5,00,000
15	Tax collection Charges (Finance Department)	Revenue 34,27,09,000	..	34,27,09,000
16	Treasury and Accounts Administration	Revenue 23,02,82,000	..	23,02,82,000
17	Pension and Other Retirement Benefits	Revenue 3,98,56,55,000	5,00,000	3,98,61,55,000
18	Other expenditure pertaining to Finance Department	Revenue 8,32,01,65,000	..	8,32,01,65,000
		Capital 2,94,25,000	1,00,000	2,95,25,000
19	Repayment of debt pertaining to Finance Department	Revenue .. 13,88,12,05,000	13,88,12,05,000	13,88,12,05,000
		Capital .. 6,49,41,66,000	6,49,41,66,000	6,49,41,66,000
20	Food and Civil Supplies Department	Revenue 3,78,95,000	..	3,78,95,000
21	Civil Supplies	Revenue 95,84,06,000	..	95,84,06,000
		Capital 3,000	..	3,000

No. of Vote/ Appropriation	Services and Purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
22 Food	Revenue	7,10,29,000	..	7,10,29,000
	Capital	23,36,000	..	23,36,000
23 Other expenditure pertaining to Food and Civil Supplies Department	Capital	52,90,000	..	52,90,000
24 Forest and Environment Department	Revenue	68,59,000	..	68,59,000
25 Forest	Revenue	52,49,61,000	..	52,49,61,000
	Capital	90,54,67,000	..	90,54,67,000
26 Environment	Revenue	3,84,00,000	..	3,84,00,000
27 Other expenditure pertaining to Forest and Environment Department	Capital	1,07,47,000	..	1,07,47,000
28 Governor	Revenue	..	99,91,000	99,91,000
29 Council of Ministers	Revenue	2,45,75,000	..	2,45,75,000
30 Elections	Revenue	19,91,09,000	..	19,91,09,000
31 Public Service Commission	Revenue	38,55,000	1,36,75,000	1,75,30,000
32 General Administration Department	Revenue	11,32,25,000	..	11,32,25,000
33 Economic Advice and Statistics	Revenue	5,42,69,000	..	5,42,69,000
34 Other expenditure pertaining to General Administration Department	Revenue	83,44,66,000	..	83,44,66,000
	Capital	1,86,37,000	..	1,86,37,000

No. of Vote/ Appropriation	Services and Purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
35	State Legislature Revenue	4,40,29,000	4,01,000	4,44,30,000
36	Loans and Advances to Government Servants in Gujarat Legislature Secretariat Capital	28,35,000	..	28,35,000
37	Health and Family Welfare Department Revenue	2,34,90,000	..	2,34,90,000
38	Medical and Public Health Revenue	3,69,70,41,000	..	3,69,70,41,000
39	Family Welfare Revenue	75,29,45,000	..	75,29,45,000
40	Water Supply Revenue	81,47,30,000	..	81,47,30,000
	Capital	95,30,00,000	..	95,30,00,000
41	Other expenditure pertaining to Health and Family Welfare Department Revenue	62,29,58,000	..	62,29,58,000
	Capital	5,53,20,000	..	5,53,20,000
42	Home Department Revenue	2,18,05,000	..	2,18,05,000
43	Police Revenue	3,78,88,07,000	..	3,78,88,07,000
44	Jails Revenue	13,96,65,000	..	13,96,65,000
45	Transport Revenue	91,97,45,000	..	91,97,45,000
46	Other expenditure pertaining to Home Department Revenue	18,17,19,000	1,50,000	18,18,69,000
	Capital	13,49,95,000	..	13,49,95,000
47	Industries and Mines Department Revenue	1,31,10,000	..	1,31,10,000
48	Stationery and Printing Revenue	27,78,70,000	..	27,78,70,000

No. of Vote/ Appropriation	Services and Purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
49 Industries	Revenue	1,00,17,85,000	..	1,00,17,85,000
	Capital	1,18,91,75,000	..	1,18,91,75,000
50 Mines and Minerals	Revenue	10,51,80,000	..	10,51,80,000
51 Other expenditure pertaining to Industries and Mines Department	Revenue	1,33,35,000	..	1,33,35,000
	Capital	1,65,52,000	..	1,65,52,000
52 Information, Broadcasting and Tourism Department	Revenue	37,75,000	..	37,75,000
53 Information and Publicity	Revenue	16,64,95,000	..	16,64,95,000
54 Tourism	Revenue	4,68,90,000	..	4,68,90,000
	Capital	26,00,000	..	26,00,000
55 Other expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue	1,33,25,000	..	1,33,25,000
	Capital	46,60,000	..	46,60,000
56 Labour and Employment Department	Revenue	80,57,000	..	80,57,000
57 Labour and Employment	Revenue	59,26,14,000	..	59,26,14,000
	Capital	25,000	..	25,000
58 Other expenditure pertaining to Labour and Employment Department	Capital	1,15,90,000	..	1,15,90,000
59 Legal Department	Revenue	1,27,00,000	..	1,27,00,000
	Capital	25,000	..	25,000
60 Administration of Justice	Revenue	45,53,06,000	7,61,25,000	53,14,31,000

No. of Vote/ Appropriation	Services and Purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
61	Other expenditure pertaining to Legal Department	Revenue 1,75,45,000 Capital 82,92,000		1,75,45,000 82,92,000
62	Legislative and Parliamentary Affairs Department	Revenue 92,70,000	..	92,70,000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital 3,01,000	..	3,01,000
64	Narmada and Water Resources Department	Revenue 2,31,70,000	..	2,31,70,000
65	Narmada Development Scheme	Capital 11,07,70,44,000	..	11,07,70,44,000
66	Irrigation and Soil Conservation	Revenue 5,85,04,56,000 Capital 2,42,76,60,000		5,85,04,56,000 2,42,76,60,000
67	Other expenditure pertaining to Narmada and Water Resources Department	Revenue 13,00,000 Capital 5,00,33,000		13,00,000 5,00,33,000
68	Panchayats and Rural Housing Department	Revenue 1,41,50,000	..	1,41,50,000
69	Community Development	Revenue 1,03,94,30,000	..	1,03,94,30,000
70	Rural Housing	Revenue 23,52,50,000 Capital 3,92,00,000	61,11,71,000 ..	84,64,21,000 3,92,00,000

No. of Vote/ Appropriation	Services and Purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
71 Compensation and Assignments	Revenue	23,07,35,000	..	23,07,35,000
72 Other expenditure pertaining to Panchayats and Rural Housing Department	Revenue	13,31,80,000	..	13,31,80,000
	Capital	10,93,43,000	..	10,93,43,000
73 Fisheries	Revenue	14,74,74,000	..	14,74,74,000
	Capital	8,89,76,000	..	8,89,76,000
74 Other expenditure pertaining to Ports and Fisheries Department	Revenue	41,59,000	..	41,59,000
	Capital	35,73,000	..	35,73,000
75 Revenue Department	Revenue	3,73,80,000	..	3,73,80,000
76 Tax Collection Charges (Revenue Department)	Revenue	34,05,38,000	..	34,05,38,000
77 District Administration	Revenue	34,51,90,000	..	34,51,90,000
78 Relief on Account of Natural Calamities	Revenue	1,39,36,00,000	..	1,39,36,00,000
	Capital	2,00,00,000	..	2,00,00,000
79 Dangs District	Revenue	15,07,11,000	..	15,07,11,000
80 Compensation and Assignments	Revenue	13,38,95,000	23,00,000	13,61,95,000
	Capital	26,00,000	9,00,000	35,00,000
81 Other expenditure pertaining to Revenue Department	Revenue	54,49,000	1,000	54,50,000
	Capital	2,64,22,000	..	2,64,22,000
82 Roads and Buildings Department	Revenue	2,68,80,000	..	2,68,80,000

No. of Vote/ Appro- priation	Services and Purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
83 Non-Residential Buildings	Revenue	1,12,54,45,000	3,12,000	1,12,57,57,000
	Capital	63,89,36,000	..	63,89,36,000
84 Residential Buildings	Revenue	44,77,14,000	..	44,77,14,000
	Capital	15,12,76,000	..	15,12,76,000
85 Roads and Bridges	Revenue	2,72,38,53,000	..	2,72,38,53,000
	Capital	52,22,18,000	..	52,22,18,000
86 Gujarat Capital Construction Scheme	Revenue	3,01,20,000	..	3,01,20,000
	Capital	7,05,00,000	..	7,05,00,000
87 Other expenditure pertaining to Roads and Buildings Department	Revenue	7,70,50,000	..	7,70,50,000
	Capital	2,85,23,000	..	2,85,23,000
88 Social Welfare and Tribal Development Department	Revenue	1,25,20,000	..	1,25,20,000
89 State Excise	Revenue	2,79,45,000	..	2,79,45,000
90 Social Security and Welfare	Revenue	1,06,19,13,000	33,00,000	1,06,52,13,000
	Capital	2,24,10,000	..	2,24,10,000
91 Welfare of Scheduled Tribes	Revenue	30,56,20,000	..	30,56,20,000
	Capital	57,15,000	..	57,15,000
92 Other expenditure pertaining to Social Welfare Department	Capital	1,00,59,000	..	1,00,59,000
93 Special Component Plan for Scheduled Castes	Revenue	1,25,05,68,000	..	1,25,05,68,000
	Capital	8,62,36,000	..	8,62,36,000
94 Tribal Area Sub Plan	Revenue	3,28,53,19,000	..	3,28,53,19,000
	Capital	1,15,67,00,000	..	1,15,67,00,000

No. of Vote/ Appropriation	Services and Purposes	Suma not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
95	Urban Development and Urban Housing Department	Revenue 86,86,000	..	86,86,000
96	Urban Housing	Revenue 10,78,60,000	19,31,08,000	30,09,68,000
		Capital 5,34,30,000	..	5,34,30,000
97	Urban Development	Revenue 69,40,04,000	..	69,40,04,000
		Capital 26,00,00,000	..	26,00,00,000
98	Compensation, Assignment and Tax Collection Charges	Revenue 28,53,00,000	16,01,03,000	44,54,03,000
99	Other expenditure pertaining to Urban Development and Urban Housing Department	Revenue 1,34,73,000	..	1,34,73,000
		Capital 40,64,000	..	40,64,000
100	Youth Services and Cultural Activities Department	Revenue 37,85,000	..	37,85,000
101	Youth Services and Cultural Activities	Revenue 11,60,03,000	..	11,60,03,000
102	Other expenditure pertaining to Youth Services and Cultural Activities Department	Capital 24,92,000	..	24,92,000
Total :		Revenue 77,82,71,04,000	15,52,84,42,000	93,35,55,46,000
		Capital 22,67,79,69,000	6,49,51,66,000	29,17,31,35,000
Grand Total :		1,00,50,50,73,000	22,02,36,08,000	1,22,52,86,81,000



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PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 29th March, 1996 is hereby published for general information.

Smt. K. R. TRIVEDI,

Secretary to the Government of Gujarat,

Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 7 OF 1996.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 30th March, 1996).

AN ACT

further to amend the Bombay Stamp Act, 1958.

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

1. (1) This Act may be called the Bombay Stamp (Gujarat Amendment) Act, 1996. Short title and commencement.
- (2) It shall come into force on the 1st April, 1996.

2. In the Bombay Stamp Act, 1958, in Schedule-I, in Article 6, in clause (2), in sub-clause (a), in item (ii), in column 2, for the words "One rupee for every hundred rupees", the words "Subject to a maximum of one lakh rupees, one rupee for every hundred rupees" shall be substituted. Amendment of Schedule-I to Bom. LX of 1958.

Bom. LX of 1958.

IV-Extra-7—1

7-1

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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 PUBLISHED BY AUTHORITY

Vol. XXXVII] SATURDAY, MARCH 30, 1996 / CAITRA 10, 1918

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Smt. K. R. TRIVEDI,
 Secretary to the Government of Gujarat,
 Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 8 OF 1996.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 30th March, 1996).

AN ACT

further to amend the Bombay Motor Vehicles Tax Act, 1958.

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

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1996.

Short title
and commen-
cement.

(2) It shall come into force on the 1st April, 1996.

Bom.
LXV of
1958.

2. In the Bombay Motor Vehicles Tax Act, 1958, in section 3A, in sub-section (1), in the Table, in entry 2, against clause (a), for the figures "3600", the figures "3000" shall be substituted.

Amendment of
section 3A of
Bom. LXV of
1958.



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The following Act of the Gujarat Legislature, having been assented to by the Governor on the 29th March, 1996 is hereby published for general information.

Smt. K. R. TRIVEDI,

Secretary to the Government of Gujarat,
 Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 9 OF 1996.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 30th March, 1996).

AN ACT

further to amend the Gujarat Sales Tax Act, 1969.

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

1. (1) This Act may be called the Gujarat Sales Tax (Amendment) Act, 1996.

Short title and
 commencement.

(2) It shall come into force on the 1st April, 1996.

Guj. 1 of
 1970.

2. In the Gujarat Sales Tax Act, 1969, in Schedule II, in Part A,—

Amendment of
 Schedule II,
 Part-A of Guj. 1
 of 1970.

(1) in the entry at serial No. 31 A, in columns 3 and 4, for the words "Three paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(2) in the entry at serial No. 42, in sub-entry (1), in columns 3 and 4, for the words "Nine paise in the rupee", the words "Eight paise in the rupee" shall be substituted;

(3) in the entry at serial No. 68, in columns 3 and 4, for the words "Sixteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(4) in the entry at serial No. 91, in columns 3 and 4, for the words "Eleven paise in the rupee", the words "Ten paise in the rupee" shall be substituted;

(5) in the entry at serial No. 100, in sub-entry (I), in columns 3 and 4 for the words, "Thirteen paise in the rupee", the words "Twelve paise in the rupee" shall be substituted;

(6) in the entry at serial No. 102, in columns 3 and 4, for the words "Thirteen paise in the rupee", the words "Twelve paise in the rupee" shall be substituted;

(7) in the entry at serial No. 111, in columns 3 and 4, for the words "Sixteen paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted;

(8) in the entry at serial No. 115, in columns 3 and 4, for the words "Three paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(9) in the entry at serial No. 121, in columns 3 and 4, for the words "Twenty paise in the rupee", the words "Fifty-four paise in the rupee" shall be substituted;

(10) in the entry at serial No. 128, in sub-entry (4), in columns 3 and 4, for the words "Three paise in the rupee", the words "Four paise in the rupee" shall be substituted;

(11) in the entry at serial No. 141, in columns 3 and 4, for the words "Eleven paise in the rupee", the words "Ten paise in the rupee" shall be substituted;

(12) in the entry at serial No. 142, in sub-entry (ii), in columns 3 and 4, for the words "Eleven paise in the rupee", the words "Ten paise in the rupee" shall be substituted;

(13) in the entry at serial No. 144, in columns 3 and 4, for the words "Three paise in the rupee", the words "Two paise in the rupee" shall be substituted;

(14) in the entry at serial No. 148, in columns 3 and 4, for the words "Eleven paise in the rupee", the words "Ten paise in the rupee" shall be substituted;

(15) in the entry at serial No. 184C, in columns 3 and 4, for the words "Three paise in the rupee", the words "Two paise in the rupee" shall be substituted.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

VOL. XXXVII] TUESDAY, JUNE 18, 1996/JYAISTHA 28, 1918

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PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

INFORMATION, BROADCASTING AND TOURISM DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 18th June, 1996.

GUJARAT ORDINANCE NO. 1 OF 1996.

AN ORDINANCE

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

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely:—

1. *Short title and commencement.*— (1) This Ordinance may be called the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Ordinance, 1996.

(2) It shall come into force at once.

2. *Guj. 24 of 1977 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in sections 3 to 10.

3. *Amendment of section 2 of Guj. 24 of 1977.*—In the principal Act, in section 2, clause (c) shall be deleted.

4. *Amendment of section 3 of Guj. 24 of 1977.*—In the principal Act, in section 3,—

(1) in sub-section (1), second proviso shall be deleted;

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

"(1A) if no charge for lodging for the period not exceeding three hours immediately following the checkout time of a hotel is levied on a person, then no tax shall be levied and collected from that person in respect of the luxury provided to him for that period."

5. *Amendment of section 4 of Guj. 24 of 1977.*—In the principal Act, in section 4, for sub-sections (3) and (4), the following shall be substituted, namely :—

"(3) Where luxury provided in a hotel for a specified number of persons is shared by persons more than the number specified (hereinafter referred to as "the additional persons"), then, in addition to the tax paid for luxury provided to the specified number of persons, there shall be levied and collected separately the tax, in respect of the charge levied for the additional persons accommodated, at the rate at which the tax would have been levied and collected as if the luxury provided in the hotel had not been shared by additional persons with the specified number of persons."

6. *Amendment of section 5 of Guj. 24 of 1977.*—In the principal Act, in section 5, in sub-section (1), for the words "eight days", the words "fifteen days" shall be substituted.

7. *Amendment of section 9 of Guj. 24 of 1977.*—In the principal Act, in section 9, in sub-section (1), after the word and figure "section 6", the words, figures and letter "or under section 20C" shall be inserted.

8. *Amendment of section 10 of Guj. 24 of 1977.*—In the principal Act, in section 10,—

(1) in sub-section (1), after the words "suo motu", the words "or on an application made in that behalf" shall be inserted;

(2) for sub-sections (2) and (2A), the following shall be substituted, namely :—

"(2) No order shall be revised under sub-section (1) after the expiry of two years from the date of such order unless the State Government or, as the case may be, designated officer, is satisfied that the proprietor was prevented by sufficient cause from making the application within that period.

Explanation.—In computing the period of limitation for the purpose of this sub-section,—

(a) any period during which the record of any proceeding has not been called for under the proviso to sub-section (1), and

(b) any period during which any proceeding under this section is stayed by an order or injunction of any Civil Court,

shall be excluded."

(3) in sub-section (3), for the words "the designated officer or, as the case may be, the Commissioner of Luxury Tax", the words "or, as the case may be, the designated officer" shall be substituted.

(4) in sub-section (5), for the words "Commissioner of Luxury Tax" the words "State Government or, as the case may be, the designated officer" shall be substituted.

9. *Amendment of section 13 of Guj. 24 of 1977.*— In the principal Act, in section 13, in sub-section (1), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

10. *Insertion of new sections 20A, 20B and 20C in Guj. 24 of 1977.*— In the principal Act, after section 20, the following new sections shall be inserted, namely :—

Power to
reduce rate of
tax.

"20A. (1) The State Government may, by notification in the *Official Gazette*, reduce any rate of tax specified in sub-section (1) of section 3 of the Act.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during session in which it is 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.

Exemption.

20B. (1) The State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any person or persons to whom any luxury is provided by such hotel or class of hotels from payment of the whole or part of the tax, subject to such conditions, as may be specified therein.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued 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 it is 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.

Liability to
pay tax in
event of
breach
of conditions
of exemption.

20C. (1) Where any person or persons to whom luxury is provided in a hotel or class of hotels is exempted under section 20B from the whole or any part of the tax subject to any condition, then, in the event of breach of any such condition, the proprietor of such hotel shall, notwithstanding such exemption, be liable to pay tax in relation to the luxury provided in such hotels.

(2) If the Collector has reason to believe that the proprietor is liable to pay tax under sub-section (1), the Collector shall serve on the proprietor a notice requiring him on a date and place specified therein, either to attend and produce or cause to be produced all evidence on which such proprietor relies in connection with his liability under this section or to produce such evidence as is specified in the notice. On the date specified in the notice, or as soon as may be, thereafter the Collector shall, after considering all the evidence which may be produced, assess to the best of his judgement, the amount of tax so due."

STATEMENT

With a view to promoting tourism in the State of Gujarat as envisaged in the New Tourism Policy declared on the floor of the House of the Legislative Assembly on 29th July, 1995, it is considered necessary to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977.

Under the existing provisions of sub-section (3) of section 4 of the Act, the tax is levied on full charge for the luxury provided in a hotel even though when such luxury is provided free of charge or at concessional rate. In order to promote business of hotel industries, it is necessary to levy tax on the actual charge of lodging paid by the person. Hence it is considered necessary to delete clause (c) of section 2 and sub-section (3) of section 4.

It is also considered necessary to substitute sub-section (4) of section 4 so that when luxury provided in a hotel for specified number of persons is shared by persons more than such specified persons, then, in addition to the tax paid for luxury provided to the specified persons, the tax shall be levied in respect of the charge paid for the additional persons accommodated at a rate at which the tax would have been levied and collected as if the luxury provided in a hotel had not been shared by such additional persons with the specified number of persons.

It has been represented by the proprietors of the hotels to the Government that the luxury tax should not be levied for the stay after the checkout time particularly when charge of lodging is not collected from such person for such stay. In view of such representations, new sub-section (1A) is inserted in section 3 to provide that where charge for lodging for a period not exceeding three hours immediately following the checkout time of a hotel is not recovered from the person, then no tax shall be levied and collected from that person in respect of luxury provided for such short period.

Sub-section (1) of section 5 is amended so as to increase the period of furnishing monthly returns from eight days to fifteen days and sub-section (1) of section 9 is amended in order to enable the proprietor to file an appeal against the assessment order made under section 20C.

Under the existing provisions of section 10, the power to revise the order of the Collector or the Appellate Authority is conferred concurrently on the State Government as well as the Commissioner of Luxury Tax. It is considered necessary that such power should rest only with the State Government. Therefore, section 10 is amended to provide accordingly.

Sub-section (1) of section 13 is amended in order to increase the amount of penalty from one thousand rupees to ten thousand rupees.

New sections 20A, 20B and 20C are inserted in the Act. Section 20A empowers the State Government to reduce the rate of tax specified in sub-section (1) of section 3. Section 20B empowers the State Government to exempt in the public interest, by notification in the *Official Gazette* a person to whom any luxury is provided by such hotel or class of hotels from payment of whole or part of the tax subject to such conditions, as may be specified therein. Section 20C makes the proprietor liable to pay luxury tax in event of the breach of conditions for such exemption.

For this purpose, a Bill called the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Bill, 1996 was introduced in the Gujarat Legislative Assembly on 21st March, 1996 but could not be taken up for consideration by the House for want of time. Therefore, as the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Act to achieve the aforesaid objects.

Gandhinagar,
Dated the 18th June, 1996.

KRISHNAPAL SINGH,
Governor of Gujarat.

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

A. D. DESAI,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

VOL. XXX VII] WEDNESDAY, JUNE 26, 1996/ASADHA 5, 1918.

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor:**

REVENUE DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 26th June, 1996.

GUJARAT ORDINANCE NO. 2 OF 1996.

AN ORDINANCE

further to amend the Bombay Land Revenue Code, 1879.

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it Bom. V of 1879. necessary for him to take immediate action to amend the Bombay Land Revenue Code, 1879;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Bombay Land Revenue Code (Gujarat Amendment) Ordinance, 1996.

(2) It shall come into force at once.

Bom. V of 1879. 2. *Bom. V of 1879 to be temporarily amended.*—During the period of operation of this Ordinance, the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in sections 3 to 6.

3. *Amendment of section 48 of Bom. V of 1879.*—In the principal Act, in section 48, after sub-section (2), the following new sub-section shall be inserted, namely :—

"(2A) Where any land assessed for any purpose is used for *bonafide* industrial purpose under section 65B and a certificate to that effect is issued to the occupant of such land under that section, the assessment fixed under the provisions of this Act upon such land shall, notwithstanding that the term for which such assessment may have been fixed has not expired, be liable to be altered and fixed at a different rate with effect from the commencement of the revenue year in which the use of land for the *bonafide* industrial purpose is commenced, by such authority and subject to such rules as the State Government may prescribe in this behalf."

4. *Insertion of new section in Bom. V of 1879.*— In the principal Act, after section 65A, the following new section shall be inserted, namely :—

Use of certain
lands for
bonafide in-
dustrial pur-
pose.

"65B. (1) Notwithstanding anything contained in section 65 or 65A, where —

(a) any land used or held for the purpose of agriculture or, as the case may be, for any non-agricultural purpose not being an industrial purpose is,—

- (i) designated for the use of industrial purpose in the draft or final development plan or draft or final town planning scheme under the Gujarat Town Planning and Urban Development Act, 1976; or
- (ii) situated in the area where no plan or scheme referred to in sub-clause (i) is in force, and

President's Act
No. 27 of 1976

(b) the occupant of such land wishes to use such land or part thereof—

(i) for a *bonafide* industrial purpose other than the purpose of manufacture or storage of any chemical or petrochemical,

it shall be lawful for him to use such land for such *bonafide* industrial purpose without the permission of the Collector subject to the fulfilment of the following conditions, namely :—

(a) the occupant has a clear title to such land,

(b) such land or part thereof,—

(i) is not shown as reserved for a public purpose in any draft or final development plan or draft or final town planning scheme under the Gujarat Town Planning and Urban Development Act, 1976,

President's Act
No. 27 of 1976

(ii) is not notified for acquisition under the Land Acquisition Act, 1894 or any other law for the time being in force,

(iii) does not fall within the alignment of any road plan prepared by the State Government or the command area of any irrigation project,

(iv) is not situated within thirty metres from the boundary of any land held for the purpose of railway by the Central Government or the Indian Railway Company Ltd., or

(v) is not situated within fifteen metres of the high voltage transmission line;

(II) for the purpose of manufacture or storage of any chemical or petrochemical,

it shall be lawful for him to use such land for such *bonafide* industrial purpose without the permission of the Collector subject to the fulfilment of the following conditions in addition to the conditions mentioned in sub-clause (I), namely :—

such land or part thereof is not situated within two kilometres from the boundary of,—

(i) an ancient monument declared as 'protected monument' under sub-section (1) of section 3 of the Ancient Monuments Preservation Act, 1904; 7 of 1904.

(ii) an ancient and historical monument declared as 'protected monument' under sub-section (3) of section 4 of the Gujarat Ancient Monuments and Archaeological Sites and Remains Act, 1965; Guj. 25 of 1965.

(iii) a forest land or waste land declared as 'reserved forest land' under section 3 of the Indian Forest Act, 1927; XVI of 1927.

(iv) a forest land or waste land known as 'protected forest' under section 29 of the Indian Forest Act, 1927; XVI of 1927.

(v) an area declared as 'sanctuary' under sub-section (1) of section 18 of the Wild Life (Protection) Act, 1972; or 53 of 1972.

(vi) an area declared as 'national park' under section 35 of the Wild Life (Protection) Act, 1972. 53 of 1972.

(2) (a) The occupant shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority or statutory authority in relation to use of land for a *bonafide* industrial purpose under sub-section (1) before the land is put to use for such purpose.

(b) Where an occupant commences the use of the land for a *bonafide* industrial purpose under sub-section (1), he shall within thirty days from the date of commencement of the use of land for a *bonafide* industrial purpose, send a notice of the date of commencement of such use, alongwith other particulars in such form as may be prescribed by rules made under this Act, to the Collector and endorse a copy thereof to the Mamlatdar.

(3) Where, on the receipt of such notice alongwith other particulars sent by the occupant under clause (b) of sub-section (2), the Collector, after making such inquiry as he deems fit, —

(a) is satisfied that the occupant of such land has validly commenced the use of the land for a *bonafide* industrial purpose under sub-section (1), he shall issue a certificate to that effect to the occupant in such form and within such period as may be prescribed by rules made under this Act,

(b) is not so satisfied, he shall, after giving the occupant an opportunity of being heard, refuse to issue such certificate.

Provided that no such certificate shall be issued under clause (a) unless the conversion tax leviable under section 67A is paid.

(4)(a) Where the occupant fails to send the notice and other particulars to the Collector under clause (b) of sub-section (2) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Act, such fine not exceeding ten thousand rupees as the Collector may, subject to rules made under this Act, direct.

(b) (i) Where the occupant commences the use of such land for industrial purpose despite the non-fulfilment of any of the conditions specified in sub-section (1), or

(ii) where a certificate is refused to the occupant under clause (b) of sub-section (3),

he shall be liable, in addition to the payment of non-agricultural assessment leviable under this Act, to restore such land to its original use within such period as the Collector may specify in a notice served on such occupant in this behalf.

(c) Where such occupant does not restore the land to its original use within the period specified by the Collector in the notice served under clause (b),—

(i) he shall be liable to pay such fine not exceeding five thousand rupees and in addition, such daily fine not exceeding one hundred rupees per hectare or part thereof of land not so restored for each day during which such land is not restored to its original use, after the expiry of the period specified in such notice as the Collector may, subject to rules made under this Act, direct, and

(ii) the Collector shall take steps as he thinks fit to get such land restored to its original use and collect the cost incurred in this behalf from such occupant as an arrear of land revenue.

(5)(a) The occupant shall commence industrial activity on such land within three years from the date of the notice sent by him to the Collector under clause (b) of sub-section (2) and commence production of goods or providing of services on such land within five years from such date:

Provided that the period of three years or, as the case may be, five years may, on an application made by the occupant in that behalf, be extended from time to time by the Collector in such circumstances as may be prescribed by rules made under this Act.

(b) Where the occupant fails to commence industrial activity or production of goods or providing services within the period specified in clause (a) or the period extended under the proviso to clause (a), he shall be liable to pay, in addition to non-agricultural assessment leviable under section 48, non-agricultural assessment at the rate of five rupees per square metre of the land with effect from the date of expiry of the period of three years or five years or, as the case may be, the period extended under the proviso to clause (a) till he commences industrial activity or, as the case may be, commences production of goods or providing services.

Explanation I.— For the purposes of this section, section 48 and section 67A, the expression "bonafide industrial purpose" means an activity of manufacture, preservation or processing of goods, (other than the hazardous and toxic chemicals specified in Part II of the Schedule I to the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 made under the Environment (Protection) Act, 1986 and for the time being in force) or any handicraft, or industrial business or enterprise, carried on by any person and includes construction of industrial buildings used for the manufacturing process or purpose, or power projects or port projects and ancillary

industrial usage like research and development, godown, canteen, office building of the industry concerned, or providing housing accommodation to the workers of the industry concerned, or establishment of industrial estate including a co-operative estate or service industry or tourism or cottage industry.

Explanation II. — For the purposes of this section, an occupant shall be deemed to have commenced the use of land for a *bonafide* industrial purpose from the date on which he ceases to use the land for agricultural or non-agricultural purpose existing immediately before the date of such cesser."

5. *Amendment of section 67A of Bom. V of 1879.*—In the principal Act, in section 67A,—

(1) in sub-section (1),—

(a) in clause (b), for the words "in that section", the words "in that section, or" shall be substituted;

(b) after clause (b), the following clause shall be added, namely :—

"(c) is used for *bonafide* industrial purpose under section 65B, ";

(2) in sub-section (2), in the proviso, for the words "under this sub-section", the words, brackets, figure and letter "under this sub-section or under sub-section (2A)" shall be substituted;

(3) after sub-section (2) but before the proviso, the following new sub-section shall be inserted, namely :—

"(2A) Where any land assessed or held for any non-agricultural purpose not being an industrial purpose (hereinafter referred to as "the existing non-agricultural purpose") and situated in a specified area is used for a *bonafide* industrial purpose under section 65B, the occupant of such land shall be liable to pay to the State Government a tax at such rate as is equivalent to the difference between the rate of tax applicable to the industrial purpose specified in the corresponding entry in column (6) of the Table below and the rate of tax applicable to the existing non-agricultural purpose specified in columns (3), (4) and (5) of the Table below."

6. *Amendment of section 214 of Bom. V of 1879.*— In the principal Act, in section 214, in sub-section (2), clause (h) shall be renumbered as clause (gi) and after clause (gi) as so renumbered, the following clause shall be inserted, namely: —

"(h) the form of notice and the particulars to be sent under clause (b) of sub-section (2), the form of and the time within which a certificate is to be issued under sub-section (3), the rules subject to which the Collector may direct payment of fine under clauses (a) and (c) and the form of notice to be served under clause (b), of sub-section (4), and the circumstances in which the period may be extended under the proviso to clause (a) of sub-section (5), of section 65B."

STATEMENT

Under the existing provisions of sections 65 and 65A of the Bombay Land Revenue Code, 1879, permission of the Collector is required for change of use of the land from agricultural to non-agricultural or from one non-agricultural to another non-agricultural use. With a view to encouraging industrialists and entrepreneurs to start industries in the Gujarat State, it is considered necessary to do away with the requirement of taking permission of the Collector for change of use of land from agricultural or, as the case may be, non-agricultural to *bonafide* industrial purpose in the cases where the land is designated for use of industrial purpose in the draft or final development plan or in the draft or final town planning scheme or where the land is situated in the area where no such plan or scheme exists. However, before the use of land is changed from agricultural or non-agricultural to *bonafide* industrial purpose other than the purpose of manufacture or storage of chemical or petrochemical, the occupant is required to comply with certain conditions. Those conditions are that the land or part thereof is not reserved for any public purpose under the draft or final development plan or draft or final town planning scheme; it is not notified for acquisition under the Land Acquisition Act, 1894; it does not fall within the alignment of any road plan or the Command Area of any irrigation project or within thirty metres of any railway line or within fifteen metres of high voltage transmission line, etc. Where the occupant wishes to use such land for the purpose of manufacture or storage of any chemical or petrochemical industry, he is required to fulfil an additional condition that such land or part thereof is not situated within two kilometres from the boundary of the 'protected monument', 'reserved forest', 'protected forest', 'sanctuary' or 'national park' declared as such under the relevant laws. For the aforesaid purpose, a new section 65B is inserted in the said Code empowering the occupant to use the land for a *bonafide* industrial purpose without permission of the Collector. The expression '*bonafide* industrial purpose' is defined and while so defining, the activities of the manufacture, preservation and processing of hazardous and toxic chemicals specified in the rules made under the Environment (Protection) Act, 1986 are excluded. The said section 65B also provides for restoration of the land to its original use and for levy of additional non-agricultural assessment in the cases where the land is used for industrial purpose without complying with those conditions or where a certificate of valid use of land is refused. Certain consequential amendments in sections 48, 67A and 214 of the Code are also made.

For this purpose, a Bill called the Bombay Land Revenue Code (Gujarat Amendment) Bill, 1996 was introduced in the Gujarat Legislative Assembly on 25th March, 1996 but could not be taken up for consideration by the House for want of time. Therefore, as the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Code to achieve the aforesaid objects.

Gandhinagar,
Dated the 26th June, 1996.

KRISHNAPAL SINGH,
Governor of Gujarat.

By order and in the name of the Governor of Gujarat,
A. K. JOTI,
Secretary to Government.



The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XXX VII] WEDNESDAY, JUNE 26, 1996/ASADHA 5, 1918.

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

PART—IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

REVENUE DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 26th June, 1996.

GUJARAT ORDINANCE NO. 3 OF 1996.

AN ORDINANCE

further to amend the Bombay Tenancy and Agricultural Lands Act, 1948, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 and the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958.

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bombay Tenancy and Agricultural Lands Act, 1948, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 and the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Ordinance, 1996.

(2) It shall come into force at once.

2. *Bom. LXVII of 1948, Sau. Ord. XLI of 1949 and Bom. XCIX of 1958 to be temporarily amended.*—During the period of operation of this Ordinance, the Bombay Tenancy and Agricultural Lands Act, 1948, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 and the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 shall have effect subject to the amendments specified respectively in sections 3 to 10.

Bom. LXVII of 1948.
Sau. Ord. XLI of 1949.
Bom. XCIX of 1958.

Bom. LXVII of 1948.
Sau. Ord. XLI of 1949.
Bom. XCIX of 1958.

3. *Amendment of section 43 of Bom. LXVII of 1948.*—In the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "the Bombay Tenancy and Agricultural Lands Act"), in section 43,—

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

"(1C) The land to which sub-section (1) applies and for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 for use of such land for a *bonafide* industrial purpose may, notwithstanding anything contained in sub-section (1) of this section, be sold without the previous sanction of the Collector under sub-section (1) but subject to payment of such amount as may be determined by the State Government under sub-section (1).";

(2) in sub-section (2), after the words, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (1C)" shall be inserted.

4. *Insertion of new section in Bom. LXVII of 1948.*—In the Bombay Tenancy and Agricultural Lands Act, after section 63A, the following new section shall be inserted, namely :—

"63AA: (1) Nothing in section 63 shall prohibit the sale or the agreement for the sale of land for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 in favour of any person for use of such land by such person for a *bonafide* industrial purpose :

Provided that—

(a) the land is not situated within the urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976,

(b) where the area of the land proposed to be sold exceeds ten hectares, the person to whom the land is proposed to be sold in pursuance of this sub-section shall obtain previous permission of the Industries Commissioner, Gujarat State or such other officer, as the State Government may, by an order in writing, authorise in this behalf,

(c) the area of the land proposed to be sold shall not exceed four times the area on which construction for *bonafide* industrial purpose is proposed to be made by the purchaser:

Provided that any additional land which may be required for pollution control measures or required under any relevant law for the time being in force and certified as such by the relevant authority under that law shall not be taken into account for the purpose of computing four times the area,

(d) where the land proposed to be sold is owned by a person belonging to the Scheduled Tribe, the sale shall be subject to the provisions of section 73AA of the Bombay Land Revenue Code, 1879.

(2) Nothing in section 63A shall apply to any sale made in pursuance of sub-section (1).

(3) (a) Where the land is sold to a person in pursuance of sub-section (1) (hereinafter referred to as "the purchaser"), he shall within thirty days from the date of the purchase of the land for *bonafide* industrial purpose, send a notice of such purchase in such form alongwith such other particulars as may be prescribed, to the Collector and endorse a copy thereof to the Mamlatdar.

Sale of land for *bonafide* industrial purpose permitted in certain cases.

Bom. LXVII of 1948.

Bom. V of 1879.

Bom. V of 1879.

33 of 1976.

Bom. V of 1879.

(b) Where the purchaser fails to send the notice and other particulars to the Collector under clause (a) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Act, such fine not exceeding two thousand rupees as the Collector may, subject to rules made under this Act, direct.

(c) Where on receipt of the notice of the date of purchase for the use of land for a *bonafide* industrial purpose and other particulars sent by the purchaser under clause (a), the Collector, after making such inquiry as he deems fit,—

(i) is satisfied that the purchaser of such land has validly purchased the land for *bonafide* industrial purpose in conformity with the provisions of sub-section (1), he shall issue a certificate to that effect to the purchaser in such form and within such time as may be prescribed,

(ii) is not so satisfied, he shall, after giving the purchaser an opportunity of being heard, refuse to issue such certificate and on such refusal, the sale of land to the purchaser shall be deemed to be in contravention of section 63.

(d) (i) The purchaser aggrieved by the refusal to issue a certificate by the Collector under sub-clause (ii) of clause (c) may file an appeal to the State Government or such officer, as it may, by an order in writing, authorise in this behalf.

(ii) The State Government or the authorised officer shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it or he deems fit.

(4) (a) The purchaser shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority or statutory authority in relation to use of land for industrial purpose before the land is put to use for such purpose.

(b) The purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (3), shall commence industrial activity on such land within three years from the date of such certificate and commence production of goods or providing of services within five years from such date :

Provided that the period of three years or, as the case may be, five years may, on an application made by the purchaser in that behalf, be extended from time to time, by the State Government or such officer, as it may, by an order in writing, authorise in this behalf, in such circumstances as may be prescribed.

(5) Where the Collector, after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard, comes to a conclusion that the purchaser has failed to commence industrial activity or production of goods or providing of services within the period specified in clause (b) of sub-section (4), or the period extended under the proviso to that clause, the land shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the Collector may determine, having regard to the price paid by the purchaser and such land shall be disposed of by the State Government, having regard to the use of land."

5. *Amendment of section 82 of Bom. LXVII of 1948.*—In the Bombay Tenancy and Agricultural Lands Act, in section 82, in sub-section (2), after clause (ka), the following clause shall be inserted, namely:—

"(kaa) the form of notice and particulars to be sent under clause (a), the rules subject to which the Collector may direct the payment of fine under clause (b), the form of and the time within which a certificate is to be issued under sub-clause (i) of clause (c), of sub-section (3) and the circumstances in which the period may be extended under the proviso to clause (b) of sub-section (4), of section 63AA;"

6. *Insertion of new section in Sau. Ord. XLI of 1949.*—In the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 (hereinafter referred to as "the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance"), after section 54, the following new section shall be inserted, namely :—

Sale of land for bonafide industrial purpose permitted in certain cases.

"55. (1) Nothing in section 54 shall prohibit the sale or the agreement for the sale of land for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 in favour of any person for use of such land by such person for a bonafide industrial purpose :

Bom. V of 1879.

Provided that—

(a) the land is not situated within the urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976,

33 of 1976.

(b) where the area of the land proposed to be sold exceeds ten hectares, the person to whom the land is proposed to be sold in pursuance of this sub-section shall obtain previous permission of the Industries Commissioner, Gujarat State or such other officer, as the State Government may, by an order in writing, authorise in this behalf,

(c) the area of land proposed to be sold shall not exceed four times the area on which construction for bonafide industrial purpose is proposed to be made by the purchaser:

Provided that any additional land which may be required for pollution control measures or required under any relevant law for the time being in force and certified as such by the relevant authority under that law shall not be taken into account for the purpose of computing four times the area,

(d) where the land proposed to be sold is owned by a person belonging to the Scheduled Tribe, the sale shall be subject to the provisions of section 73AA of the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

(2) (a) Where the land is sold to a person in pursuance of sub-section (1) (hereinafter referred to as "the purchaser"), he shall within thirty days from the date of the purchase of the land for bonafide industrial purpose, send a notice of such purchase in such form alongwith such other particulars as may be prescribed, to the Collector and endorse a copy thereof to the Mamlatdar.

(b) Where the purchaser fails to send the notice and other particulars to the Collector under clause (a) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Ordinance, such fine not exceeding two thousand rupees as the Collector may, subject to rules made under this Ordinance, direct.

(c) Where on receipt of the notice of the date of purchase for the use of land for a *bonafide* industrial purpose and other particulars sent by the purchaser under clause (a), the Collector, after making such inquiry as he deems fit,—

(i) is satisfied that the purchaser of such land has validly purchased the land for *bonafide* industrial purpose in conformity with the provisions of sub-section (1), he shall issue a certificate to that effect to the purchaser in such form and within such time as may be prescribed,

(ii) is not so satisfied, he shall, after giving the purchaser an opportunity of being heard, refuse to issue such certificate and on such refusal, the sale of land to the purchaser shall be deemed to be in contravention of section 54.

(d) (i) The purchaser aggrieved by the refusal to issue a certificate by the Collector under sub-clause (ii) of clause (c) may file an appeal to the State Government or such officer, as it may, by an order in writing, authorise in this behalf.

(ii) The State Government or the authorised officer shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it or he deems fit.

(3)(a) The purchaser shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority or statutory authority in relation to use of land for industrial purpose before the land is put to use for such purpose.

(b) The purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (2) shall commence industrial activity on such land within three years from the date of certificate and commence production of goods or providing of services within five years from such date :

Provided that the period of three years or, as the case may be, five years may, on an application made by the purchaser in that behalf, be extended from time to time, by the State Government or such officer, as it may, by an order in writing, authorise in this behalf, in such circumstances as may be prescribed.

(4) Where the Collector, after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard, comes to a conclusion that the purchaser has failed to commence industrial activity or production of goods or providing of services within the period specified in clause (b) of sub-section (3), or the period extended under the proviso to that clause, the land shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the Collector may determine, having regard to the price paid by the purchaser and such land shall be disposed of by the State Government, having regard to the use of land."

7. *Amendment of section 73 of Sau. Ord. XLI of 1949.*—In the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, in section 73, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely :—

"(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for the following matters :—

(a) the manner of determining debts and liabilities under section 43;

(b) the manner of notifying liquidation scheme sanctioned under section 47;

(c) the conditions subject to which permission to acquire land or interest therein may be granted under section 54;

(d) the form of notice and particulars to be sent under clause (a), the rules subject to which the Collector may direct the payment of fine under clause (b), the form of and the time within which a certificate is to be issued under sub-clause (i) of clause (c), of sub-section (2) and the circumstances in which the period may be extended under the proviso to clause (b) of sub-section (3), of section 55; and

(e) any other matter which is to be or may be, prescribed under this Ordinance.

(3) Rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

(4) All rules made under this section shall be laid before the State Legislature as soon as may be after they are made and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

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

8. *Amendment of section 57 of Bom. XCIX of 1958.*—In the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 (hereinafter referred to as "the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act"), in section 57,—

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

"(1A) The land to which sub-section (1) applies and for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 for use of such land for a *bonafide* industrial purpose may notwithstanding anything contained in sub-section (1) of this section, be sold without the previous sanction of the Collector under sub-section (1)."

(2) in sub-section (2), after the words, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (1A)" shall be inserted.

9. *Insertion of new section in Bom. XCIX of 1958.*—In the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, after section 89, the following new section shall be inserted, namely:—

Sale of land for *bonafide* industrial purpose permitted in certain cases.

"89A. (1) Nothing in section 89 shall prohibit the sale or the agreement for the sale of land for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 in favour of any person for use of such land by such person for a *bonafide* industrial purpose."

Provided that—

(a) the land is not situated within the urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976.

33 of 1976.

(b) where the area of the land proposed to be sold exceeds ten hectares, the person to whom the land is proposed to be sold in pursuance of this sub-section shall obtain previous permission of the Industries Commissioner, Gujarat State, or such other officer, as the State Government may, by an order in writing, authorise in this behalf,

(c) the area of the land proposed to be sold shall not exceed four times the area on which construction for *bonafide* industrial purpose is proposed to be made by the purchaser.

Provided that any additional land which may be required for pollution control measures or required under any relevant law for the time being in force and certified as such by the relevant

authority under that law shall not be taken into account for the purpose of computing four times the area,

(d) where the land proposed to be sold is owned by a person belonging to the Scheduled Tribe, the sale shall be subject to the provisions of section 73AA of the Bombay Land Revenue Code, 1879. Bom. V
of 1879.

(2) Nothing in section 90 shall apply to any sale made in pursuance of sub-section (1).

(3) (a) Where the land is sold to a person in pursuance of sub-section (1) (hereinafter referred to as "the purchaser"), he shall within thirty days from the date of the purchase of the land for *bonafide* industrial purpose, send a notice of such purchase in such form along with such other particulars as may be prescribed, to the Collector and endorse a copy thereof to the Mamlatdar.

(b) Where the purchaser fails to send the notice and other particulars to the Collector under clause (a) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Act, such fine not exceeding two thousand rupees as the Collector may, subject to rules made under this Act, direct.

(c) Where on receipt of the notice of the date of purchase for the use of land for *bonafide* industrial purpose and other particulars sent by the purchaser under clause (a), the Collector, after making such inquiry as he deems fit,—

(i) is satisfied that the purchaser of such land has validly purchased the land for *bonafide* industrial purpose in conformity with the provisions of sub-section (1), he shall issue a certificate to that effect to the purchaser in such form and within such time as may be prescribed,

(ii) is not so satisfied, he shall, after giving the purchaser an opportunity of being heard, refuse to issue such certificate and on such refusal, the sale of land to the purchaser shall be deemed to be in contravention of section 89.

(d) (i) The purchaser aggrieved by the refusal to issue a certificate by the Collector under sub-clause (ii) of clause (c) may file an appeal to the State Government or such officer, as it may, by an order in writing, authorise in this behalf.

(ii) The State Government or the authorised officer shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it or he deems fit.

(e) (a) The purchaser shall comply with the provisions of any law for the time being in force or any order or directions of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority or statutory authority in relation to use of land for industrial purpose before the land is put to use for such purpose.

(b) The purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (3), shall commence industrial activity on such land within three years from the date of such certificate and commence production of goods or providing of services within five years from such date :

Provided that the period of three years or, as the case may be, five years may, on an application made by the purchaser in that behalf, be extended from time to time, by the State Government or such officer, as it may, by an order in writing authorise in this behalf, in such circumstances as may be prescribed.

(5) Where the Collector, after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard, comes to a conclusion that the purchaser has failed to commence industrial activity or production of goods or providing of services within the period specified in clause (b) of sub-section (4), or the period extended under the proviso to that clause, the land

shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the Collector may determine, having regard to the price paid by the purchaser and such land shall be disposed of by the State Government, having regard to the use of land."

10. *Amendment of section 118 of Bom. XCLX of 1958.*—In the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, in section 118, in sub-section (2), after clause (xix), the following clause shall be inserted, namely:—

"(xix-a) the form of notice and particulars to be sent under clause (a), the rules subject to which Collector may direct the payment of fine under clause (b), the form of and the time within which a certificate is to be issued under sub-clause (i) of clause (c), of sub-section (3) and the circumstances in which the period may be extended under the proviso to clause (b) of sub-section (4), of section 89A."

STATEMENT

At present there are three different Tenancy Laws in operation in the State. In the Bombay area of the State, the Bombay Tenancy and Agricultural Lands Act, 1948 is in force, in the Kutch area of the State, the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 is in force, and in the Saurashtra area of the State, the Saurashtra Gharkhed Tenancy Settlement and Agricultural Lands Ordinance, 1949 is in force. In the Acts applicable to the Bombay area and the Kutch area of the State, the tenant is prohibited from selling without the permission of the Collector, the land which he has purchased under those Acts and in all the three Acts, there is prohibition against the sale of agricultural land by an agriculturist to a non-agriculturist without the permission of the Collector. With a view to encouraging industrialists and entrepreneurs to start industries in the State, it is considered necessary to amend those Acts to do away with bar against sale of land by tenant or by an agriculturist to non-agriculturist without taking permission of the Collector so that the land can immediately be used for a *bonafide* industrial purpose. However, where the total extent of such land so purchased exceeds ten hectares, the purchaser is required to obtain prior permission of the Industries Commissioner or an officer authorised by the State Government. Under the amended provisions, the purchaser is required to commence the industrial activity within a period of three years from the date of issue of certificate of valid sale to him by the Collector and to commence production of goods or providing services within five years from such date or within the extended period, failing which the land shall vest in the State Government on payment of compensation to the purchaser and the Government would be free to dispose it of having regard to the use of land.

For this purpose, a Bill called the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Bill, 1996 was introduced in the Gujarat Legislative Assembly on 25th March, 1996, but could not be taken up for consideration by the House for want of time. Therefore, as the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend these three Acts to achieve the aforesaid objects.

Gandhinagar,

Dated the 26th June, 1996

KRISHNAPAL SINGH,

Governor of Gujarat.

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

A. K. JOTI,

Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXVII | WEDNESDAY, AUGUST 7, 1996 / SRAVANA 16, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

AGRICULTURE, CO-OPERATION AND RURAL DEVELOPMENT DEPARTMENT
 Sachivalaya, Gandhinagar, Dated the 7th August, 1996.

GUJARAT ORDINANCE NO. 4 OF 1996.

AN ORDINANCE

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

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

Guj. X
of
1962.

AND WHEREAS the Governor of Gujarat is satisfied that the circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Co-operative Societies Act, 1961;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. (1) *Short title and commencement.*—This Ordinance may be called the Gujarat Co-operative Societies (Amendment) Ordinance, 1996.

(2) It shall come into force at once.

Guj. X
of
1962.

2. *Guj. X of 1962 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in section 3.

3. *Amendment of section 99 of Guj. X of 1962.*—In the principal Act, in section 99, after sub-section (3), the following new sub-sections shall be inserted, namely:—

"(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), the following disputes or class of disputes, if the plaintiff so desires, shall be decided summarily by the Registrar, or his nominee or board of nominees, in such manner as may be prescribed, namely :—

(a) any dispute for recovery of debt upon promissory note, *hundi*, bill of exchange or bond, with or without interest, whether agreed upon under such instrument or under the bye-laws;

(b) any dispute for recovery of a fixed sum of money or in the nature of debt, with or without interest, arising on a written contract;

(c) any dispute for recovery of price of goods sold and delivered, where the rate, quality and quantity are admitted in writing;

(d) any dispute for recovery of dues payable by a member of a housing society towards contribution for construction of the house, or any dispute in respect of repayment of any loan, interest on loan, ground rent, local authority taxes, sinking fund, water charges, electrical charges, maintenance and upkeep charges or charges for other services rendered by the society and the interest on such arrears, payable under the written agreement or under the bye-laws.

(5) (a) The defendant shall not be entitled to defend the dispute unless he obtains leave from the Registrar, his nominee or, as the case may be, the board of nominees, in such manner as may be prescribed.

(b) The Registrar, his nominee or board of nominees may grant the leave under clause (a) on such conditions, as he thinks fit.

(c) The Registrar, his nominee or board of nominees shall not refuse the leave to defend the dispute unless he is satisfied that the facts disclosed by the defendant do not indicate that he has substantial defence to raise or that the defence intended to be put up by him is frivolous or vexatious.

(d) Where the defendant fails to obtain such leave or fails to appear or defend the dispute in pursuance of such leave, the averments made in the plaint and documents produced therewith shall be deemed to have been admitted by the defendant :

Provided that the Registrar, his nominee or board of nominees in his discretion requires any fact so admitted to be proved otherwise than by such admission.

(e) Where the conditions on which leave to defend is granted are not complied with by the defendant, the Registrar, his nominee or, as the case may be, board of nominees may pass award against him, as if he has not been granted such leave.

(6) The Registrar, his nominee or, as the case may be, board of nominees shall under special circumstances set aside the award passed by him and if necessary, stay or set-aside execution, and may grant leave to the defendant to appear and defend the disputes, if it seems reasonable so to do, and on such terms as he thinks fit."

STATEMENT

Under the existing provisions of section 99 of the Gujarat Co-operative Societies Act, 1961, the Registrar, his nominee or board of nominees has been empowered to decide the disputes referred to him under section 98 of the Act. Certain types of disputes are based on documentary evidence which hardly require proof or which have little scope for defence such as money suits of a Co-operative Bank or Housing Society, etc. In absence of any provision regarding summary procedure in the Act, even such type of disputes are decided after following the detailed procedure. In order to safeguard the public money and speedy recovery thereof, to give justice timely to the people and to have quick disposal of pending disputes, it is considered necessary to empower the Registrar, his nominee or the board of nominees to decide such disputes summarily.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Act to achieve the aforesaid object.

Gandhinagar,
Dated the 6th August, 1996.

KRISHNAPAL SINGH,
Governor of Gujarat.

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

R. PARTHASARATHY,
Additional Chief Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

VOL. XXXVII] FRIDAY, AUGUST 9, 1996/SRAVANA 18, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

EDUCATION DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 9th August, 1996.

GUJARAT ORDINANCE NO. 5 OF 1996.

AN ORDINANCE

further to amend the Gujarat Secondary Education Act, 1972.

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

Guj. 18
of 1973,

AND, WHEREAS, the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Secondary Education Act, 1972;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Secondary Education (Amendment) Ordinance, 1996.

(2) It shall come into force at once.

2. *Guj. 18 of 1973 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Secondary Education Act, 1972 (hereinafter referred to as "the principal Act") shall have effect subject to the amendment specified in section 3. Guj. 18
of
1973.

3. *Amendment of section 3 of Guj. 18 of 1973.*—In the principal Act, in section 3, in sub-section (2), under the heading "Class B-Elected Members", after clause (vi-a), the following clause shall be inserted, namely :-

"(vi-aa) three members elected by the teaching staff of registered private higher secondary schools from amongst themselves."

STATEMENT

Under the existing provisions of the Gujarat Secondary Education Act, 1972, the teaching staff of registered private higher secondary schools is not represented on the Gujarat Secondary Education Board constituted under section 3 of the said Act. It is considered necessary to have three members elected by the teaching staff of registered private higher secondary schools from amongst themselves on the said Board.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend section 3 of the said Act to achieve the aforesaid object.

Camp at Delhi,
Dated the 8th August, 1996.

KRISHNAPAL SINGH,
Governor of Gujarat.

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

H. V. PATEL,
Deputy Secretary to Government.



**The Gujarat Government Gazette
EXTRAORDINARY**

PUBLISHED BY AUTHORITY

VOL. XXXVII] SATURDAY, OCTOBER 12, 1996 / ASVINA 20, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

INFORMATION, BROADCASTING AND TOURISM DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 12th October, 1996.

GUJARAT ORDINANCE NO. 6 OF 1996.

AN ORDINANCE

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

Promulgated by the Governor in the Forty-seventh Year of the Republic
of India.

WHEREAS the President of India has, by proclamation issued under
article 356 of the Constitution of India and published in the notification of
the Government of India, Ministry of Home Affairs, No. C.S.R. 429 (E) in
the Gazette of India, Extraordinary, dated the 19th September, 1996,
assumed to himself all the functions of the Government of the State of
Gujarat and all powers vested in, or exercisable by, the Governor of that
State;

AND WHEREAS under sub-clause (iii) of clause (c) of the said proclamation, references in article 213 of the Constitution to the Governor and to the Legislature of the State or the House thereof shall be construed as references to the President and the Parliament or to the Houses thereof respectively;

AND WHEREAS by the Order published in the notification of the Government of India, Ministry of Home Affairs, No. C.S.R. 430(E) in the Gazette of India, Extraordinary, dated the 19th September, 1996, the President has further directed that all the functions of the Government of the State of Gujarat and all powers vested in, or exercisable by, the Governor of that State under the Constitution, which have been assumed by him by the said proclamation, shall, subject to the superintendence, direction and control of the President, be exercisable also by the Governor of the said State;

AND WHEREAS the power to promulgate Ordinance is vested in the Governor under article 213 of the Constitution to be exercisable by him while the Legislature of the State is not in session;

AND WHEREAS both houses of Parliament are not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977; Guj. 24 of 1977

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, read with the President's aforesaid Order No. C.S.R. 430(E) dated the 19th September, 1996, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*— (1) This Ordinance may be called the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) (Second) Ordinance, 1996.

(2) It shall be deemed to have come into force on the 18th June, 1996.

2. *Guj. 24 of 1977 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in sections 3 to 10. Guj. 24 of 1977

3. *Amendment of section 2 of Guj. 24 of 1977.*— In the principal Act, in section 2, clause (c) shall be deleted.

4. *Amendment of section 3 of Guj. 24 of 1977.*— In the principal Act, in section 3, in sub-section (1), second proviso shall be deleted.

5. *Amendment of section 4 of Guj. 24 of 1977.*— In the principal Act, in section 4, sub-sections (3) and (4) shall be deleted.

6. *Amendment of section 5 of Guj. 24 of 1977.*— In the principal Act, in section 5, in sub-section (1), for the words "eight days", the words "fifteen days" shall be substituted.

7. *Amendment of section 9 of Guj. 24 of 1977.*— In the principal Act, in section 9, in sub-section (1), after the word and figure "section 6", the words, figures and letter "or under section 20C" shall be inserted.

8. *Amendment of section 10 of Guj. 24 of 1977.*— In the principal Act, in section 10,—

(1) in sub-section (1), after the words "*suo motu*", the words "or on an application made in that behalf" shall be inserted;

(2) for sub-sections (2) and (2A), the following shall be substituted, namely :—

"(2) No order shall be revised under sub-section (1) after the expiry of two years from the date of such order unless the State Government or, as the case may be, designated officer, is satisfied that the proprietor was prevented by sufficient cause from making the application within that period.

Explanation.—In computing the period of limitation for the purpose of this sub-section,—

(a) any period during which the record of any proceeding has not been called for under the proviso to sub-section (1), and

(b) any period during which any proceeding under this section is stayed by an order or injunction of any civil court,

shall be excluded.";

(3) in sub-section (3), for the words "the designated officer or, as the case may be, the Commissioner of Luxury Tax", the words "or, as the case may be, the designated officer" shall be substituted;

(4) in sub-section (5), for the words "Commissioner of Luxury Tax", the words "State Government or, as the case may be, the designated officer" shall be substituted.

9. *Amendment of section 13 of Guj. 24 of 1977.*— In the principal Act, in section 13, in sub-section (1), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

10. *Insertion of new sections 20A, 20B and 20C in Guj. 24 of 1977.*— In the principal Act, after section 20, the following new sections shall be inserted, namely :—

Power to
reduce rate
of tax.

"20A. (1) The State Government may, by notification in the *Official Gazette*, reduce any rate of tax specified in sub-section (1) of section 3.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued 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 it is 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.

Exemption.

20B. (1) The State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any person or persons to whom any luxury is provided by such hotel or class of hotels from payment of whole or part of the tax, subject to such conditions, as may be specified therein.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued 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 it is 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.

Liability to
pay tax in
event of
breach of
conditions
of
exemption.

20C. (1) Where any person or persons to whom luxury is provided in a hotel or class of hotels exempted under section 20B from whole or any part of the tax subject to any condition, then, in the event of breach of any such condition, the proprietor of such hotel shall, notwithstanding such exemption, be liable to pay tax in relation to the luxury provided in such hotel.

(2) If the Collector has reason to believe that the proprietor is liable to pay tax under sub-section (1), he shall serve on the proprietor a notice requiring him on a date and place specified therein, either to attend and produce or cause to be produced all evidence on which such proprietor relies in connection with his liability under this section or to produce such evidence as is specified in the notice. On the date specified in the notice, or as soon thereafter, the Collector shall, after considering all the evidence which may be produced, assess to the best of his judgement, the amount of tax so due."

11. *Repeal and savings.*—(1) The Gujarat Tax on Luxuries (Hotels and Lodging Houses)(Amendment) Ordinance, 1996 is hereby repealed. Guj. Ord.
1 of 1996.

(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 Ordinance.

STATEMENT

With a view to promoting tourism in the State of Gujarat as envisaged in the New Tourism Policy declared on the floor of the House of the Legislative Assembly on the 29th July, 1995, it was considered necessary to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977.

Under the existing provisions of sub-section (3) of section 4 of the Act, the tax is levied on full charge for the luxury provided in a hotel eventhough when such luxury is provided free of charge or at concessional rate. In order to promote business of hotel industries, it is considered necessary to delete clause (c) of section 2 and sub-sections (3) and (4) of section 4 so as to levy tax on the actual charge of lodging paid by the person.

It is considered necessary to delete the second proviso to sub-section (1) of section 3, which provides for exemption to certain categories of persons from payment of tax.

Sub-section (1) of section 5 is amended so as to increase the period of furnishing monthly returns from eight days to fifteen days.

Under the existing provisions of section 10, the power to revise the order of the Collector or the Appellate Authority is conferred concurrently on the State Government as well as the Commissioner of Luxury Tax. It is considered necessary that such power should rest only with the State Government. Therefore, section 10 is amended to provide accordingly.

Sub-section (1) of section 13 is amended so as to increase the amount of penalty from one thousand rupees to ten thousand rupees.

New sections 20A, 20B and 20C are inserted in the Act. New section 20A empowers the State Government to reduce, by notification in the *Official Gazette*, the rate of tax specified in sub-section (1) of section 3. New section 20B empowers the State Government to exempt, by notification in the *Official Gazette*, in the public interest, a person to whom any luxury is provided by such hotel or class of hotels, from payment of whole or part of the tax, subject to such conditions, as may be specified therein. New section 20C makes the proprietor liable to pay luxury tax in the event of breach of conditions for such exemption.

As the Gujarat Legislative Assembly was not in session, the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Ordinance, 1996 was promulgated on the 18th June, 1996 to achieve the aforesaid objects. The Legislative Assembly of the State was summoned to meet on the 3rd September, 1996 but the said Ordinance could not be replaced by an Act of the State Legislature in that session. By virtue of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance would cease to operate after the 14th October, 1996, the date on which the period of six weeks from the date of re-assembly of the Gujarat Legislative Assembly expires. It is expedient to take immediate action to continue the operation of the provisions of the said Ordinance.

The President of India has, by proclamation dated the 19th September, 1996 issued under article 356 of the Constitution of India, assumed to himself the powers of the Governor of the State and declared that the powers of the Legislature shall be exercisable by or under the authority of the Parliament. The President by order dated the 19th September, 1996 has directed that all the powers vested in, or exercisable by, the Governor of the State under the Constitution which have been assumed by the President, shall be exercisable also by the Governor of the State. Therefore, as both the Houses of the Parliament are not in session, this Ordinance is promulgated to achieve the aforesaid objects.

Gandhinagar,

Dated the 12th October, 1996.

KRISHNAPAL SINGH

Governor of Gujarat.

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

SWATANTRA K. SEKHON,

Secretary to Government.



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XXXVII] SATURDAY, OCTOBER 12, 1996 / ASVINA 20, 1918

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

PART-IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

EDUCATION DEPARTMENT

Sachivalaya, Gandhinagar. Dated the 12th. October, 1996.

GUJARAT ORDINANCE NO. 7 OF 1996.

AN ORDINANCE

further to amend the Gujarat Secondary Education Act, 1972.

Promulgated by the Governor in the Forty-seventh Year of the Republic of India.

WHEREAS the President of India has, by proclamation issued under article 356 of the Constitution of India and published in the notification of the Government of India, Ministry of Home Affairs, No. C.S.R. 429 (E) in the Gazette of India, Extraordinary, dated the 19th September, 1996, assumed to himself all the functions of the Government of the State of Gujarat and all powers vested in, or exercisable by, the Governor of that State;

AND WHEREAS under sub-clause (iii) of clause (c) of the said proclamation, references in article 213 of the Constitution to the Governor

and to the Legislature of the State or the House thereof shall be construed as references to the President and the Parliament or to the Houses thereof respectively;

AND WHEREAS by the Order published in the notification of the Government of India, Ministry of Home Affairs, No. C.S.R. 430(E) in the Gazette of India, Extraordinary, dated the 19th September, 1996, the President has further directed that all the functions of the Government of the State of Gujarat and all powers vested in, or exercisable by, the Governor of that State under the Constitution, which have been assumed by him by the said proclamation, shall, subject to the superintendence, direction and control of the President, be exercisable also by the Governor of the said State;

AND WHEREAS the power to promulgate Ordinance is vested in the Governor under article 213 of the Constitution to be exercisable by him while the Legislature of the State is not in session;

AND WHEREAS both houses of Parliament are not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Secondary Education Act, 1972; Guj. 18 of 1973

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, read with the President's aforesaid Order No. C.S.R. 430(E) dated the 19th September, 1996, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Secondary Education (Amendment) (Second) Ordinance, 1996.

(2) It shall be deemed to have come into force on the 9th August, 1996.

2. *Guj. 18 of 1973 to be temporarily amended.*— During the period of operation of this Ordinance, the Gujarat Secondary Education Act, 1972 Guj. 18 of 1973 (hereinafter referred to as "the principal Act"), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 3 of Guj. 18 of 1973.*—In the principal Act, in section 3, in sub-section (2), under the heading "Class B—Elected Members", after clause (vi-a), the following clause shall be inserted, namely:—

" (vi-aa). three members elected by the teaching staff of registered higher secondary schools from amongst themselves."

4. *Repeal and savings.*—(1) The Gujarat Secondary Education (Amendment) Ordinance, 1996 is hereby repealed.

Guj. Ord. 5
of 1996.

(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 Ordinance.

STATEMENT

Under the existing provisions of the Gujarat Secondary Education Act, 1972 the teaching staff of registered higher secondary schools is not represented on the Gujarat Secondary Education Board constituted under section 3 of the said Act. It was considered necessary to have three members elected by the teaching staff of registered higher secondary schools from amongst themselves on the said Board.

As the Gujarat Legislative Assembly was not in session, the Gujarat Secondary Education (Amendment) Ordinance, 1996 was promulgated on the 9th August, 1996 to achieve the aforesaid objects. The Legislative Assembly of the State was summoned to meet on the 3rd September, 1996 but the said Ordinance could not be replaced by an Act of the State Legislature in that session. By virtue of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance would cease to operate after the 14th October, 1996, the date on which the period of six weeks from the date of re-assembly of the Gujarat Legislative Assembly expires. It is expedient to take immediate action to continue the operation of the provisions of the said Ordinance.

The President of India has, by proclamation dated the 19th September, 1996 issued under article 356 of the Constitution of India, assumed to himself the powers of the Governor of the State and declared that the powers of the Legislature shall be exercisable by or under the authority of the Parliament. The President by order dated the 19th September, 1996 has directed that all the powers vested in, or exercisable by, the Governor of the State under the Constitution which have been assumed by the President, shall be exercisable also by the Governor of the State. Therefore, as both the Houses of the Parliament are not in session, this Ordinance is promulgated to achieve the aforesaid object.

Gandhinagar,

Dated the 12th October, 1996.

KRISHNAPAL SINGH,
Governor of Gujarat.

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

H. V. PATEL,
Deputy Secretary to Government.

Extra No. 17

REGISTERED NO. G/GNR/2.



The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XXXVII] SATURDAY, OCTOBER 12, 1996 / ASVINA 20, 1918

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

PART—IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

AGRICULTURE, CO-OPERATION AND RURAL DEVELOPMENT DEPARTMENT

Sachivalaya, Gandhinagar Dated the 12th October, 1996.

GUJARAT ORDINANCE NO. 8 OF 1996.

AN ORDINANCE

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

Promulgated by the Governor in the Forty-seventh Year of the Republic of India.

WHEREAS the President of India has, by proclamation issued under article 356 of the Constitution of India and published in the notification of the Government of India, Ministry of Home Affairs, No. C.S.R. 429 (E) in the Gazette of India, Extraordinary, dated the 19th September, 1996, assumed to himself all the functions of the Government of the State of Gujarat and all powers vested in, or exercisable by, the Governor of that State;

AND WHEREAS under sub-clause (iii) of clause (c) of the said proclamation, references in article 213 of the Constitution to the Governor and to the Legislature of the State or the House thereof shall be construed as references to the President and the Parliament or to the Houses thereof respectively;

AND WHEREAS by the Order published in the notification of the Government of India, Ministry of Home Affairs, No. C.S.R. 430(E) in the Gazette of India, Extraordinary, dated the 19th September, 1996, the President has further directed that all the functions of the Government of the State of Gujarat and all powers vested in, or exercisable by the Governor of that State under the Constitution, which have been assumed by him by the said proclamation, shall, subject to the superintendence, direction and control of the President, be exercisable also by the Governor of the said State;

AND WHEREAS the power to promulgate Ordinance is vested in the Governor under article 213 of the Constitution to be exercisable by him while the Legislature of the State is not in session;

AND WHEREAS both houses of Parliament are not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Co-operative Societies Act, 1961; Guj. X of 1962.

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India read with the President's aforesaid Order No. C.S.R. 430(E) dated the 19th September, 1996, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*— (1) This Ordinance may be called the Gujarat Co-operative Societies (Amendment) (Second) Ordinance, 1996.

(2) It shall be deemed to have come into force on the 7th August, 1996.

2. *Guj. X of 1962 to be temporarily amended.*— During the period of operation of this Ordinance, the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in section 3. Guj. X of 1962.

3. *Amendment of section 99 of Guj. X of 1962.*—In the principal Act, in section 99, after sub-section (3), the following new sub-sections shall be inserted, namely :—

"(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), the following disputes or class of disputes, if the plaintiff so desires, shall be decided summarily by the Registrar, or his nominee or board of nominees, in such manner as may be prescribed, namely :—

(a) any dispute for recovery of debt upon promissory note, *hundi*, bill of exchange or bond, with or without interest, whether agreed upon under such instrument or under the bye-laws;

(b) any dispute for recovery of a fixed sum of money or in the nature of debt, with or without interest, arising on a written contract;

(c) any dispute for recovery of price of goods sold and delivered, where the rate, quality and quantity are admitted in writing;

(d) any dispute for recovery of dues payable by a member of a housing society towards contribution for construction of the house, or any dispute in respect of repayment of any loan, interest on loan, ground rent, local authority taxes, sinking fund, water charges, electrical charges, maintenance and upkeep charges or charges for other services rendered by the society and the interest on such arrears, payable under the written agreement or under the bye-laws.

(5) (a) The defendant shall not be entitled to defend the dispute unless he obtains leave from the Registrar, his nominee or, as the case may be, the board of nominees, in such manner as may be prescribed.

(b) The Registrar, his nominee or board of nominees may grant the leave under clause (a) on such conditions, as he or it thinks fit.

(c) The Registrar, his nominee or board of nominees shall not refuse the leave to defend the dispute unless he or it satisfies that the facts disclosed by the defendant do not indicate that he has substantial defence to raise or that the defence intended to be put up by him is frivolous or vexatious.

(d) Where the defendant fails to obtain such leave or fails to appear or defend the dispute in pursuance of such leave, the averments made in the plaint and documents produced therewith shall be deemed to have been admitted by the defendant :

Provided that the Registrar, his nominee or board of nominees in his or its discretion requires any fact so admitted to be proved otherwise than by such admission.

(e) Where the conditions on which leave to defend is granted are not complied with by the defendant, the Registrar, his nominee or, as the case may be, board of nominees may pass an award against him, as if he has not been granted such leave.

(6) The Registrar, his nominee or, as the case may be, board of nominees may under special circumstances set aside the award passed by him or it and if necessary, stay or set-aside the execution, and may grant leave to the defendant to appear and defend the disputes, if it seems reasonable so to do, and on such terms as he or it thinks fit."

4. *Repeal and savings.*—(1) The Gujarat Co-operative Societies (Amendment) Ordinance, 1996 is hereby repealed.

Guj. Ord. 4
of 1996.

(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 Ordinance.

STATEMENT

Under the existing provisions of section 99 of the Gujarat Co-operative Societies Act, 1961, the Registrar, his nominee or board of nominees has been empowered to decide the disputes referred to him under section 98 of the Act. Certain types of disputes are based on documentary evidence which hardly require proof or which have little scope for defence such as money suits of a Co-operative Bank of Housing Society, etc. In absence of any provision regarding summary procedure in the Act, even such type of disputes are decided after following the detailed procedure. In order to safeguard the public money and speedy recovery thereof, to give justice timely to the people and to have quick disposal of pending disputes, it was considered necessary to empower the Registrar, his nominee or the board of nominees to decide such disputes summarily.

As the Gujarat Legislative Assembly was not in session, the Gujarat Co-operative Societies (Amendment) Ordinance, 1996 was promulgated on the 7th August, 1996 to achieve the aforesaid objects. The Legislative Assembly of the State was summoned to meet on the 3rd September, 1996 but the said Ordinance could not be replaced by an Act of the State Legislature in that session. By virtue of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance would cease to operate after the 14th October, 1996, the date on which the period of six weeks from the date of re-assembly of the Gujarat Legislative Assembly expires. It is expedient to take immediate action to continue the operation of the provisions of the said Ordinance.

The President of India has, by proclamation dated the 19th September, 1996 issued under article 356 of the Constitution of India, assumed to himself the powers of the Governor of the State and declared that the powers of the Legislature shall be exercisable by or under the authority of the Parliament. The President by order dated the 19th September, 1996 has directed that all the powers vested in, or exercisable by the Governor of the State under the Constitution which have been assumed by the President, shall be exercisable also by the Governor of the State. Therefore, as both the Houses of the Parliament are not in session, this Ordinance is promulgated to achieve the aforesaid objects.

Gandhinagar,

Dated the 12th October, 1996.

KRISHNAPAL SINGH

Governor of Gujarat.

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

K. J. RATHOD,

Deputy Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

IV-Ex. 17-2



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

VOL. XXXVII] MONDAY, OCTOBER 14, 1996 / ASVINA 22, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

REVENUE DEPARTMENT

Sachivalaya, Gandhinagar. Dated the 14th October, 1996.

GUJARAT ORDINANCE NO. 9 OF 1996.

AN ORDINANCE

to amend the Bombay Land Revenue Code (Gujarat Amendment) Ordinance, 1996.

Promulgated by the Governor in the Forty-seventh Year of the Republic of India.

WHEREAS the President of India has, by proclamation issued under article 356 of the Constitution of India and published in the notification of the Government of India, Ministry of Home Affairs, No. C.S.R. 429 (E) in the Gazette of India, Extraordinary, dated the 19th September, 1996, assumed to himself all the functions of the Government of the State of Gujarat and all powers vested in, or exercisable by, the Governor of that State;

AND WHEREAS under sub-clause (iii) of clause (c) of the said proclamation, references in article 213 of the Constitution to the Governor and to the Legislature of the State or the Houses thereof shall be construed as references to the President and the Parliament or to the Houses thereof respectively;

AND WHEREAS by the Order published in the notification of the Government of India, Ministry of Home Affairs, No. C.S.R. 430(E) in the Gazette of India, Extraordinary, dated the 19th September, 1996, the President has further directed that all the functions of the Government of the State of Gujarat and all powers vested in, or exercisable by, the Governor of that

State under the Constitution, which have been assumed by him by the said proclamation, shall, subject to the superintendence, direction and control of the President, be exercisable also by the Governor of the said State;

AND WHEREAS the power to promulgate Ordinance is vested in the Governor under article 213 of the Constitution to be exercisable by him while the Legislature of the State is not in session;

AND WHEREAS both houses of Parliament are not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bombay Land Revenue Code (Gujarat Amendment) Ordinance, 1996;

Guj. Ord. 2 of 1996.

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India read with the President's aforesaid Order No. C.S.R: 430(E) dated the 19th September, 1996, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*— (1) This Ordinance may be called the Bombay Land Revenue Code (Gujarat Amendment) Amending Ordinance, 1996.

(2) It shall be deemed to have come into force on the 26th June, 1996.

2. *Insertion of new section in Guj. Ord. 2 of 1996.*— In the Bombay Land Revenue Code (Gujarat Amendment) Ordinance, 1996, after section 6, the following section shall be added, namely:—

Guj. Ord. 2 of 1996.

"7. The expiration of the Bombay Land Revenue Code (Gujarat Amendment) Ordinance, 1996 shall not affect—

Guj. Ord. 2 of 1996.

(a) the previous operation of or anything duly done or suffered under the principal Act, as amended by the said Ordinance (hereinafter referred to as "the amended Act"); or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the amended Act; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the amended Act; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the said Ordinance had not expired."

STATE MENT

As the Gujarat Legislative Assembly was not in session, the Bombay Land Revenue Code (Gujarat Amendment) Ordinance, 1996 was promulgated on the 26th June, 1996. The Legislative Assembly of the State was summoned to meet on the 3rd September, 1996 but the said Ordinance could not be replaced by an Act of the State Legislature in that session. By virtue of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance would cease to operate after the 14th October, 1996, the date on which the period of six weeks from the date of re-assembly of the Gujarat Legislative Assembly expires. Since the aforesaid Ordinance is not replaced by another Ordinance, it is expedient to take immediate action to continue the previous operation of the provisions of the Code as amended by the said Ordinance by insertion of new section 7 in the said Ordinance.

The President of India has, by proclamation dated the 19th September, 1996 issued under article 356 of the Constitution of India, assumed to himself the powers of the Governor of the State and declared that the powers of the Legislature shall be exercisable by or under the authority of the Parliament. The President by order dated the 19th September, 1996 has directed that all the powers vested in, or exercisable by, the Governor of the State under the Constitution which have been assumed by the President, shall be exercisable also by the Governor of the State. Therefore, as both the Houses of the Parliament are not in session, this Ordinance is promulgated to achieve the aforesaid object.

Camp at New Delhi.
Dated the 14th October, 1996.

KRISHNAPAL SINGH,
Governor of Gujarat.

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

A. K. JOTI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

VOL. XXXVII]

MONDAY, OCTOBER 14, 1996 / ASVINA 22, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

REVENUE DEPARTMENT

Sachivalaya, Gandhinagar. Dated the 14th October, 1996.

GUJARAT ORDINANCE NO. 10 OF 1996.

AN ORDINANCE

*to amend the Gujarat Tenancy and Agricultural Lands Laws (Amendment)
Ordinance, 1996.*

Promulgated by the Governor in the Forty-seventh Year of the Republic of India.

WHEREAS the President of India has, by proclamation issued under article 356 of the Constitution of India and published in the notification of the Government of India, Ministry of Home Affairs, No. C.S.R. 429 (E) in the Gazette of India, Extraordinary, dated the 19th September, 1996, assumed to himself all the functions of the Government of the State of Gujarat and all powers vested in, or exercisable by, the Governor of that State;

AND WHEREAS under sub-clause (iii) of clause (c) of the said proclamation, references in article 213 of the Constitution to the Governor and to the Legislature of the State or the House thereof shall be construed as references to the President and the Parliament or to the Houses thereof respectively;

AND WHEREAS by the Order published in the notification of the Government of India, Ministry of Home Affairs, No. C.S.R. 430(E) in the Gazette of India, Extraordinary, dated the 19th September, 1996, the President has further directed that all the functions of the Govern-

ment of the State of Gujarat and all powers vested in, or exercisable by, the Governor of that State under the Constitution, which have been assumed by him by the said proclamation, shall, subject to the superintendence, direction and control of the President, be exercisable also by the Governor of the said State;

AND WHEREAS the power to promulgate Ordinance is vested in the Governor under article 213 of the Constitution to be exercisable by him while the Legislature of the State is not in session;

AND WHEREAS both houses of Parliament are not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Ordinance, 1996; Guj. Ord. 3 of 1996.

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India read with the President's aforesaid Order No. C.S.R. 430(E) dated the 19th September, 1996, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Amending Ordinance, 1996;

(2) It shall be deemed to have come into force on the 26th June, 1996.

2. *Insertion of new section in Guj. Ord. 3 of 1996.*— In the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Ordinance, 1996, after section 10, the following section shall be added, namely:— Guj. Ord. 3 of 1996.

Savings.

"11. The expiration of the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Ordinance, 1996 shall not affect— Guj. Ord. 3 of 1996.

(a) the previous operation of or anything duly done or suffered under the Bombay Tenancy and Agricultural Lands Act, 1948, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 or, as the case may be, the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958, as amended by the said Ordinance (hereinafter referred to as "the amended Act"); or Bom. LXVII of 1948, Sau. Ord. XLI of 1949, Bom. XCIX of 1958.

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the amended Act; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the amended Act; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the said Ordinance had not expired."

STATEMENT

As the Gujarat Legislative Assembly was not in session, the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Ordinance, 1996, was promulgated on the 26th June, 1996. The Legislative Assembly of the State was summoned to meet on the 3rd September, 1996 but the said Ordinance could not be replaced by an Act of the State Legislature in that session. By virtue of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance would cease to operate after the 14th October, 1996, the date on which the period of six weeks from the date of re-assembly of the Gujarat Legislative Assembly expires. Since the aforesaid Ordinance is not replaced by another Ordinance, it is expedient to take immediate action to continue the previous operation of the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 or, as the case may be, the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958, as amended by the said Ordinance by insertion of new section 11 in the said Ordinance.

The President of India has, by proclamation dated the 19th September, 1996 issued under article 356 of the Constitution of India, assumed to himself the powers of the Governor of the State and declared that the powers of the Legislature shall be exercisable by or under the authority of the Parliament. The President by order dated the 19th September, 1996 has directed that all the powers vested in, or exercisable by, the Governor of the State under the Constitution which have been assumed by the President, shall be exercisable also by the Governor of the State. Therefore, as both the Houses of the Parliament are not in session, this Ordinance is promulgated to achieve the aforesaid object.

Camp at New Delhi.
Dated the 14th October, 1996.

KRISHNAPAL SINGH,
Governor of Gujarat.

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

A. K. JOTI,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

VOL. XXXVII] TUESDAY, OCTOBER 22, 1996 / ASVINA 30, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

FINANCE DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 22nd October, 1996.

GUJARAT ORDINANCE NO. 11 OF 1996.

AN ORDINANCE

*to provide for temporary increase in the Contingency Fund of the
State of Gujarat.*

Promulgated by the Governor in the Forty-seventh Year of the
Republic of India.

WHEREAS the President of India has, by proclamation issued under
article 356 of the Constitution of India and published in the notification of
the Government of India, Ministry of Home Affairs, No. C.S.R. 429(E) in the
Gazette of India, Extraordinary, dated the 19th September, 1996, assumed to
himself all the functions of the Government of the State of Gujarat and all
powers vested in, or exercisable by, the Governor of that State;

AND WHEREAS under sub-clause (iii) of clause (c) of the said
proclamation, references in article 213 of the Constitution to the Governor
and to the Legislature of the State or the House thereof shall be construed
as references to the President and the Parliament or to the Houses thereof
respectively;

AND WHEREAS by the Order published in the notification of the Government of India, Ministry of Home Affairs, No. C.S.R.430 (E) in the Gazette of India, Extraordinary, dated the 19th September, 1996, the President has further directed that all the functions of the Government of the State of Gujarat and all powers vested in, or exercisable by, the Governor of that State under the Constitution, which have been assumed by him by the said proclamation, shall, subject to the superintendence, direction and control of the President, be exercisable also by the Governor of the said State;

AND WHEREAS the power to promulgate Ordinance is vested in the Governor under article 213 of the Constitution to be exercisable by him while the Legislature of the State is not in session;

AND WHEREAS both Houses of Parliament are not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action to provide for temporary increase in the Contingency Fund of the State of Gujarat;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India read with the President's aforesaid Order No. C.S.R. 430 (E) dated the 19th September, 1996, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :-

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Contingency Fund (Temporary Increase) Ordinance, 1996.

(2) It shall come into force at once.

2. *Temporary increase in Contingency Fund - of the State.*—Notwithstanding anything contained in section 2 of the Gujarat Contingency Fund Act, 1960, the extent of the sum of fifty crores of rupees specified in section 2 of the said Act as the sum to be paid into the Contingency Fund of the State of Gujarat shall, during the period beginning from the commencement of this Ordinance and ending on the 31st March, 1997 be raised to six hundred crores of rupees.

Guj. IV of
1960.

STATEMENT

Section 2 of the Gujarat Contingency Fund Act, 1960 provides that out of the Consolidated Fund of the State, a sum of fifty crores of rupees shall be paid into the Contingency Fund of the State. Subsequent to approval of current year's budget estimates by the State Legislature—

(i) the Government of India has sanctioned and released rupees five crores, eighty-three lacs and fifty-nine thousand for the payment of assistance to local bodies for Prime Minister's Integrated Urban Poverty Eradication Programme;

(ii) rupees three crores and twenty lacs is required for election of Panchayats;

(iii) rupees six crores and one lac is required for farm-ponds for water storage in the State;

(iv) rupees two hundred thirty-four crores is required for enhancement of present plan ceiling as per discussion with Central Planning Commission on the 13th September, 1996; and

(v) rupees two hundred fifty crores is required for Voluntary Retirement Scheme for workers.

Before the Supplementary Demands relating to these and such other requirements are to be presented to the Parliament, such expenditure is required to be incurred from the Contingency Fund of the State. The present balance in the said Fund is less than rupees four crores and is not sufficient to meet with aforesaid expenditure. It has, therefore, become necessary to increase temporarily, till the 31st March, 1997, the limit of the Fund from fifty crores of rupees to six hundred crores of rupees to achieve the aforesaid objects.

The President of India has, by proclamation dated the 19th September, 1996 issued under article 356 of the Constitution of India, assumed to himself the powers of the Governor of the State and declared that the powers of the Legislature shall be exercisable by or under the authority of the Parliament. The President by order dated the 19th September, 1996 has directed that all the powers vested in, or exercisable by, the Governor of the State under the Constitution which have been assumed by the President shall be exercisable also by the Governor of the State. Therefore, as both Houses of Parliament are not in session, this Ordinance is promulgated to achieve the aforesaid object.

Gandhinagar,
Dated the 20th October, 1996.

KRISHNAPAL SINGH
Governor of Gujarat.

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

V. V. RAMASUBBA RAO
Add. Chief Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXVII SATURDAY, NOVEMBER 16, 1996 / KARTIKA 25, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

INFORMATION, BROADCASTING AND TOURISM DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 16th November, 1996.

GUJARAT ORDINANCE NO. 12 OF 1996.

AN ORDINANCE

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

WHEREAS the Governor of Gujarat has promulgated the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment)(Second) Ordinance, 1996 on the 12th October, 1996;

AND WHEREAS the session of the Gujarat Legislative Assembly was summoned to meet on the 29th October, 1996 and was prorogued on the same day;

AND WHEREAS the said Ordinance could not be replaced by an Act of the State Legislature in that session;

AND WHEREAS the said Ordinance would cease to operate after the 9th December, 1996, the date on which the period of six weeks from the date of the re-assembly of the Gujarat Legislative Assembly expires;

AND WHEREAS it is expedient to continue the operation of the provisions of the said Ordinance by law;

AND WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*— (1) This Ordinance may be called the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) (Third) Ordinance, 1996.

(2) It shall be deemed to have come into force on the 18th June, 1996.

2. *Guj. 24 of 1977 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in sections 3 to 10. Guj. 24 of 1977.

3. *Amendment of section 2 of Guj. 24 of 1977.*— In the principal Act, in section 2, clause (c) shall be deleted.

4. *Amendment of section 3 of Guj. 24 of 1977.*— In the principal Act, in section 3, in sub-section (1), second proviso shall be deleted.

5. *Amendment of section 4 of Guj. 24 of 1977.*— In the principal Act, in section 4, sub-sections (3) and (4) shall be deleted.

6. *Amendment of section 5 of Guj. 24 of 1977.*— In the principal Act, in section 5, in sub-section (1), for the words "eight days", the words "fifteen days" shall be substituted.

7. *Amendment of section 9 of Guj. 24 of 1977.*—In the principal Act, in section 9, in sub-section (1), after the word and figure "section 6", the words, figures and letter "or under section 20C" shall be inserted.

8. *Amendment of section 10 of Guj. 24 of 1977.*—In the principal Act, in section 10,—

(1) in sub-section (1), after the words "*suo motu*", the words "or on an application made in that behalf" shall be inserted;

(2) for sub-sections (2) and (2A), the following shall be substituted, namely :—

" (2) No order shall be revised under sub-section (1) after the expiry of two years from the date of such order unless the State Government or, as the case may be, designated officer, is satisfied that the proprietor was prevented by sufficient cause from making the application within that period.

Explanation.—In computing the period of limitation for the purpose of this sub-section,—

(a) any period during which the record of any proceeding has not been called for under the proviso to sub-section (1), and

(b) any period during which any proceeding under this section is stayed by an order or injunction of any civil court,

shall be excluded.";

(3) in sub-section (3), for the words "the designated officer or, as the case may be, the Commissioner of Luxury Tax", the words "or, as the case may be, the designated officer" shall be substituted;

(4) in sub-section (5), for the words "Commissioner of Luxury Tax", the words "State Government or, as the case may be, the designated officer" shall be substituted.

9. *Amendment of section 13 of Guj. 24 of 1977.*—In the principal Act, in section 13, in sub-section (1), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted.

10. Insertion of new sections 20A, 20B and 20C in Guj. 24 of 1977.—
In the principal Act, after section 20, the following new sections shall be inserted, namely :—

Power to
reduce rate
of tax.

"20A. (1) The State Government may, by notification in the *Official Gazette*, reduce any rate of tax specified in sub-section (1) of section 3.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued 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 it is 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.

Exemption.

20B. (1) The State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any person or persons to whom any luxury is provided by such hotel or class of hotels from payment of whole or part of the tax, subject to such conditions, as may be specified therein.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued 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 it is 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.

Liability to
pay tax in
event of
breach of
conditions
of
exemption.

20C. (1) Where any person or persons to whom luxury is provided in a hotel or class of hotels is exempted under section 20B from whole or any part of the tax subject to any condition, then, in the event of breach of any such condition, the proprietor of such hotel shall, notwithstanding such exemption, be liable to pay tax in relation to the luxury provided in such hotel.

(2) If the Collector has reason to believe that the proprietor is liable to pay tax under sub-section (1), he shall serve on the proprietor a notice requiring him on a date and place specified therein, either to attend and produce or cause to be produced all evidence on which such proprietor

relies in connection with his liability under this section or to produce such evidence as specified in the notice. On the date specified in the notice, or as soon as may be thereafter, the Collector shall, after considering all the evidence which may be produced, assess to the best of his judgement, the amount of tax so due."

11. Repeal and savings.—(1) The Gujarat Tax on Luxuries (Hotels and Lodging Houses)(Amendment) (Second) Ordinance, 1996 is hereby repealed. Guj. Ord.
6 of 1996.

(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 Ordinance.

IV-EX-21-2

STATEMENT

With a view to promoting tourism in the State of Gujarat as envisaged in the New Tourism Policy declared on the floor of the House of the Legislative Assembly on the 29th July, 1995, it was considered necessary to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977.

Under the existing provisions of sub-section (3) of section 4 of the Act, the tax is levied on full charge for the luxury provided in a hotel even though when such luxury is provided free of charge or at concessional rate. In order to promote business of hotel industries, it is considered necessary to delete clause (c) of section 2 and sub-sections (3) and (4) of section 4 so as to levy tax on the actual charge of lodging paid by the person.

It is considered necessary to delete the second proviso to sub-section (1) of section 3, which provides for exemption to certain categories of persons from payment of tax.

Sub-section (1) of section 5 is amended so as to increase the period of furnishing monthly returns from eight days to fifteen days.

Under the existing provisions of section 10, the power to revise the order of the Collector or the Appellate Authority is conferred concurrently on the State Government as well as the Commissioner of Luxury Tax. It is considered necessary that such power should rest only with the State Government. Therefore, section 10 is amended to provide accordingly.

Sub-section (1) of section 13 is amended so as to increase the amount of penalty from one thousand rupees to ten thousand rupees.

New sections 20A, 20B and 20C are inserted in the Act. New section 20A empowers the State Government to reduce, by notification in the *Official Gazette*, the rate of tax specified in sub-section (1) of section 3. New section 20B empowers the State Government to exempt, by notification in the *Official Gazette*, in the public interest, a person to whom any luxury is provided by such hotel or class of hotels, from payment of whole or part of the tax, subject to such conditions, as may be specified therein. New section 20C makes the proprietor liable to pay luxury tax in the event of breach of conditions for such exemption.

As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Ordinance, 1996 was promulgated on the 18th June, 1996 to achieve the aforesaid objects. The said Ordinance could not be replaced by an Act of the State Legislature, and therefore, the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) (Second) Ordinance, 1996 was promulgated on the 12th October, 1996 to continue the operation of the provisions of the first Ordinance. Thereafter, the Gujarat Legislative Assembly was summoned to meet on the 29th October, 1996 and prorogued on the same day and therefore, the said second Ordinance could not be replaced by an Act of the State Legislature in that session. By virtue of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said second Ordinance would cease to operate after the 9th December, 1996, the date on which the period of six weeks from the date of re-assembly of the Gujarat Legislative Assembly expires. It is expedient to take immediate action to continue the operation of the provisions of the said second Ordinance. Therefore, as the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid objects.

Gandhinagar,

Dated the 16th November, 1996.

KRISHNAPAL SINGH,

Governor of Gujarat.

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

SWATANTRA K. SEKHON,

Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXVII] SATURDAY, NOVEMBER 16, 1996 / KARTIKA 25, 1918

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

PART-IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor**

EDUCATION DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 16th November, 1996.

GUJARAT ORDINANCE NO. 13 OF 1996.

AN ORDINANCE

further to amend the Gujarat Secondary Education Act, 1972.

Guj.
Ord. 7
of 1996.

WHEREAS the Governor of Gujarat has promulgated the Gujarat Secondary Education (Amendment) (Second) Ordinance, 1996 on the 12th October, 1996;

AND WHEREAS the session of the Gujarat Legislative Assembly was summoned to meet on the 29th October, 1996 and was prorogued on the same day;

AND WHEREAS the said Ordinance could not be replaced by an Act of the State Legislature in that session;

IV-EX-22-1

22-1

AND WHEREAS the said Ordinance would cease to operate after the 9th December, 1996, the date on which the period of six weeks from the date of the re-assembly of the Gujarat Legislative Assembly expires;

AND WHEREAS it is expedient to continue the operation of the provisions of the said Ordinance by law;

AND WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Secondary Education (Amendment) (Third) Ordinance, 1996.

(2) It shall be deemed to have come into force on the 9th August, 1996.

2. *Guj. 18 of 1973 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Secondary Education Act, 1972 (hereinafter referred to as "the principal Act") shall have effect subject to the amendment specified in section 3. Guj. 18 of 1973.

3. *Amendment of section 3 of Guj. 18 of 1973.*—In the principal Act, in section 3, in sub-section (2), under the heading "Class B—Elected Members", after clause (vi-a), the following clause shall be inserted, namely:—

" (vi-aa). three members elected by the teaching staff of registered higher secondary schools from amongst themselves."

4. *Repeal and savings.*—(1) The Gujarat Secondary Education (Amendment) (Second) Ordinance, 1996 is hereby repealed. Guj. Ord. 7 of 1996.

(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 Ordinance.

STATEMENT

Under the existing provisions of the Gujarat Secondary Education Act, 1972, the teaching staff of registered higher secondary schools is not represented on the Gujarat Secondary Education Board constituted under section 3 of the said Act. It was considered necessary to have three members elected by the teaching staff of registered higher secondary schools from amongst themselves on the said Board.

As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Secondary Education (Amendment) Ordinance, 1996 was promulgated on the 9th August, 1996 to achieve the aforesaid object. The said Ordinance could not be replaced by an Act of the State Legislature, and therefore, the Gujarat Secondary Education (Amendment) (Second) Ordinance, 1996 was promulgated on the 12th October, 1996 to continue the operation of the provisions of the first Ordinance. Thereafter, the Gujarat Legislative Assembly was summoned to meet on the 29th October, 1996 and prorogued on the same day and therefore, the said second Ordinance could not be replaced by an Act of the State Legislature in that session. By virtue of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said second Ordinance would cease to operate after the 9th December, 1996, the date on which the period of six weeks from the date of re-assembly of the Gujarat Legislative Assembly expires. It is expedient to take immediate action to continue the operation of the provisions of the said second Ordinance. Therefore, as the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid object.

Gandhinagar,
Dated the 16th November, 1996.

KRISHNAPAL SINGH,
Governor of Gujarat.

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

S. D. SHARMA,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXVII] SATURDAY, NOVEMBER 16, 1996 / KARTIKA 25, 1918

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separate compilation.

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 16th November, 1996.

GUJARAT ORDINANCE NO. 14 OF 1996.

AN ORDINANCE

*further to amend the Gujarat Legislative Assembly Members
(Removal of Disqualifications) Act, 1960.*

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960; Guj. 1 of 1960.

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Ordinance, 1996.

(2) It shall come into force at once.

2. *Guj. 1 of 1960 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960 (hereinafter referred to as "the principal Act") of 1960 shall have effect subject to the amendments specified in section 3.

3. *Amendment of Schedule to Guj. 1 of 1960.*—In the principal Act, in the Schedule,—

(1) in entry 26, for the word "Chairman", the words "Chairman or Director" shall be substituted;

(2) after entry 32, the following entries shall be added, namely :—

"33. The office of Chairman or Director of the Gujarat State Financial Corporation established under the State Financial Corporations Act, 1951. 63 of 1951.

34. The office of Chairman or Director of the Gujarat Mineral Development Corporation Limited.

35. The office of Chairman or Director of the Gujarat State Seeds Corporation Limited."

STATEMENT

Some of the Boards, Corporations or Limited Companies formed by the State Government require able heads experienced in the fields of trade, commerce, industry, finance, management or public life to man them efficiently. This is particularly so with regard to those bodies which deal directly with the public and social activities. Sometimes, some Members of the Gujarat Legislative Assembly are found suitable for the purpose but on account of the provision of disqualification in clause (1) of article 191 of the Constitution of India, a doubt arises whether acceptance of the post of a Chairman, or Director of such a body by a Member of the Gujarat Legislative Assembly would disqualify him on the ground of holding an office of profit under the Government. It is, therefore, considered necessary to remove the disqualification that might be incurred by such Member on being appointed as Chairman or Director of such a body by adding entries 33 to 35 in the Schedule to the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960.

An opportunity is also taken to amend existing entry 26 of the said Schedule so as to remove the disqualification that might be incurred by a Member of the Gujarat Legislative Assembly on being appointed as Director of the Gujarat State Road Transport Corporation.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Schedule to achieve the aforesaid object.

Gandhinagar,
Dated the 16th November, 1996.

KRISHNAPAL SINGH,
Governor of Gujarat.

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

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXVII] SATURDAY, NOVEMBER 23, 1996 / AGRAHAYANA 2, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 23rd November, 1996.

GUJARAT ORDINANCE NO. 15 OF 1996.

AN ORDINANCE

*further to amend the Gujarat Legislative Assembly Members
(Removal of Disqualifications) Act, 1960.*

WHEREAS the Legislative Assembly of the State of Gujarat is not
in session;

AND WHEREAS the Governor of Gujarat is satisfied that
circumstances exist which render it necessary for him to take immediate
action to amend the Gujarat Legislative Assembly Members (Removal of
Disqualifications) Act, 1960;

Guj. 1 of
1960.

NOW, THEREFORE, in exercise of the powers conferred on him by
clause (1) of article 213 of the Constitution of India, the Governor of
Gujarat is hereby pleased to make and promulgate the following
Ordinance, namely:—

1. *Short title and commencement.*— (1) This Ordinance may be
called the Gujarat Legislative Assembly Members (Removal of
Disqualifications) (Second Amendment) Ordinance, 1996.

(2) It shall come into force at once.

2. *Guj. 1 of 1960 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in section 3. Guj.1 of 1960.

3. *Amendment of Schedule to Guj. 1 of 1960.*—In the principal Act, in the Schedule, after entry 35, the following entry shall be added, namely :—

"36. The office of Chairman or Director of the Gujarat Agro-Industries Corporation Limited."

STATEMENT.

The Gujarat Agro-Industries Corporation Limited requires able head experienced in the fields of trade, commerce, finance, management or public life to man it efficiently. Sometimes, some members of the Gujarat Legislative Assembly are found suitable for the purpose but on account of the provisions of disqualification in clause (1) of article 191 of the Constitution of India, a doubt arises whether acceptance of the post of Chairman or Director of such company by a member of the Gujarat Legislative Assembly would disqualify him on the ground of holding an office of profit under the Government. It is, therefore, considered necessary to remove the disqualification that might be incurred by such member on being appointed as Chairman or Director of the Gujarat Agro-Industries Corporation Limited by adding entry 56 in the Schedule to the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960.

As the Gujarat Legislative Assembly is not in session this Ordinance is promulgated to amend the said Schedule to the Act to achieve the aforesaid object.

Gandhinagar,
Dated the 23rd November, 1996.

KRISHNA PAL SINGH,
Governor of Gujarat.

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

P. J. DHOLAKIA,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXVII | FRIDAY, NOVEMBER 29, 1996 / AGRAHAYANA 8, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

**AGRICULTURE, CO-OPERATION AND RURAL
DEVELOPMENT DEPARTMENT**

Sachivalaya, Gandhinagar, Dated the 29th November, 1996

GUJARAT ORDINANCE NO. 16 OF 1996.

AN ORDINANCE

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

WHEREAS the Governor of Gujarat has promulgated the Gujarat Co-operative Societies (Amendment) (Second) Ordinance, 1996 on the 12th October, 1996; Guj. Ord. 8 of 1996.

AND WHEREAS the session of the Gujarat Legislative Assembly was summoned to meet on the 29th October, 1996 and was prorogued on the same day;

AND WHEREAS the said Ordinance could not be replaced by an Act of the State Legislature in that session;

AND WHEREAS the said Ordinance would cease to operate after the 9th December, 1996, the date on which the period of six weeks from the date of the re-assembly of the Gujarat Legislative Assembly expires;

AND WHEREAS it is expedient to continue the operation of the provisions of the said Ordinance by law;

AND WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*— (1) This Ordinance may be called the Gujarat Co-operative Societies (Amendment) (Third) Ordinance, 1996.

(2) It shall be deemed to have come into force on the 7th August, 1996.

2. *Guj. X of 1962 to be temporarily amended.*— During the period of operation of this Ordinance, the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in section 3.

3. *Amendment of section 99 of Guj. X of 1962.*—In the principal Act, in section 99, after sub-section (3), the following new sub-sections shall be inserted, namely :—

"(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), the following disputes or class of disputes, if the plaintiff so desires, shall be decided summarily by the Registrar, or his nominee or board of nominees, in such manner as may be prescribed, namely :—

(a) any dispute for recovery of debt upon promissory note, *hundi*, bill of exchange or bond, with or without interest, whether agreed upon under such instrument or under the bye-laws;

(b) any dispute for recovery of a fixed sum of money or in the nature of debt, with or without interest, arising on a written contract;

(c) any dispute for recovery of price of goods sold and delivered, where the rate, quality and quantity are admitted in writing;

(d) any dispute for recovery of dues payable by a member of a housing society towards contribution for construction of the house, or any dispute in respect of repayment of any loan, interest on loan, ground rent, local authority

taxes, sinking fund, water charges, electrical charges, maintenance and upkeep charges or charges for other services rendered by the society and the interest on such arrears, payable under the written agreement or under the bye-laws.

(5) (a) The defendant shall not be entitled to defend the dispute unless he obtains leave from the Registrar, his nominee or, as the case may be, the board of nominees, in such manner as may be prescribed.

(b) The Registrar, his nominee or board of nominees may grant the leave under clause (a) on such conditions, as he or it thinks fit.

(c) The Registrar, his nominee or board of nominees shall not refuse the leave to defend the dispute unless he or it satisfies that the facts disclosed by the defendant do not indicate that he has substantial defence to raise or that the defence intended to be put up by him is frivolous or vexatious.

(d) Where the defendant fails to obtain such leave or fails to appear or defend the dispute in pursuance of such leave, the averments made in the plaint and documents produced therewith shall be deemed to have been admitted by the defendant :

Provided that the Registrar, his nominee or board of nominees in his or its discretion may require any fact so admitted to be proved otherwise than by such admission.

(e) Where the conditions on which leave to defend is granted are not complied with by the defendant, the Registrar, his nominee or, as the case may be, board of nominees may pass an award against him, as if he has not been granted such leave.

(6) The Registrar, his nominee or, as the case may be, board of nominees may under special circumstances set aside the award passed by him or it and if necessary, stay or set-aside the execution, and may grant leave to the defendant to appear and defend the disputes, if it seems reasonable so to do, and on such terms as he or it thinks fit."

4. *Repeal and savings.*— (1) The Gujarat Co-operative Societies (Amendment) (Second) Ordinance, 1996 is hereby repealed. Guj. Ord. 8 of 1996.

(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 Ordinance.

STATEMENT

Under the existing provisions of section 99 of the Gujarat Co-operative Societies Act, 1961, the Registrar, his nominee or board of nominees has been empowered to decide the disputes referred to him under section 98 of the Act. Certain types of disputes are based on documentary evidence which hardly require proof or which have little scope for defence, such as money suits of a Co-operative Bank or Housing Society, etc. In absence of any provision regarding summary procedure in the Act, even such type of disputes are decided after following the detailed procedure. In order to safeguard the public money and speedy recovery thereof, to give justice timely to the people and to have quick disposal of pending disputes, it was considered necessary to empower the Registrar, his nominee or the board of nominees to decide such disputes summarily.

As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Co-operative Societies (Amendment) Ordinance, 1996 was promulgated on the 7th August, 1996 to achieve the aforesaid object. The said Ordinance could not be replaced by an Act of the State Legislature, and therefore, the Gujarat Co-operative Societies (Amendment) (Second) 1996 was promulgated on the 12th October, 1996 to continue the operation of the provisions of the first Ordinance. Thereafter, the Gujarat Legislative Assembly was summoned to meet on the 29th October, 1996 and prorogued on the same day and therefore, the said second Ordinance could not be replaced by an Act of the State Legislature in that session. By virtue of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said second Ordinance would cease to operate after the 9th December, 1996, the date on which the period of six weeks from the date of re-assembly of the Gujarat Legislative Assembly expires. It is expedient to take immediate action to continue the operation of the provisions of the said second Ordinance. Therefore, as the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid object.

Gandhinagar,
Dated the 26th November, 1996.

KRISHNA PAL SINGH,
Governor of Gujarat.

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

CHAMAN KUMAR,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XXXVII] MONDAY, DECEMBER 2, 1996 AGRAHAYANA 11, 1918

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

PART—IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

FINANCE DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 2nd December, 1996.

GUJARAT ORDINANCE NO. 17 OF 1996.

AN ORDINANCE

*to provide for temporary increase in the Contingency
Fund of the State of Gujarat.*

Guj. Ord.
11 of
1996. WHEREAS the Governor of Gujarat has promulgated the Gujarat
Contingency Fund (Temporary Increase) Ordinance, 1996 on the 22nd
October, 1996;

AND WHEREAS the session of the Gujarat Legislative Assembly was
summoned to meet on the 29th October, 1996 and was prorogued on the
same day;

AND WHEREAS the said Ordinance could not be replaced by an Act of
the State Legislature in that session;

AND WHEREAS the said Ordinance would cease to operate after the
9th December, 1996, the date on which the period of six weeks from the
date of the re-assembly of the Gujarat Legislative Assembly expires;

AND WHEREAS it is expedient to continue the operation of the provisions of the said Ordinance by law;

AND WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Contingency Fund (Temporary Increase) (Second) Ordinance, 1996.

(2) It shall be deemed to have come into force on the 22nd October, 1996.

Guj. IV of
1960.

2. *Temporary increase in Contingency Fund of the State.*—Notwithstanding anything contained in section 2 of the Gujarat Contingency Fund Act, 1960, the extent of the sum of fifty crores of rupees specified in section 2 of the said Act as the sum to be paid into the Contingency Fund of the State of Gujarat shall, during the period beginning from the commencement of this Ordinance and ending on the 31st March, 1997 be raised to six hundred crores of rupees.

3. *Repeal.*—The Gujarat Contingency Fund (Temporary Increase) Ordinance, 1996 is hereby repealed. Guj. Ord. 11
of 1996.

STATEMENT

Section 2 of the Gujarat Contingency Fund Act, 1960 provides that out of the Consolidated Fund of the State, a sum of fifty crores of rupees shall be paid into the Contingency Fund of the State. Subsequent to approval of current year's budget estimates by the State Legislature—

(i) the Government of India has sanctioned and released rupees five crores, eighty-three lacs and fifty-nine thousand for the payment of assistance to local bodies for Prime Minister's Integrated Urban Poverty Eradication Programme;

(ii) rupees three crores and twenty lacs is required for election of Panchayats;

(iii) rupees six crores and one lac is required for farm-ponds for water storage in the State;

(iv) rupees two hundred thirty-four crores is required for enhancement of present plan ceiling as per discussion with Central Planning Commission on the 13th September, 1996; and

(v) rupees two hundred fifty crores is required for Voluntary Retirement Scheme for workers.

Before the Supplementary Demands relating to these and such other requirements are to be presented to the Legislative Assembly, such expenditure is required to be incurred from the Contingency Fund of the State. The balance in the said Fund was less than rupees four crores and was not sufficient to meet with aforesaid expenditure. It had, therefore, become necessary to increase temporarily, till the 31st March, 1997, the limit of the Fund from fifty crores of rupees to six hundred crores of rupees to achieve the aforesaid objects.

As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Contingency Fund (Temporary Increase) Ordinance, 1996 was promulgated on the 22nd October, 1996 to achieve the aforesaid object. The Gujarat Legislative Assembly was summoned to meet on the 29th October, 1996 and prorogued on the same day, and therefore, the said Ordinance could not be replaced by an Act of the State Legislature in that session. By virtue of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance would cease to operate after the 9th December, 1996, the date on which the period of six weeks from the date of re-assembly of the Gujarat Legislative Assembly expires. It is expedient to take immediate action to continue the operation of the provisions of the said Ordinance. Therefore, as the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid object.

Gandhinagar
Dated the 30th November, 1996.

KRISHNA PAL SINGH,
Governor of Gujarat.

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

V. V. RAMA SUBBA RAO,
Additional Chief Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXVII] FRIDAY, DECEMBER 13, 1996/AGRAHAYANA 22, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

EDUCATION DEPARTMENT.

Sachivalaya, Gandhinagar, Dated the 13th December, 1996.

GUJARAT ORDINANCE NO. 18 OF 1996.

AN ORDINANCE

to amend the Gujarat Secondary Education (Amendment) (Third) Ordinance, 1996.

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Secondary Education (Amendment) (Third) Ordinance, 1996;

Guj. Ord.
13 of 1996.

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Secondary Education (Amendment) (Third) Amending Ordinance, 1996.

(2) It shall be deemed to have come into force on the 9th August, 1996.

Guj. Ord.
13 of 1996.

2. *Substitution of section 3 of Guj. Ord. 13 of 1996.*—In the Gujarat Secondary Education (Amendment) (Third) Ordinance, 1996, for section 3, the following section shall be substituted, namely :—

"3. *Amendment of section 3 of Guj. 18 of 1973.*—In the principal Act, in section 3, in sub-section (2), under the heading "Class B-Elected Members",—

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

"(vi-aa) three members elected by the teaching staff of registered higher secondary schools from amongst themselves.";

(2) after the first proviso, the following proviso shall be added, namely :—

"Provided further that for the purpose of clause (vi-aa), the State Government shall, by an order published in the *Official Gazette*, divide the State into three regions each having, as far as possible, an equal number of registered higher secondary schools within the areas comprised therein and the teaching staff of registered higher secondary schools in each such region shall elect one member :";

(3) in the existing third proviso, for the words "Graduate Basic Training College", the words "Graduate Basic Training College or a member of non-teaching staff of registered private secondary school or of teaching staff of registered higher secondary school" shall be substituted.

STATEMENT

With a view to having representation of three members elected by the teaching staff of the registered higher secondary schools on the Gujarat Higher Secondary Education Board, the Gujarat Secondary Education (Amendment) (Third) Ordinance, 1996 was promulgated. Considering the highest number of teaching staff of the registered higher secondary schools, to have a proportionate representation of teaching staff of such schools and to have parity with the system of elections of members from amongst principals, teachers and parents association on the said Board, it is considered necessary, for the purpose of election, to make three regions each having, as far as possible, an equal number of registered higher secondary schools within the area comprising therein and the teaching staff of such schools in each such region shall elect one member.

An opportunity is also taken to make consequential amendment in the third proviso to section 3 of the Gujarat Secondary Education Act, 1972.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid object.

Gandhinagar,
Dated the 13th December, 1996.

KRISHNA PAL SINGH,
Governor of Gujarat.

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

D. C. VORA,
Deputy Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

VOL. XXXVIII FRIDAY, DECEMBER, 20, 1996/AGRAHAYANA 29, 1918.

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT
 Sachivalaya, Gandhinagar, Dated the 20th December, 1996.

GUJARAT ORDINANCE NO. 19 OF 1996.

AN ORDINANCE

*further to amend the Gujarat Legislative Assembly Members,
 (Removal of Disqualifications) Act, 1960.*

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960;

Guj. 1 of
1960.

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Third Amendment) Ordinance, 1996.

(2) It shall come into force at once.

2. *Guj. 1 of 1960 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in section 3. Guj.1
of 1960.

3. *Amendment of Schedule to Guj. 1 of 1960.*—In the principal Act, in the Schedule, after entry 36, the following entries shall be added, namely :—

"37. The office of Chairman or Director of the Gujarat Tractor Corporation Limited.

38. The office of Chairman or Director of the Gujarat Water Resources Development Corporation Limited.

39. The office of Chairperson or member of the Gujarat State Wakf Board established under the Wakf Act, 1995. 43 of
1995.

40. The office of Chairman or member of the Gujarat Pollution Control Board constituted under the Water (Prevention and Control of Pollution) Act, 1974." 6 of
1974.

STATEMENT

Some of the Boards, Corporations or Limited Companies formed by the State Government require able heads experienced in the fields of trade, commerce, industry, finance, management or public life to man them efficiently. This is particularly so with regard to those bodies which deal directly with the public and social activities. Sometimes, some Members of the Gujarat Legislative Assembly are found suitable for the purpose but on account of the provision of disqualification in clause (1) of article 191 of the Constitution of India, a doubt arises whether acceptance of the post of a Chairman, Director or member of such a body by a Member of the Gujarat Legislative Assembly would disqualify him on the ground of holding an office of profit under the Government. It is, therefore, considered necessary to remove the disqualification that might be incurred by such Member on being appointed as Chairman, Director or member of such a body by adding entries 37 to 40 in the Schedule to the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Schedule to achieve the aforesaid object.

Gandhinagar,
Dated the 20th December, 1996.

KRISHNA PAL SINGH,
Governor of Gujarat.

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

KUM. H. K. JHAVERI,
Secretary to Government.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XXXVII]

TUESDAY, DECEMBER 24, 1996/PAUSA 3, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.**

REVENUE DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 24th December, 1996.

GUJARAT ORDINANCE, NO. 20 OF 1996.

AN ORDINANCE

further to amend the Bombay Land Revenue Code, 1879.

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

Bom V of
1879.

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bombay Land Revenue Code, 1879;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement* — (1) This Ordinance may be called the Bombay Land Revenue (Gujarat Amendment) (Second) Ordinance, 1996.

(2) It shall come into force at once.

Bom. V of
1879.

2. *Bom. V of 1879 to be temporarily amended.*—During the period of operation of this Ordinance, the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in sections 3 to 6.

3. *Amendment of section 48 of Bom. V of 1879.*—In the principal Act, in section 48, after sub-section (2), the following new sub-section shall be inserted, namely :—

"(2A) Where any land assessed for any purpose is used for a *bonafide* industrial purpose under section 65B and a certificate to that effect is issued to the occupant of such land under that section, the assessment fixed under the provisions of this Act upon such land shall, notwithstanding that the term for which such assessment may have been fixed has not expired, be liable to be altered and fixed at a different rate with effect from the commencement of the revenue year in which the use of land for a *bonafide* industrial purpose is commenced, by such authority and subject to such rules as the State Government may prescribe in this behalf."

4. *Insertion of new section in Bom. V of 1879.*—In the principal Act, after section 65A, the following new-section shall be inserted, namely :—

Use of certain lands for *bonafide* industrial purpose.

"65B. (1) Notwithstanding anything contained in section 65 or 65A, where—

(a) any land used or held for the purpose of agriculture or, as the case may be, for any non-agricultural purpose not being an industrial purpose is,—

(i) designated for the use of industrial purpose in the draft or final development plan or draft or final town planning scheme under the Gujarat Town Planning and Urban Development Act, 1976; or

President's Act No. 27 of 1976.

(ii) situated in the area where no plan or scheme referred to in sub-clause (i) is in force, and

(b) the occupant of such land wishes to use such land or part thereof,—

(1) for a *bonafide* industrial purpose other than the purpose of manufacture or storage of any chemical or petrochemical,

it shall be lawful for him to use such land for such *bonafide* industrial purpose without the permission of the Collector subject to the fulfilment of the following conditions, namely:—

(a) the occupant has a clear title to such land,

(b) such land or part thereof,—

(i) is not shown as reserved for a public purpose in draft or final development plan or draft or final town planning scheme under the Gujarat Town Planning and Urban Development Act, 1976,

President's Act No. 27 of 1976.

(ii) is not notified for acquisition under the Land Acquisition Act, 1894 or any other law for the time being in force,

1 of 1894.

(iii) does not fall within the alignment of any road plan prepared by the State Government or the command area of any irrigation project,

(iv) is not situated within thirty metres from the boundary of any land held for the purpose of railway by the Central Government or the Indian Railway Company Ltd., or

(v) is not situated within fifteen metres of the high voltage transmission line;

(II) for the purpose of manufacture or storage of any chemical or petrochemical,

it shall be lawful for him to use such land for such *bonafide* industrial purpose without the permission of the Collector subject to the fulfilment of the following conditions, in addition to the conditions mentioned in sub-clause (I), namely :—

such land or part thereof is not situated within two kilometres from the boundary of,—

(i) an ancient monument declared as 'protected monument' under sub-section (1) of section 3 of the Ancient Monuments Preservation Act, 1904;

7 of 1904.

(ii) an ancient and historical monument declared as 'protected monument' under sub-section (3) of section 4 of the Gujarat Ancient Monuments and Archaeological Sites and Remains Act, 1965;

Guj. 25 of 1965.

(iii) a forest land or waste land declared as 'reserved forest land' under section 3 of the Indian Forest Act, 1927;

XVI of 1927.

(iv) a forest land or waste land known as 'protected forest' under section 29 of the Indian Forest Act, 1927;

XVI of 1927.

(v) an area declared as 'sanctuary' under sub-section (1) of section 18 of the Wild Life (Protection) Act, 1972; or

53 of 1972.

(vi) an area declared as 'national park' under section 35 of the Wild Life (Protection) Act, 1972.

53 of 1972.

(2)(a) The occupant shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority in relation to use of land for a *bonafide* industrial purpose under sub-section (1) before the land is put to use for such purpose.

(b) Where an occupant commences the use of the land for a *bonafide* industrial purpose under sub-section (1), he shall within thirty days from the date of commencement of the use of land for a *bonafide* industrial purpose, send a notice of the date of commencement of such use, alongwith other particulars in such form as may be prescribed by rules made under this Act, to the Collector and endorse a copy thereof to the Mamlatdar.

(3) Where, on the receipt of such notice alongwith other particulars sent by the occupant under clause (b) of sub-section (2), the Collector, after making such inquiry as he deems fit—

(a) is satisfied that the occupant of such land has validly commenced the use of the land for a *bonafide* industrial purpose under sub-section (1), he shall issue a certificate to that effect to the occupant in such form and within such period as may be prescribed by rules made under this Act,

(b) is not so satisfied, he shall, after giving the occupant an opportunity of being heard, refuse to issue such certificate :

Provided that no such certificate shall be issued under clause (a) unless the conversion tax leviable under section 67A is paid.

(4)(a) Where the occupant fails to send the notice and other particulars under clause (b) of sub-section (2) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Act, such fine not exceeding ten thousand rupees as the Collector may, subject to rules made under this Act, direct.

(b)(i) Where the occupant commences the use of such land for industrial purpose despite the non-fulfilment of any of the conditions specified in sub-section (1), or

(ii) where certificate is refused to the occupant under clause (b) of sub-section (3),

he shall be liable, in addition to the payment of non-agricultural assessment leviable under this Act, to restore such land to its original use within such period as the Collector may specify in a notice served on such occupant in this behalf.

(c) Where such occupant does not restore the land to its original use within the period specified by the Collector in the notice served under clause (b),—

(i) he shall be liable to pay such fine not exceeding five thousand rupees and in addition, such daily fine not exceeding one hundred rupees per hectare or part thereof of land not so restored for each day during which such land is not restored to its original use, after the expiry of the period specified in such notice as the Collector may, subject to rules made under this Act, direct, and

(ii) the Collector shall take such steps as he thinks fit to get such land restored to its original use and collect the cost incurred in this behalf from such occupant as an arrear of land revenue.

(5)(a) The occupant shall commence industrial activity on such land within three years from the date of the notice sent by him to the Collector under clause (b) of sub-section (2) and commence production of goods or providing of services on such land within five years from such date :

Provided that the period of three years or, as the case may be, five years may, on an application made by the occupant in that behalf, be extended from time to time by the Collector in such circumstances as may be prescribed by rules made under this Act.

(b) Where the occupant fails to commence industrial activity or production of goods or providing of services within the period specified in clause (a) or the period extended under the proviso to clause (a), he shall be liable to pay, in addition to non-agricultural assessment leviable under section 48, non-agricultural assessment at the rate of five rupees per square metre of the land with effect from the date of expiry of the period of three years or five years or, as the case may be, the period extended under the proviso to clause (a) till he commences industrial activity or, as the case may be, commences production of goods or providing of services.

Explanation I.—For the purposes of this section, section 48 and section 67A, the expression "bonafide industrial purpose" means an activity of manufacture, preservation or processing of goods, (other than the hazardous and toxic chemicals specified in Part II of the Schedule I to the Manufacture, Storages and Import of Hazardous Chemicals Rules, 1989 made under the Environment (Protection) Act, 1986 and for the time being in force) or any handicraft, or

industrial business or enterprise, carried on by any person and includes construction of industrial buildings used for the manufacturing process or purpose, or power projects or port projects and ancillary industrial usage like research and development, godown, camteen, office building of the industry concerned, or providing housing accommodation to the workers of the industry concerned, or establishment of industrial estate including a co-operative estate or service industry or tourism or cottage industry.

Explanation II.—For the purposes of this section, an occupant shall be deemed to have commenced the use of land for a *bonafide* industrial purpose from the date on which he ceases to use the land for agricultural or non-agricultural purpose existing immediately before the date of such ceasing.

5. *Amendment of section 67A of Bom. V of 1879.*—In the principal Act, in section 67A,—

(1) in sub-section (1),—

(a) in clause (b), for the words "in that section", the words "in that section, or" shall be substituted;

(b) after clause (b), the following clause shall be added, namely :—

"(c) is used for a *bonafide* industrial purpose under section 65B;"

(2) in sub-section (2), in the proviso, for the words "under this sub-section", the words, brackets, figure and letter "under this sub-section or under sub-section (2A)" shall be substituted;

(3) after sub-section (2) but before the proviso, the following new sub-section shall be inserted, namely :—

"(2A) Where any land assessed or held for any non-agricultural purpose not being an industrial purpose (hereinafter referred to as "the existing non-agricultural purpose") and situated in a specified area is used for a *bonafide* industrial purpose under section 65B, the occupant of such land shall be liable to pay to the State Government a tax at such rate as is equivalent to the difference between the rate of tax applicable to the industrial purpose specified in the corresponding entry in column (6) of the Table below and the rate of tax applicable to the existing non-agricultural purpose specified in columns (3), (4) and (5) of the Table below."

6. *Amendment of section 214 of Bom. V of 1879.*—In the principal Act, in section 214, in sub-section (2), clause (h) shall be renumbered as clause (gi) and after clause (gi) as so renumbered, the following clause shall be inserted, namely :—

"(h) the form of notice and the particulars to be sent under clause (b) of sub-section (2), the form of and the time within which a certificate is to be issued under sub-section (3), the rules subject to which the Collector may direct payment of fine under clauses (a) and (c) and the form of notice to be served under clause (b) of sub-section (4), and the circumstances in which the period may be extended under the proviso to clause (a) of sub-section (5), of section 65B."

STATEMENT

Under the existing provisions of sections 65 and 65A of the Bombay Land Revenue Code, 1879, permission of the Collector is required for change of use of the land from agricultural to non-agricultural or from one non-agricultural to another non-agricultural use. A new section 65B is sought to be inserted in the Code allowing the occupant to change the use of land from agricultural or, as the case may be, non-agricultural to a *bonafide* industrial purpose so that the land can be immediately used for that purpose in the cases where the land is designated for use of industrial purpose in the draft or final development plan or in the draft or final town planning scheme or where the land is situated in the area where no such plan or scheme exists. However, before the use of land is changed from agricultural or non-agricultural to a *bonafide* industrial purpose other than the purpose of manufacture or storage of chemical or petrochemical, the occupant is required to comply with certain conditions. Those conditions are that the land or part thereof is not reserved for any public purpose under the draft or final development plan or draft or final town planning scheme; it is not notified for acquisition under the Land Acquisition Act, 1894; it does not fall within the alignment of any road plan or the Command Area of any irrigation project or within thirty metres of any railway line or within fifteen metres of high voltage transmission line, etc. Where the occupant wishes to use such land for the purpose of manufacture or storage of any chemical or petrochemical industry, he is required to fulfil additional conditions that such land or part thereof is not situated within two kilometres from the boundary of the 'protected monument', 'reserved forest', 'protected forest', 'sanctuary' or 'national park' declared as such under the relevant laws. In order to prevent the change of use of land in contravention of the conditions as mentioned above provisions are made requiring the occupant who uses the land for a *bonafide* industrial purpose to send a notice of such use to the Collector within specified time and to obtain a certificate from the Collector certifying that the land is used by the occupant validly, and where the conditions are contravened or the certificate is refused, the occupant is required to restore the land to its original use and in addition to pay non-agricultural assessment. The expression '*bonafide* industrial purpose' is defined and while so defining, the activities of the manufacture, preservation and processing of hazardous and toxic chemicals specified in the rules made under the Environment (Protection) Act, 1986 are excluded. Certain consequential amendments in sections 48, 67A and 214 of the Code are also made.

For this purpose, the Bombay Land Revenue Code (Gujarat Amendment) Ordinance, 1996 was promulgated to achieve the aforesaid objects. Thereafter, the Legislative Assembly of the State was summoned to meet on the 3rd September, 1996 but the said Ordinance could not be replaced by an Act of the State Legislature in that session. In view of provisions of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance has ceased to operate after the 14th October, 1996. Therefore, as the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Code to achieve the aforesaid objects.

Gandhinagar,

Dated the 23rd December, 1996.

KRISHNA PAL SINGH,

Governor of Gujarat.

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

A. M. BHARADWAJ,
Secretary to Government.



The Gujarat Government Gazette
EXTRAORDINARY
 PUBLISHED BY AUTHORITY

Vol. XXXVII]

TUESDAY, DECEMBER 24, 1996/PAUSA 3, 1918

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

PART—IV

**Acts of the Gujarat Legislature and Ordinances promulgated
 and Regulations made by the Governor.**

REVENUE DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 24th December, 1996.

GUJARAT ORDINANCE NO. 21 OF 1996.

AN ORDINANCE

*further to amend the Bombay Tenancy and Agricultural Lands Act, 1948,
 the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands
 Ordinance, 1949 and the Bombay Tenancy and Agricultural Lands
 (Vidarbha Region and Kutch Area) Act, 1958.*

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bombay Tenancy and Agricultural Lands Act, 1948, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 and the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958;

Bom. LXVII of
 1948.
 Sau. Ord. XLI
 of 1949.
 Bom. XCIX of
 1958.

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Tenancy and Agricultural Lands Laws (Amendment) (Second) Ordinance, 1996.

(2) It shall come into force at once.

2. *Bom. LXVII of 1948, Sau. Ord. XLI of 1949 and Bom. XCIX of 1958 to be temporarily amended.*—During the period of operation of this Ordinance, the Bombay Tenancy and Agricultural Lands Act, 1948, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 and the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 shall have effect subject to the amendments specified respectively in sections 3 to 10.

Bom. LXVII of 1948.
Sau. Ord. XLI of 1949.
Bom. XCIX of 1958.

3. *Amendment of section 43 of Bom. LXVII of 1948.*—In the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "the Bombay Tenancy and Agricultural Lands Act"), in section 43,—

Bom. LXVII of 1948.

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

"(1C) The land to which sub-section (1) applies and for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 for use of such land for a *bonafide* industrial purpose may, notwithstanding anything contained in sub-section (1) of this section, be sold without the previous sanction of the Collector under sub-section (1) but subject to payment of such amount as may be determined by the State Government under sub-section (1).";

Bom. V of 1879.

(2) in sub-section (2), after the words, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (1C)" shall be inserted.

4. *Insertion of new section in Bom. LXVII of 1948.*— In the Bombay Tenancy and Agricultural Lands Act, after section 63A, the following new section shall be inserted, namely :—

Sale of land for *bonafide* industrial purpose permitted in certain cases.

"63AA. (1) Nothing in section 63 shall prohibit the sale or the agreement for the sale of land for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 in favour of any person for use of such land by such person for a *bonafide* industrial purpose :

Bom. V of 1879.

Provided that—

(a) the land is not situated within the urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976,

33 of 1976.

(b) where the area of the land proposed to be sold exceeds ten hectares, the person to whom the land is proposed to be sold in pursuance of this sub-section shall obtain previous permission of the Industries Commissioner, Gujarat State or such other officer, as the State Government may, by an order in writing, authorise in this behalf,

(c) the area of the land proposed to be sold shall not exceed four times the area on which construction for a *bonafide* industrial purpose is proposed to be made by the purchaser.

Provided that any additional land which may be required for pollution control measures or required under any relevant law for the time being in force and certified as such by the relevant authority under that law shall not be taken into account for the purpose of computing four times the area,

(d) where the land proposed to be sold is owned by a person belonging to the Scheduled Tribe, the sale shall be subject to the provisions of section 73AA of the Bombay Land Revenue Code, 1879. Bom. V of 1879.

(2) Nothing in section 63A shall apply to any sale made in pursuance of sub-section (1).

(3) (a) Where the land is sold to a person in pursuance of sub-section (1) (hereinafter referred to as "the purchaser"), he shall within thirty days from the date of the purchase of the land for a *bonafide* industrial purpose, send a notice of such purchase in such form alongwith such other particulars as may be prescribed, to the Collector and endorse a copy thereof to the Mamlatdar.

(b) Where the purchaser fails to send the notice and other particulars to the Collector under clause (a) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Act, such fine not exceeding two thousand rupees as the Collector may, subject to rules made under this Act, direct.

(c) Where on receipt of the notice of the date of purchase for the use of land for a *bonafide* industrial purpose and other particulars sent by the purchaser under clause (a), the Collector, after making such inquiry as he deems fit—

(i) is satisfied that the purchaser of such land has validly purchased the land for a *bonafide* industrial purpose in conformity with the provisions of sub-section (1), he shall issue a certificate to that effect to the purchaser in such form and within such time as may be prescribed,

(ii) is not so satisfied, he shall, after giving the purchaser an opportunity of being heard, refuse to issue such certificate and on such refusal, the sale of land to the purchaser shall be deemed to be in contravention of section 63.

(d) (i) The purchaser aggrieved by the refusal to issue a certificate by the Collector under sub-clause (ii) of clause (c) may file an appeal to the State Government or such officer, as it may, by an order in writing, authorise in this behalf.

(ii) The State Government or the authorised officer shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it or he deems fit.

(4) (a) The purchaser shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority or statutory authority in relation to use of land for industrial purpose before the land is put to use for such purpose.

(b) The purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (3) shall commence industrial activity on such land within three years from the date of such certificate and commence production of goods or providing of services within five years from such date :

Provided that the period of three years or, as the case may be, five years may, on an application made by the purchaser in that behalf, be extended from time to time, by the State Government or such officer, as it may, by an order in writing, authorise in this behalf, in such circumstances as may be prescribed.

(5) Where the Collector, after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard, comes to a conclusion that the purchaser has failed to commence industrial activity or production of goods or providing of services within the period specified in clause (b) of sub-section (4), or the period extended under the proviso to that clause, the land shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the Collector may determine, having regard to the price paid by the purchaser and such land shall be disposed of by the State Government, having regard to the use of land."

5. *Amendment of section 82 of Bom. LXVII of 1948.*—In the Bombay Tenancy and Agricultural Lands Act, in section 82, in sub-section (2), after clause (ka), the following clause shall be inserted, namely:—

"(kaa) the form of notice and particulars to be sent under clause (a), the rules subject to which the Collector may direct the payment of fine under clause (b), the form of and the time within which a certificate is to be issued under sub-clause (i) of clause (c), of sub-section (3) and the circumstances in which the period may be extended under the proviso to clause (b) of sub-section (4), of section 63AA;"

6. *Insertion of new section in Sau. Ord. XLI of 1949.*—In the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 (hereinafter referred to as "the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance"), after section 54, the following new section shall be inserted, namely:—

Sale of land for *bonafide* industrial purpose permitted in certain cases.

"55. (1) Nothing in section 34 shall prohibit the sale or the agreement for the sale of land for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 in favour of any person for use of such land by such person for a *bonafide* industrial purpose :

Provided that—

(a) the land is not situated within the urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976, 33 of 1976,

(b) where the area of the land proposed to be sold exceeds ten hectares, the person to whom the land is proposed to be sold in pursuance of this sub-section shall obtain previous permission of the Industries Commissioner, Gujarat State or such other officer, as the State Government may, by an order in writing, authorise in this behalf,

(c) the area of land proposed to be sold shall not exceed four times the area on which construction for a *bonafide* industrial purpose is proposed to be made by the purchaser:

Provided that any additional land which may be required for pollution control measures or required under any relevant law for the time being in force and certified as such by the relevant authority under that law shall not be taken into account for the purpose of computing four times the area,

(d) where the land proposed to be sold is owned by a person belonging to the Scheduled Tribe, the sale shall be subject to the provisions of section 73AA of the Bombay Land Revenue Code, 1879. Bom. V of 1879.

(2) (a) Where the land is sold to a person in pursuance of sub-section (1) (hereinafter referred to as "the purchaser"), he shall within thirty days from the date of the purchase of the land for a

bonafide industrial purpose, send a notice of such purchase in such form alongwith such other particulars as may be prescribed, to the Collector and endorse a copy thereof to the Mamlatdar.

(b) Where the purchaser fails to send the notice and other particulars to the Collector under clause (a) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Ordinance, such fine not exceeding two thousand rupees as the Collector may, subject to rules made under this Ordinance, direct.

(c) Where on receipt of the notice of the date of purchase for the use of land for a *bonafide* industrial purpose and other particulars sent by the purchaser under clause (a), the Collector, after making such inquiry as he deems fit—

(i) is satisfied that the purchaser of such land has validly purchased the land for a *bonafide* industrial purpose in conformity with the provisions of sub-section (1), he shall issue a certificate to that effect to the purchaser in such form and within such time as may be prescribed,

(ii) is not so satisfied, he shall, after giving the purchaser an opportunity of being heard, refuse to issue such certificate and on such refusal, the sale of land to the purchaser shall be deemed to be in contravention of section 54.

(d) (i) The purchaser aggrieved by the refusal to issue a certificate by the Collector under sub-clause (ii) of clause (c) may file an appeal to the State Government or such officer, as it may, by an order in writing, authorise in this behalf.

(ii) The State Government or the authorised officer shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it or he deems fit.

(3)(a) The purchaser shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority or statutory authority in relation to use of land for industrial purpose before the land is put to use for such purpose.

(b) The purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (2) shall commence industrial activity on such land within three years from the date of certificate and commence production of goods or providing of services within five years from such date :

Provided that the period of three years or, as the case may be, five years may, on an application made by the purchaser in that behalf, be extended from time to time, by the State Government or such officer, as it may, by an order in writing, authorise in this behalf, in such circumstances as may be prescribed.

(4) Where the Collector, after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard, comes to a conclusion that the purchaser has failed to commence industrial activity or production of goods or providing of services within the period specified in clause (b) of sub-section (3), or the period extended under the proviso to that clause, the land shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the Collector may determine, having regard to the price paid by the purchaser and such land shall be disposed of by the State Government, having regard to the use of land."

7. Amendment of section 73 of Sau. Ord. XLI of 1949.—In the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, in section 73, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely :—

"(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for the following matters :—

- (a) the manner of determining debts and liabilities under section 43;
- (b) the manner of notifying liquidation scheme sanctioned under section 47;
- (c) the conditions subject to which permission to acquire land or interest therein may be granted under section 54;
- (d) the form of notice and particulars to be sent under clause (a), the rules subject to which the Collector may direct the payment of fine under clause (b), the form of and the time within which a certificate is to be issued under sub-clause (i) of clause (c), of sub-section (2) and the circumstances in which the period may be extended under the proviso to clause (b) of sub-section (3), of section 55; and
- (e) any other matter which is to be or may be prescribed under this Ordinance.

(3) Rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

(4) All rules made under this section shall be laid before the State Legislature as soon as may be after they are made and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

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

8. *Amendment of section 57 of Bom. XCIX of 1958.*—In the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 (hereinafter referred to as "the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act"), in section 57,—

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

"(1A) The land to which sub-section (1) applies and for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 for use of such land for a *bonafide* industrial purpose may, notwithstanding anything contained in sub-section (1) of this section, be sold without the previous sanction of the Collector under sub-section (1)."

(2) in sub-section (2), after the words, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (1A) " shall be inserted.

9. *Insertion of new section in Bom. XCIX of 1958.*—In the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, after section 89, the following new section shall be inserted, namely :—

Sale of land for
bonafide
industrial pur-
pose permitted
in certain cases.

"89A.(1) Nothing in section 89 shall prohibit the sale or the agreement for the sale of land for which no permission is required under sub-section (1) of section 65B of the Bombay Land Revenue Code, 1879 in favour of any person for use of such land by such person for a *bonafide* industrial purpose : Bom. V
of 1879.

Provided that—

(a) the land is not situated within the urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976, 33 Of
1976.

(b) where the area of the land proposed to be sold exceeds ten hectares, the person to whom the land is proposed to be sold in pursuance of this sub-section shall obtain previous permission of the Industries Commissioner, Gujarat State, or such other officer, as the State Government may, by an order in writing, authorise in this behalf,

(c) the area of the land proposed to be sold shall not exceed four times the area on which construction for a *bonafide* industrial purpose is proposed to be made by the purchaser :

Provided that any additional land which may be required for pollution control measures or required under any relevant law for the time being in force and certified as such by the relevant authority under that law shall not be taken into account for the purpose of computing four times the area,

(d) where the land proposed to be sold is owned by a person belonging to the Scheduled Tribe, the sale shall be subject to the provisions of section 73AA of the Bombay Land Revenue Code, 1879. Bom. V
of 1879.

(2) Nothing in section 90 shall apply to any sale made in pursuance of sub-section (1).

(3)(a) Where the land is sold to a person in pursuance of sub-section (1) (hereinafter referred to as "the purchaser"), he shall within thirty days from the date of the purchase of the land for a *bonafide* industrial purpose, send a notice of such purchase in such form alongwith such other particulars as may be prescribed, to the Collector and endorse a copy thereof to the Mandaldar.

(b) Where the purchaser fails to send the notice and other particulars to the Collector under clause (a) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Act, such fine not exceeding two thousand rupees as the Collector may, subject to rules made under this Act, direct.

(c) Where on receipt of the notice of the date of purchase for the use of land for a *bonafide* industrial purpose and other particulars sent by the purchaser under clause (a), the Collector, after making such inquiry as he deems fit—

(i) is satisfied that the purchaser of such land has validly purchased the land for a *bonafide* industrial purpose in conformity with the provisions of sub-section (1), he shall issue a certificate to that effect to the purchaser in such form and within such time as may be prescribed,

(ii) is not so satisfied, he shall, after giving the purchaser an opportunity of being heard, refuse to issue such certificate and on such refusal, the sale of land to the purchaser shall be deemed to be in contravention of section 89.

(d) (i) The purchaser aggrieved by the refusal to issue a certificate by the Collector under sub-clause (ii) of clause (c) may file an appeal to the State Government or such officer, as it may, by an order in writing, authorise in this behalf.

(ii) The State Government or the authorised officer shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it or he deems fit.

(4) (a) The purchaser shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any Corporation owned or controlled by such Government, Government Company, local authority or statutory authority in relation to use of land for industrial purpose before the land is put to use for such purpose.

(b) The purchaser to whom a certificate is issued under sub-clause (i) of clause (c) of sub-section (3), shall commence industrial activity on such land within three years from the date of such certificate and commence production of goods or providing of services within five years from such date :

Provided that the period of three years or, as the case may be, five years may, on an application made by the purchaser in that behalf, be extended from time to time, by the State Government or such officer, as it may, by an order in writing authorise in this behalf, in such circumstances as may be prescribed.

(5) Where the Collector, after making such inquiry as he deems fit and giving the purchaser an opportunity of being heard, comes to a conclusion that the purchaser has failed to commence industrial activity or production of goods or providing of services within the period specified in clause (b) of sub-section (4), or the period extended under the proviso to that clause, the land shall vest in the State Government free from all encumbrances on payment to the purchaser of such compensation as the Collector may determine, having regard to the price paid by the purchaser and such land shall be disposed of by the State Government, having regard to the use of land."

10. *Amendment of section 118 of Bom. XCIX of 1958.*—In the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, in section 118, in sub-section (2), after clause (xix), the following clause shall be inserted, namely :—

"(xix-a) the form of notice and particulars to be sent under clause (a), the rules subject to which Collector may direct the payment of fine under clause (b), the form of and the time within which a certificate is to be issued under sub-clause (i) of clause (c), of sub-section (3) and the circumstances in which the period may be extended under the proviso to clause (b) of sub-section (4), of section 89A;"

STATEMENT

At present there are three different Tenancy Laws in operation in the State. In the Bombay area of the State, the Bombay Tenancy and Agricultural Lands Act, 1948 is in force, in the Kutch area of the State, the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 is in force and in the Saurashtra area of the State, the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Lands Ordinance, 1949 is in force. In the Acts applicable to the Bombay area and the Kutch area of the State, the tenant can sell, with the permission of the Collector, the land which he has purchased under those Acts and under all the three Acts, the sale of agricultural land by an agriculturist to a non-agriculturist is allowed with the permission of the Collector. Those Acts are sought to be amended to allow sale of land by tenant or by an agriculturist to non-agriculturist for a *bonafide* industrial purpose so that the land can immediately be used for that purpose. In order to prevent the sale of land in contravention of the amended provisions, under the amended provisions the purchaser is required to send a notice of such purchase to the Collector within thirty days from the date of purchase and to obtain a certificate from the Collector certifying that the land is purchased by the purchaser validly and where the certificate is refused, the sale of land to the purchaser is deemed to be in contravention of the relevant provisions of the Tenancy Laws. Where the total extent of such land so purchased exceeds ten hectares, the purchaser is required to obtain prior permission of the Industries Commissioner or an officer authorised by the State Government. Under the amended provisions, the purchaser is also required to commence industrial activity within a period of three years from the date of issue of certificate of valid sale to him by the Collector and to commence production of goods or providing of services within five years from such date or within the extended period, failing which the land shall vest in the State Government on payment of compensation to the purchaser and the Government would be free to dispose it of having regard to the use of land.

For this purpose, the Gujarat Tenancy and Agricultural Lands Laws (Amendment) Ordinance, 1996 was promulgated to achieve the aforesaid objects. Thereafter, the Legislative Assembly of the State was summoned to meet on the 3rd September, 1996 but the said Ordinance could not be replaced by an Act of the State Legislature in that session. In view of provisions of sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance has ceased to operate after the 14th October, 1996. Therefore, as the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend these three Acts to achieve the aforesaid objects.

Gandhinagar,
Dated the 23rd December, 1996.

KRISHNA PAL SINGH,
Governor of Gujarat.

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

A. K. JOTI,
Secretary to Government.