

Extra Ordinary Part - V / 1996

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

PART V

Bills introduced in the Gujarat Legislative Assembly.

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

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

THE GUJARAT MARITIME BOARD (AMENDMENT) BILL, 1996.

GUJARAT BILL NO. 1 OF 1996.

A BILL

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 1981.

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

Chief. Execu-
tive Officer
and other of-
ficers and ser-
vants 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. 15 of 1908.

(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 officers 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.

STATEMENT OF OBJECTS AND REASONS

The provisions of sub-section (4) of section 3 of the Gujarat Maritime Board Act, 1981 existing immediately before the commencement of the Gujarat Maritime Board (Amendment) Ordinance, 1995 were found, at times, to leave no room for flexibility in the matter of appointment of members on the Board from amongst persons specified in clauses (b) to (h) of the said sub-section (4). It was, therefore, considered necessary to amend the said sub-section (4) to provide that the Board shall consist of not less than five and not more than twelve members, as the State Government thinks fit, to appoint and to take power to the Government to appoint members other than *ex-officio* from amongst persons who are, in the opinion of the Government, having expertise or experience in or capable of representing one or more of the interests of shipping, navigation, ports, sailing vessels, fisheries, trade, commerce, industry, workers of minor ports and such other interests as ought to be represented on the Board. Clause (a) of the said sub-section (4) provides for appointment of two members from amongst officers, one of whom is a representative of the department of the State Government in-charge of the administration of minor ports and the other representative of the Finance Department. It was considered necessary also to have the Commissioner of Fisheries as a member of the Board. Sub-section (4) of the said section 3 was proposed to be amended to provide accordingly.

As per provisions of sub-section (4) of section 10 existing immediately before the commencement of the said Ordinance, the business at meeting cannot be transacted for want of requisite quorum throughout the meeting. This requirement was proposed to do away with a view to transacting business without quorum throughout, at a meeting.

In order to enable the Chairman to devote more time in framing the policy for the effective working of the Board, it was considered necessary to relieve him from the burden of the executive work of the Board and to entrust such work to the Chief Executive Officer. It was, therefore, proposed to confer the powers on the Chief Executive Officer by amending sections 15, 24, 80, 82 and 87 of the Act.

Under section 17 existing immediately before the commencement of the said Ordinance, a person having experience of civil works, operation and administration of ports can be appointed as a Chief Executive Officer of the Board. On gaining experience, it was found that suitable person of such experience was not available for being appointed as Chief Executive Officer. Hence it was proposed to do away with such requirement of experience.

The provisions of sections 17 and 18 existing immediately before the commencement of the said Ordinance provide for creation of posts and appointment of the persons to such posts by the Board or by the State Government. It was proposed to give all powers of creation of posts and appointment, except that of Chief Executive Officer, to the Board. In case of the appointment of Financial Controller-cum-Chief Accounts Officer, prior consultation of Government is stipulated.

Section 24 existing immediately before the commencement of the said Ordinance provides that where the term of contract exceeds thirty years, the approval of the State Government is required to be obtained before the contract is made by the Board. The said limit was proposed to be reduced to five years in respect of contract for leasing of waterfront, jetties, waterways and corresponding infrastructural facilities with a view to having proper check and control over the Board.

Section 74 existing immediately before the commencement of the said Ordinance was proposed to be amended so as to enable the Board to deposit moneys standing at the credit of the Board in any corporation or financial institution controlled and managed by the State Government.

There was no provision in section 92 existing immediately before the commencement of the said Ordinance for laying the report relating to the administration of the Board before the State Legislature. It was, therefore, proposed to make such provision in this section.

As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Maritime Board (Amendment) Ordinance, 1995 was promulgated on the 8th September, 1995 to achieve the aforesaid objects. The said Ordinance was laid before the Gujarat Legislative Assembly in its session which was summoned to meet on the 7th October, 1995 and prorogued on the same day. 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 have ceased to operate after the 17th November, 1995, the date on which the period of six weeks from the date of re-assembly of the Gujarat Legislative Assembly expires. It was expedient to take immediate action to continue the operation of the provisions of the said Ordinance. Therefore, as the Gujarat Legislative Assembly was not in session, the Gujarat Maritime Board (Amendment) (Second) Ordinance, 1995 was promulgated to achieve the aforesaid objects.

This Bill seeks to replace the said Second Ordinance by an Act of the State Legislature.

SURESHCHANDRA MEHTA

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

Clause 5.—Section 15 proposed to be substituted by this clause empowers the Board to delegate, with the approval of the State Government, its powers and duties to the Chief Executive Officer.

Clauses 6 and 17.—(i) Clause (b) of sub-section (1) of section 17 proposed to be substituted by clause 6 and new clause (aa) to sub-section (2) of section 109 proposed to be inserted by clause 17, empowers the State Government to prescribe by rules the terms and conditions of service of the Chief Executive Officer.

(ii) Sub-section (3) of section 17 proposed to be substituted by clause 6 empowers the Board to frame regulations for determining the conditions of appointment and service and the remuneration payable to the officers and employees of the Board.

Clause 8.—(i) Sub-section (1) of section 19 proposed to be substituted by this clause empowers the Board to frame regulations to prescribe the authority for the purposes of exercising the powers under said sub-section (1).

(ii) Sub-section (2) of section 19 proposed to be substituted by this clause empowers the Board to make regulations providing for the time within which and the manner in which an appeal may be preferred.

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

Dated the 25th January, 1996.

SURESHCHANDRA MEHTA

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

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department

Gandhinagar, dated the 31st January, 1996.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

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

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

THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS (REMOVAL OF DISQUALIFICATIONS) (AMENDMENT) BILL, 1996.

GUJARAT BILL NO. 2 OF 1996.

A BILL

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.

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

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 :—

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

Short title
and
commence-
ment.

Amendment of
Schedule
to Guj. 1 of
1960.

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.

STATEMENT OF OBJECTS AND REASONS

Sardar Sarovar Narmada Nigam Limited requires able hands experienced in the fields of trade, commerce, industry, finance, management of public life to man it efficiently. This is particularly so with regard to this company which deals directly with the implementation of the Sardar Sarovar Project which is crucial for the economic growth of the State of Gujarat. 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 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 was, therefore, considered necessary to remove the disqualification that might be incurred by such member on being appointed as Chairman or Director of the aforesaid company by adding entry 31 in the Schedule to the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960. As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Ordinance, 1995 was promulgated on the 9th September, 1995 to achieve the aforesaid object.

The said Ordinance was laid before the Gujarat Legislative Assembly in its session which was summoned to meet on the 7th October, 1995 and prorogued on the same day. Therefore, the said Ordinance could not be replaced by an Act of 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 have ceased to operate after the 17th November, 1995, the date on which the period of six weeks from the date of reassembly of the Gujarat Legislative Assembly expires. It was expedient to take immediate action to continue the operation of the provisions of the said Ordinance. Therefore, as the Gujarat Legislative Assembly was not in session, the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) (Second) Ordinance, 1995 was promulgated to achieve the aforesaid object. This Bill seeks to replace the said second Ordinance by an Act of the State Legislature.

Dated the 1st February, 1996.

BHUPENDRASINH CHUDASAMA.

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

KUM. H. K. JHAVERI,

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

Gandhinagar, dated the 3rd February, 1996.

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PART V

Bills introduced in the Gujarat Legislative Assembly.

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

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

**THE BOMBAY COURT-FEES (GUJARAT AMENDMENT) AMENDING
 BILL, 1996.**

GUJARAT BILL NO. 3 OF 1996.

A BILL

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.

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

Short title and
com-
mence-
ment.

Guj. 12
of 1995.

B o m
XXXVI
of
1959.

2. The Government Notification in the Legal Department No. GK/19/95/CFA/1002/1205/1 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 :—

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

Amend-
ment of section
1 of Guj. 12 of
1995.

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.

STATEMENT OF OBJECTS AND REASONS

In the larger public interest and in view of exigencies, it was considered necessary to suspend the operation of the amendments made in the Bombay Court-fees Act, 1959 by the Bombay Court-fees (Gujarat Amendment) Act, 1995 and to revive the relevant provisions of the principal Act existing immediately before such amendments. For that purpose, it was considered necessary to amend the said amending Act. As the Gujarat Legislative Assembly was not in session at that time, the Bombay Court-fees (Gujarat Amendment) Amending Ordinance, 1995 was promulgated on the 28th August, 1995 to achieve the aforesaid object.

The said Ordinance was laid before the Gujarat Legislative Assembly in its session which was summoned to meet on the 7th October, 1995 and prorogued on the same day. 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 have ceased to operate after the 17th November, 1995, the date on which the period of six weeks from the date of reassembly of the Gujarat Legislative Assembly expires. It was expedient to take immediate action to continue the operation of the provisions of the said Ordinance. Therefore, as the Gujarat Legislative Assembly was not in session, the Bombay Court-fees (Gujarat Amendment) Amending (Second) Ordinance, 1995 was promulgated to achieve the aforesaid object. This Bill seeks to replace the said second Ordinance by an Act of the State Legislature.

VINENDRASINH ZALA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

Clause 3.—Sub-section (2) of section 1 of the amending Act proposed to be substituted by this clause empowers the State Government to appoint, by notification in the Official Gazette, the date on which the amending Act shall come into force.

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

VINENDRASINH ZALA.

Dated the 2nd February, 1996.

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

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 3rd February, 1996.

Extra No. 4

REGISTERED NO. G/GNR/2.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

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

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

**THE GUJARAT LEGISLATIVE ASSEMBLY MEMBERS (REMOVAL OF
DISQUALIFICATIONS) (SECOND AMENDMENT) BILL, 1996.**

GUJARAT BILL NO. 4 OF 1996.

A BILL

*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, Amendment
1960, in the Schedule, after entry 31, the following entry shall be added, namely :— of Schedule to
Guj. 1 of 1960.

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

V-Ex.-4-1

4-1

STATEMENT OF OBJECTS AND REASONS

The Gujarat State Forest Development Corporation Limited requires able hands 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 a 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 State Forest Development Corporation Limited by adding entry 32 in the Schedule to the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960.

This Bill seeks to amend the Schedule to the said Act to achieve the aforesaid object.

Dated the 13th February, 1996.

BHUPENDRASINH CHUDASAMA.

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

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 13th February, 1996.



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PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 15th February 1996 by Shri Virjibhai Thumar M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

Gujarat Bill No. 5 of 1996.

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 1995.

A BILL

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

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

1. (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 1995.

Short title
and
commen-
cement.

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

Guj. X of
1962.

2. In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act") section 74-D shall be deleted.

Deleti on
of secti on
74D of
Guj. X
of 1962.

3. In the principal Act, in section 80—

Amend-
ment of se-
ction 80 of
Guj. X of
1962.

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

"Provided that the members nominated by the State Government under this section shall not have right to vote in the meeting of a Committee and shall not contest any office under the Society."

(2) sub-section (2) shall be deleted.

4. In the principal Act, in section 80A,

(1) in sub-section (1), clause (b) shall be deleted;

(2) sub-sections (2) and (3) shall be deleted.

Amend-
ment of
section 80A
of Guj. X
of 1962.

STATEMENT OF OBJECTS AND REASONS

It has been observed that the power to appoint custodian under section 74D, is misused by the Registrar and it results into undue interference by the State Government in the affairs of an autonomous body, which is very against the basic principles of co-operation. Therefore, an amendment is proposed to delete that section.

As per the provision of sub-section (7) of section 28, nominal or sympathiser members have no right to vote. They are also not entitled to be a member of any Committee. Similar provision is also felt necessary in case of members or representatives nominated by the Registrar or the State Government under sub-section (1) of section 80. Therefore, an amendment is proposed by inserting a proviso to section 80.

Moreover, power to appoint Government nominee on the Committee of a Societies is justified only in the cases of societies where the State Government has subscribed to the share capital of that society or has guaranteed repayment of any loans or any sort of securities. However, in cases of societies, where the State Government has neither subscribed to the share capital nor guaranteed repayment of any loans or securities, power to nominate representatives under sub-section (2) of section 80 on the committee of such societies is also seen misused by the State Government for achieving political against which ultimately results into emergence of vested interest in the management of autonomous societies. In order to re-establish autonomy in the working of co-operative Societies, an amendment is proposed to delete sub-section (2) of section 80.

Hence this Bill:

Gandhinagar,

Dated the 4th July, 1995.

VIRJIBHAI THUMAR

M.L.A."

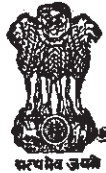
Gandhinagar,

Dated the 15th February, 1996.

V. H. DAVE,

Secretary,
Gujarat Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDINAGAR



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PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 15th February 1996 by Shri Mahendra Mashru, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

"GUJARAT BILL NO. 6. OF 1996

THE GUJARAT DECLARATION OF ASSETS OF THE MEMBERS OF THE GUJARAT LEGISLATIVE ASSEMBLY BILL, 1995.

A BILL

to provide for the declaration of Assets of Members of Gujarat Legislative Assembly and certain other matters connected therewith.

WHEREAS, it is expedient to provide for the declaration of Assets of the Members of the Gujarat Legislative Assembly and certain other matters as hereinafter appearing.

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

1. (1) This Act may be called the Gujarat Declaration of Assets of the Members of the Gujarat Legislative Assembly Act, 1995.

(2) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Assembly" means the Legislative Assembly of the State of Gujarat.

(b) "Member" means a member of the Assembly and includes the Chief Minister, Deputy Chief Minister, Minister, Minister of State, Deputy Minister, Parliamentary Secretary and Deputy Speaker but does not include Speaker.

V-Extra 6-1

Short
title and
commen-
cement.

Defini-
tions.

(c) "Member of his family" means husband, wife, minor son, major son who is residing with the member, daughter-in-law who is residing with him, unmarried daughter, married daughter who is staying with him, son-in-law who is staying with him and father, mother, sister, brother or cousin who is staying with the member.

(d) "prescribed" means prescribed by rules.

(e) "property" means and includes any property situate in India or abroad, both movable and immovable.

Explanation (1).—The expression "movable property" includes

(a) jewellery; insurance policies, shares, securities and debentures,

(b) deposits in banks or with private firms or individuals,

(c) loans advanced whether secured or not;

(d) motor cars, motor cycles;

(e) refrigerators, radio-sets and radiograms;

(f) any permit or licence issued by or under the authority of the State or Central Government or any Corporation for the conduct of any business involving production or distribution or sale or agency of any commodity and transport of goods or passengers; and

(g) cash on hand.

Explanation (2).—The expression "immovable property" means and includes

(a) buildings, lands, gardens; and

(b) permanent fixtures like machineries.

(f) "Secretary" means the Secretary to the Assembly and includes any person for the time being performing the duties of the Secretary.

(g) "Speaker" means the Speaker of the Assembly.

Return.

3. (1) Every Member shall, on his election to the Assembly and thereafter at the intervals of every twelve months ending with the third year after ceasing to be a Member, submit to the Speaker of the Assembly a return in such form as may be prescribed by the State Government showing all property owned, acquired or inherited by him or held by him on lease or mortgage either in his own name or in the name of any Member of his family or in the name of any other person together with details of the means by which, or the sources from which such property was acquired.

(2) The return shall be submitted within such time as may be prescribed.

Penalty for not furnishing return.

4. If any member wilfully fails to furnish a return under this Act, within the time prescribed, he shall be punishable with imprisonment of either description which shall extend to two years.

Penalty for furnishing false return.

5. The return submitted by the Member shall be certified by him to be correct and if the Member has furnished a return which he knows or has reason to believe to be false, he shall be punishable under the provisions of section 193 of Indian Penal Code.

XIV of 1860.

6. The returns submitted by the Members shall be placed on the Table of the Assembly.

Placing of returns on the Table of the House.

7. The returns submitted by the Members under section 3 shall be a public document and copies of the returns may be issued by the Secretary under the authority of the Speaker to any person applying for the same on such conditions as may be prescribed.

Returns to be public documents.

8. No court inferior to that of a District Court shall try an offence under this Act.

Cognizance of offence.

9. (1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication make rules to carry out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form of return and the manner, and time of submission of the same;
- (b) the manner of obtaining copies of the return; and
- (c) the mode of prosecution of the offenders under the Act.

(3) Every rule made under this section shall be laid, as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agree in making any modification in the rule or the Legislative Assembly agree that the rule should not be made and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect as the case may be, so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

STATEMENT OF OBJECTS AND REASONS

The members of the Legislature who are representatives of the people in the State should not allow suspicion to be created that they are indulging in corrupt practices, misusing their offices, and multiplying their assets. It is felt necessary that the members should prove themselves that they hold office as a member for the betterment of the toiling masses and not for their personal benefit. So as to achieve this object; almost all the political parties have accepted that members of the Legislature should declare their assets; such declaration must be made to the Speaker and same must be a public document so that copy of the same can be obtained by any person. Such returns should also be placed on the Table of the Assembly. There is a convention that members of the Cabinet should declare their assets to the Chief Minister, but this provision is not statutory and the returns filed by Minister are not public documents. Moreover, there is nothing about the return to be filed by Chief Minister.

The Bill is a step towards clearing of the public life in the State.

Gandhinagar.

Dated the 1st August, 1995.

MAHENDRA MASHRU,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves proposals for the delegation of Legislative powers as follows:—

Clause 3.—This clause empowers the State Government to prescribe the form of the return to be submitted by the member and the time within which it should be submitted.

Clause 7.—Under this clause State Government is empowered to prescribe conditions for the issue of the copies of the returns of the assets of the member to the applicants.

Clause 9.—Under this clause State Government is empowered to make rules for carrying out all or any of the purposes of this Act.

These proposals for delegation of Legislative powers are of normal character.

Gandhinagar,
Dated the 1st August, 1995.

MAHENDRA MASHRU,
M.L.A.

Gandhinagar,
Dated the 15th February, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.

સરકારી મધ્યસ્થ પ્રેસ, ગાંધીનગર.



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

PART V**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 15th February, 1996 by Shri Dhirubhai Bhil, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

“GUJARAT BILL NO. 7 OF 1996.**THE BOMBAY PROHIBITION (GUJARAT AMENDMENT) BILL, 1996.****A BILL**

further to amend the Bombay Prohibition Act, 1949.

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

1. (1) This Act may be called the Bombay Prohibition (Gujarat Amendment) Act, 1996.

Short
title and
commen-
cement.

(2) It shall come into force at once.

2. In the Bombay Prohibition Act, 1949 (hereinafter referred to as “the principal Act”), in section 60, in sub-section (2), after second proviso, the following new proviso shall be inserted, namely:—

Amend-
ment of
Section
60 of
Bom.
XXV
of 1949.

Bom.
XXV
of
1949.

"Provided also that no licence, permit or pass shall be necessary for the collection, transport, purchase or possession of any quantity of Mhowra flowers by any household or head of household on his behalf or on behalf of the members of his household if the Mhowra flowers are to be used for household purposes".

Amendment of
Section
109 of
Bom.
XXV of
1949.

3. In the principal Act, in section 109, after sub-section (1) the following proviso shall be inserted, namely:—

"Provided that nothing in this section shall apply to any household or head of household on his behalf or on behalf of the members of his household, if toddy producing trees are tapped for household purposes."

STATEMENT OF OBJECTS AND REASONS.

Section 60 of the Bombay Prohibition Act, 1949 provides for prohibition of export or import of Mhowra flowers. Sub-section (2) provides for control and regulation of transport, sale, etc. of Mhowra flowers.

Restrictions imposed by the said section created hardships for the household living in rural areas and particularly in Tribal areas. As most of the illiterate people of the rural areas and particularly in tribal areas become victim of section 60 by the authorities. They do not know the detailed provisions of the Act. Mhowra Flower is a medicinal plant and it is used for the medical purposes traditionally, since long.

In rural areas and tribal areas people use Mhowra flowers for edible purpose as the same provides nutrition of high qualities and is a substitute for costly tonics.

In view of that, it is necessary to liberalise the provisions of the Act so as to exempt the household or head of household on his behalf or on behalf of the members of his household from the restrictions imposed by section 60.

Section 109 of the Act provides for duty on tapping of toddy trees. In rural areas and particularly in tribal areas people drink NIRA made from toddy trees. Restrictions imposed by the said section has created the hardships for the people living in rural and tribal areas. They do not know the law of prohibition in details and become victim many times.

Also the NIRA (as traditionally known 'morning juice' of the toddy tree) is consumed as a tonic for the poor rural people and children, many people grow toddy for the said purpose.

Also the toddy tree is a beautiful long tree, tapping of toddy trees will boost the tree plantation and will help the rural areas' development. This Bill seeks to achieve the aforesaid objects.

Gandhinagar,
Dated the 4th January, 1996.

DHIRUBHAI BHIL,
M.L.A."

Gandhinagar,
Dated the 15th February, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR



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 may be filed as a separate compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 15th February, 1996 by Shri Usmangani Deyadiwala, M. L. A. is published under Rule 127-A of the Gujarat, Legislative Assembly Rules for general information:—

GUJARAT BILL NO. 8 OF 1996.

**THE GUJARAT BURIAL GROUNDS PRESERVATION AND MAINTENANCE
 BILL, 1996.**

A BILL

*to provide for the preservation and maintenance of certain burial grounds
 in the State of Gujarat.*

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

1. (1) This Act may be called the Gujarat Burial Grounds Preservation and Maintenance Act, 1996.

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

(3) It shall come into force at once.

Short
 title, ex-
 tent and
 commen-
 cement.

Definition.

2. In this Act, unless the context otherwise requires, "burial ground" means Kabrastan, cemetery or such other land set apart under section 38 of the Bombay Land Revenue Code, 1879 as a burial ground for any community or for children and not managed by any public trust registered under the Bombay Public Trusts Act, 1950 or by a wakf registered under the Wakf Act, 1954.

Bom.
5 of
1879.]

Bom.
29 of
1950.

Act
No. 29
of 1954. X

Committee for each burial ground.

3. (1) There shall be a Committee to look after preservation and maintenance of each burial ground.

(2) The Committee shall consist of a Chairman and not more than five other members nominated by the Collector from amongst the persons who ordinarily reside at the place where the burial ground is situated:

Provided that in case of a burial ground set apart for a particular community, the persons belonging to that community shall only be nominated as members of the Committee.

(3) The term of office of the Chairman and the members of the Committee shall be two years from the date of such nomination.

(4) The procedure of the Committee shall be such as may be prescribed.

Functions of the Committee;

4. The functions of the Committee shall be—

(1) to see that the person entitled to the use of the burial ground is allowed to use such ground without any hinderance.

(2) to prevent misuse or sale of the burial ground by any person;

(3) to fence the burial ground by barbed wire or any other material;

(4) to provide for adequate supply of water in the burial ground;

(5) to provide for growing of flowers and trees in the burial ground;

(6) to do such other things as may be necessary for the smooth and efficient management of burial ground.

Funds of Committee.

5. The Committee may accept donations and collect funds for the purpose of preservation and maintenance of the burial ground.

Accounts.

6. The accounts of the Committee shall be maintained in such form and shall be audited by such agency as may be prescribed.

Permission not necessary in certain matters.

7. Notwithstanding anything contained in the Bombay Land Revenue Code, 1879 or any other law for the time being in force, it shall not be necessary for the Committee to obtain any permission of the State Government or any local authority for doing anything within the limits of the burial ground for carrying out the purposes of this Act.

Bom.
5 of
1979.

Liability of member of Committee.

8. (1) On a complaint received from any person against any member of the Committee or on his own motion, the Collector or any officer authorised by him in this behalf in writing, may inquire into any misappropriation of the fund of the Committee and if he is satisfied that any member of the Committee is responsible for misappropriation of the fund of the Committee he may, by order in writing direct such member to pay to the Committee before a fixed date, the amount misappropriated by him.

(2) If the amount misappropriated is not paid by him within the time fixed, it shall be recovered as an arrears of Land Revenue and credited to the fund of the Committee.

(3) Any person aggrieved by the decision of the Collector or any officer so authorised may, within thirty days from the date of such decision, appeal to the District Court for redressal of his grievances and that Court after taking such evidence as it thinks necessary may, confirm, modify or set aside the order passed by the Collector or any officer authorised by him and make such order as it deems fit.

9. (1) The State Government may, by an officer authorised in this behalf, cause to investigate and ascertain the facts as to whether any burial ground which was not notified and used as such by any community at the commencement of the Constitution of India or thereafter.

(2) If the investigation of an officer authorised under sub-section (1) reveals that any burial ground which was used at the commencement of the Constitution of India or thereafter has been occupied by any person and used for purposes other than the burial purpose or has been converted into any land or building, then it shall be lawful for the State Government to summarily evict its occupant therefrom, remove encroachment thereon and cause to notify it to be a burial ground and hand over its possession to any of the committees referred to in section 3 for resumption of its use as a burial ground.

Investigation into former burial grounds; removal of occupants and encroachment thereon.

10. Any person, who—

Punishment.

(a) has misused a burial ground, or

(b) has occupied the burial ground and used for any purpose other than a burial ground, and

(c) has converted a burial ground into a land or a building,

shall, on conviction, be punished with an imprisonment for a term not exceeding five years and with a fine not exceeding Rs. 5000/—.

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

Power to make rules.

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

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

STATEMENT OF OBJECTS AND REASONS

Ordinarily in every village, town or city in the State of Gujarat, there are burial grounds for different communities. Some of them are under trusts or wakfs but usually they are under Government or Panchayats or Municipalities. The lands under the Panchayats or Government are many times used for the purposes other than burying the dead causing bitterness among the religious minorities such as Muslims, Christians etc. It is therefore, necessary to orsomegiya to eeean look after the burial grounds.

It is therefore, necessary that there should be some agency to look after such burial grounds which are not looked after by any agency. It is also necessary that certain facilities such as fencing, adequate supply of water, growing of flowers and trees ect. are provided in such burial grounds.

Statutory Committee consisting of a Chairman nominated by the Collector from amongst the persons belonging to the community for which the burial ground is set apart would be the proper agency to look after each burial ground. This Bill seeks to provide for nomination, of such a Committee for each burial ground with necessary provisions for its functions, power to collect funds, maintenance of accounts etc.

Certain burial grounds which were not notified and used as burial grounds some years ago have been occupied and converted into lands or buildings and requires to be investigated and its unauthorised occupation also requires to be evicted so as to restore such grounds for the use as a burial ground.

Gandhinagar,
Dated the 1st January, 1996.

USMANGANI DEVADIWALA,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The following provisions of the Bill provide for delegation of powers of legislative nature, namely:—

Clause 3.—Sub-clause (5) of this clause empowers the State Government to prescribe procedure of the Committee.

Clause 4.—Sub-clause (6) of this clause empowers the State Government to prescribe functions for the Committee other than those specified in sub-clauses (1) to (5) of clause 4.

Clause 6.—This clause empowers the State Government to prescribe form in which the accounts of the Committee shall be maintained and to prescribe the agency for auditing the accounts of the committee.

Clause 11.—This clause empowers the State Government to make rules for carrying out the purposes of the Act.

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

Gandhinagar,
Dated the 1st January, 1996.

USMANGANI DEVADIWALA,
M. L. A."

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly,

Gandhinagar,
Dated the 15th February, 1996.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 15th February, 1996 by Shri Usmangani Devadiwala, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

" GUJARAT BILL NO. 9 OF 1996.

THE GUJARAT WELFARE AND PROTECTION OF MINORITIES BILL, 1996

A BILL

to provide for the welfare and protection of life and properties of minority communities in the State of Gujarat and for matters connected therewith.

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

1. (1) This Act may be called the Gujarat Welfare and Protection of Minorities Act, 1996.

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

(3) It shall come into force at once.

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

(a) 'Board' means the Gujarat Minority Welfare Board, constituted under section 6.

(b) 'Minority Community' means a group of persons belonging to a community based on religion other than Hindus.

(c) 'Prescribed' means prescribed by rules made under this Act.

Short title,
extent and
commence-
ment.

Definitions.

Special
care to
protect
minorities.

3. The State Government shall take special care to protect the life and properties of minority community from any attack or assault thereon and for this purpose, the State Government may arrange for special squads of police.

Responsi-
bility for
communal
disturbances

4. (1) It shall be the paramount duty of the District Magistrate to maintain communal harmony and to keep a careful watch and vigilance over the communal atmosphere in his district.

(2) The District Magistrate shall be responsible for any communal disturbance in his District and shall be liable for summary suspension during the pendency of the investigation about his vigilance.

Offence
and penal-
ties
therefore.

5. (1) Any attack or assault on the life or properties of the minority community shall be a cognizable offence under this Act and shall be tried in the Court of the Magistrate not inferior to the Judicial Magistrate of First Class and any person directly or indirectly involved therein shall, on conviction, be punished with imprisonment for the term of not less than seven years.

(2) Any person or institution belonging to the minority community may lodge a complaint for any offence under this Act.

Minority
Welfare
Board.

6. (1) The State Government shall constitute a Board to be called the Gujarat Minority Welfare Board consisting of not more than 15 members for the welfare of minority communities, out of which two third members shall be persons belonging to the minority communities.

(2) The Chairman of the Board shall be a person belonging to the minority community.

Terms and
conditions
of service
of mem-
bers.

7. The term and conditions of the service of the members of the Board and honorarium and allowances to be paid to them shall be such as may be prescribed.

Appoint-
ment
of officers
and ser-
vants.

8. The Board may appoint such officers and servants as it considers necessary for the efficient performance of its functions.

Functions
of Board.

9. The functions of the Board shall be—

(i) to look into the educational, cultural, social, economic and welfare of the minority communities in the State and to suggest to the State Government the ways and means therefor;

(ii) to suggest ways and means for promotion and development of Urdu and other languages of the minority communities;

(iii) to discharge such other functions as may be prescribed.

Power to
make rules
for trans-
action of
business.

10. The Board may, with the previous sanction of the State Government, make rules for transaction of business and for internal working of its meetings.

Power to
make
Rules.

11. (1) The State Government may, make rules for carrying out the purposes of this Act.

(2) All rules made under this Act, shall be published in the *Official Gazette* and unless they all are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

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

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

STATEMENT OF OBJECTS AND REASONS

The lives and properties of persons belonging to the Minority communities deserve to be protected meticulously. India is a secular State and hence all communities are equal. In communal disturbances and riots the minority communities have generally to suffer. The District authorities in most of the cases are aware of the communal tension prevailing. They however, do not take prompt preventive measures, which result into heavy loss of lives and properties of the minorities. The summary action is, therefore, proposed against the District Magistrate who is responsible for maintaining law and order situation in the District.

The Government of a secular State should also look into the development and welfare activities of minority communities and constitution of a Board for the purpose is therefore proposed.

The Bill seeks to achieve the aforesaid objects.

Dated the 12th December, 1995.

USMANGANI DEVADIWALA,
M.L.A.

FINANCIAL MEMORANDUM

For the implementation of the provisions of the Bill and for its efficient functioning, a financial provision for a recurring expenditure of Rs. 25 lacs is estimated from the Consolidated Fund of the State.

Dated the 12th December, 1995.

USMANGANI DEVADIWALA,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 empowers the State Government to prescribe the term and conditions of services of the members of the Board, and honorarium and allowances to be paid to them.

Clause 9(iv) empowers the State Government to prescribe functions of the Minority Welfare Board other than those prescribed in clause 9.

Clause 11 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of Legislative powers is essential and is of normal character.

Dated the 12th December, 1995.

USMANGANI DEVADIWALA,"
M.L.A.

Gandhinagar,
Dated the 15th February, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 15th February 1996 by Shri Lavingji Solanki, M. L. A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:-

GUJARAT BILL NO. 10 OF 1996.

THE GUJARAT PROHIBITION OF ACCEPTING DONATIONS FOR ADMISSION TO EDUCATIONAL INSTITUTIONS BILL, 1996.

A BILL

to provide for prohibition of accepting donations or premium for giving admission to students in any educational institution in the State.

WHEREAS, it is expedient to provide for prohibition of accepting donations or premium for giving admission to students in educational institutions in the State.

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

1. (1) This Act may be called the Gujarat Prohibition of Accepting Donations For Admission to Educational Institutions Act, 1996.

Short title,
extent and
commence-
ment.

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

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

**Prohibition
of accept-
ing donat-
ions for
granting
admission
to Educat-
ional insti-
tutions.**

2. (1) No person shall without the permission of the State Government, either by himself or through any other person accept any donation or premium or interest-free loan or any amount in cash or kind by way of consideration for granting admission to students to any class, standard or any course in any educational institution recognised by any local body or the State Government or any University in the State.

(2) Contravention of the provisions contained in sub-section (1) shall constitute a cognizable and non-compoundable offence and the person concerned shall, on conviction, be punishable with imprisonment for not less than 3 years and with fine which shall not be less than the amount of donation or premium and in the case of a gift in kind, the value thereof.

STATEMENT OF OBJECTS AND REASONS.

There is a growing tendency in the Educational institutions in the State to demand donations or premium in the nature of capitation fee or interest free loan for giving admission to students in such institutions. The capitation fee that is demanded now-a-days for admission ranges from Rs. 1000 for admission to schools to Rs. 50,000 or more for admission to Engineering and Medical Colleges. As a result of this, poor students whose parents are incapable of paying such exorbitant capitation fee are unable to get admission to the institutions even though they are otherwise eligible on merit to get admission. It is, therefore, considered necessary to prohibit acceptance of such capitation fee and to make such acceptance a cognizable and non-compoundable offence.

The Bill seeks to achieve the above object.

Dated the 2nd January, 1996.

LAVINGJI SOLANKI,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposal for delegation of Legislative power:—

Clause 1(3).—This clause provides that the Act shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

The aforesaid delegation is of a normal character.

Dated the 2nd January, 1996.

LAVINGJI SOLANKI,
M.L.A.

Gandhinagar,
Dated the 15th February, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly,



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

PART V

BH Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 15th February, 1996 by Shri Mulrajsinh Parmar. M. L. A. is published under rule 127-A Of the Gujarat Legislative Assembly Rules for general information:—

" GUJARAT BILL NO. 11 OF 1996.

THE GUJARAT PREVENTION OF SOCIAL DISABILITIES BILL, 1996.

A BILL

to prevent the imposition of Social disabilities by a member or members of a community on a member or members of his or their own community; to provide for penalties for such an act or acts and for matters connected therewith.

WHEREAS it has come to the notice that the practice of imposing social disabilities prevails in certain communities, which amongst other things deprives their members of the rights and privileges to which they are entitled by reason of birth or otherwise and which results flagrant violation of their fundamental rights as citizens of this country;

AND WHEREAS in keeping with the spirit of social change and democratic set up of our country and in the larger public interest, it is expedient to prevent the imposition of such social disabilities and to provide penalties for such an act or acts and for matters connected therewith;

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

1. (1) This Act may be called the Gujarat prevention of Social Disabilities Act, 1996.

Ex.V-11—1

11-1

Short
title,
extent
and
commence-
ment.

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

(3) It shall come into force at once.

Definitions.

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

(a) "community" means a group of members who are connected together by birth, conversion or performance of religious rites or ceremonies or who belong to the same religion or religious creed and includes a caste or sub-caste;

(b) "member" means a person whether male or female, who is a member of any community;

(c) "police officer" means any member of the Police Force appointed or deemed to be appointed as such under the Bombay Police Act, 1951.

Bom.
XXII
of
1951.

Imposition of social disabilities.

3. Any member who commits any of the following act or acts shall be deemed to have imposed social disability on a member of his community-

(a) if he denies, prevents or obstructs or causes to deny, prevent or obstruct any member of his own community from having access to or from using any place of worship or prayers or any place intended to be used for performing any religious ceremony or rite, prevalent or practised in his community;

(b) if he prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or from using any place which is established or maintained wholly or partly by his own community for use or intended to be used for a charitable, religious or public purpose and which is normally available for use or intended to be used by any member of his own community;

(c) if he prevents or obstructs or causes to prevent or obstruct any member of his community from enjoying any benefit under a Charitable Trust or a Wakf created for the benefit of his community;

(d) if he prevents or obstructs or causes to prevent or obstruct any member of his community from having access to or using the facilities of any school, educational institution, medical institution, community hall, club hall, cemetery, burial ground or any other place used by or intended to be used for the benefit of his community;

(e) if he prevents or obstructs or causes to prevent or obstruct any member of his community from observing any social or religious custom or usage or ceremony or from taking a part in a social or religious function, congregation, assembly, meeting or procession;

(f) if he prevents or obstructs or causes to prevent or obstruct any member of his community from establishing or maintaining such social, professional or business relations as he would ordinarily establish or maintain with other members of his community;

(g) if he incites, provokes or encourages any member of his community, directly or indirectly to sever social, religious, professional or business relations with any other member or members of his community;

(h) if he refuses or denies or causes to refuse or deny to any member of his community the right to perform such marriages, funeral or other religious ceremonies and rites as the member of his own community usually and ordinarily per-

[Form]

(i) if he prevents or obstructs or causes to prevent or obstruct any member of his community from entering, lodging in or otherwise using any Dharmshala, Sarai or Musafarkhana which is ordinarily open to members of his community; or

(j) if he prevents or obstructs or causes to prevent or obstruct any member of his community from entering or using any place of worship such as Temple, Mosque, Church, Gurudwara or any cemetery, crematorium or burial ground which is ordinarily open to members of his community.

4. (1) Whoever imposes any social disability on any member of his community shall, on conviction, be punished with imprisonment of either description which may extend to six months or with fine, which may extend to one thousand rupees or with both.

(2) Whoever aids or abets in the commission of any offence punishable under this Act or connives at the commission of any such offence or harbours any offender or destroys any evidence shall, on conviction, be punished with imprisonment of either description which may extend to six months or with fine, which may extend to one thousand rupees or with both.

II of
1974.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act-

(a) shall be cognizable; and

(b) may, with the permission of the court be compoundable.

Penal-
ties.

Offences
under
this
Act
to be
cogni-
zable
and
compo-
undable.

6. (1) A Police Officer may if he has reasonable ground to believe an offence under this act has been committed or likely to be committed by any person; then he may-

(a) remove or cause to be removed, any barricade or obstruction erected, placed or found in any place, if such barricade or obstruction was so erected or placed in order to be used for the purpose of committing any offence under this Act; or-

(b) open or cause to be opened any gate or door, if such a gate or door was closed for the purpose of committing an offence under this Act.

(2) Whenever any police Officer has reasonable ground to believe that any person is likely to commit an offence under this Act, he may arrest such person without a warrant and deliver him into the custody of the officer-in-charge, of a Police Station who may either release the person arrested on his executing a bond with or without surety for his appearance in a Magistrate's court or take or cause to be taken the person arrested, before a Magistrate within Twenty-four hours after the arrest.

Police
Officers
to take
action in
cases
of
imposi-
tion
of
social
disabili-
ties.

(3) When a person appears before a Magistrate in compliance with a bond executed by him under sub-section (2) or is brought before a Magistrate, he may require such person to show cause why he should not be ordered to execute a bond with or without sureties for his good behaviour for such period for not exceeding three years as the Magistrate may think fit. If, after due inquiry, the Magistrate is satisfied that such person should execute a bond with or without sureties, the Magistrate shall make an order accordingly and the provisions of Section 107 and Sections 112 to 123 (both inclusive) of the Code of Criminal Procedure, 1973, shall apply to or in relation to all orders to furnish security made under this sub-section.

II of
1974.

STATEMENT OF OBJECTS AND REASONS

The out dated and unconstitutional practices such as untouchability, boycotts, etc, are still practised in various communities in the State resulting in great harassment to individuals or groups. The harassment so caused, naturally affects the social life of a community. It is, therefore, necessary to root-out these evils by putting a stop to the imposition of the various social disabilities. The objective can be achieved by enacting a suitable legislation for the purpose and also for providing punishment to those who indulge in such evil practices.

Hence this Bill.

Gandhinagar.

Dated the 2nd January, 1996.

MULRAJSINH PARMAR,
M.L.A."

Gandhinagar,

Dated the 18th February, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.



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

PART V

Bill introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 19th February, 1996 by Shri Fakirbhai Vaghela, Minister is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

**THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS (GUJARAT
 AMENDMENT) BILL, 1996.**

GUJARAT BILL NO. 12 OF 1996.

A BILL

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

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

1. This Act may be called the Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1996. **Short title.**

2. In the Bombay Provincial Municipal Corporations Act, 1949, in section 343, in sub-section (2), for the portion beginning with the words "such excess charge" and ending with the words "may determine in this behalf", the following shall be substituted, namely:— **Amend-
ment
of section
343 of
Bom. LX
of 1949.**

"such excess charge—

(a) not exceeding fifty rupees as the Transport Manager, with the approval of the Transport Committee, may determine in this behalf, or

(b) equivalent to ten times the ordinary single fare,

whichever is less."

STATEMENT OF OBJECTS AND REASONS

Sub-section (2) of section 343 of the Bombay Provincial Municipal Corporations Act, 1949 imposes the liability on a person travelling unauthorisedly in any vehicle of the Transport Undertaking without ticket or without payment of proper fare, to pay excess charge not exceeding ten rupees as the Transport Manager, with the approval of the Transport Committee may, determine in this behalf. With a view discouraging the tendency of such unauthorised travel, it is considered necessary to increase the existing ceiling of excess charge from ten rupees to fifty rupees or a sum equal to ten times the amount of fare whichever is less. This Bill seeks to amend sub-section (2) of the said section 343 to achieve the aforesaid object.

Dated the 9th February, 1996.

FAKIRBHAI VAGHELA,

Gandhinagar,

Dated the 19th February, 1996.

V. H. DAVE,

Secretary,

Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 20th February, 1996 by Shri Vajubhai Vala, Minister for Energy is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :-

**THE GUJARAT LIFTS AND ESCALATORS
BILL, 1996.**

GUJARAT BILL NO. 13 OF 1996.

A BILL

to consolidate and amend the law relating to the regulation of the construction, maintenance and safe working of certain classes of lifts and escalators and all machinery and apparatus pertaining thereto in the State of Gujarat.

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

Short title, extent
and commence-
ment.

1. (1) This Act may be called the Gujarat Lifts and Escalators Act, 1996.

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

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

Definitions.

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

(a) "Baluster" means a short pillar slender above and bulging below;

(b) "Balustrade" means a row of balusters meant for supporting moving handrails;

(c) "Chief Inspector" and "Inspector" means respectively the person appointed to be the Chief Inspector of lifts and escalators and the Inspector of lifts and escalators under sub-section (1) of section 13;

(d) "combplate" means a pronged plate that forms part of an escalator landing and engages with the cleats of the steps at the limits of travel;

(e) "escalator" means a power driven inclined continuous stairway used for raising or lowering passengers;

(f) "escalator installation" includes the escalator, the track, the trusses or girders, the balustrading, the step treads and landings and all chains, wires and plants directly connected with the operation of the escalator;

(g) "licence" means a licence granted under section 4;

(h) "lift" means an appliance designed to transport persons or materials between two or more levels in a vertical or substantially vertical direction by means of a guided car or platform;

(i) "lift car" means the load carrying unit with its floor or platform, car frame and enclosing body work;

(j) "lift installation" includes the lift car, the lift way, the hoistway, the shaft and the operating mechanism of the lift and all ropes, cables, wires and plant, directly connected with the operation of the lift;

(k) "power" means any form of energy which is not generated by human or animal agency;

(l) "prescribed" means prescribed by rules;

(m) "rated speed" means the speed at which the lift or escalator is designed to operate;

(n) "rules" means rules made under this Act.

Permission to
erect lift or es-
calator.

3. (1) Every owner of a place intending to instal a lift or an escalator in such place after the commencement of this Act, shall make an application in such form as may be prescribed, to such officer as the State Government may authorise in this behalf, for permission to erect such lift or escalator. Such application shall specify--

- (a) the type of the lift or escalator;
- (b) the rated maximum speed of the lift or the speed at which the escalator is designed to operate;
- (c) the maker's or designer's rated capacity in weight;
- (d) the maximum number of passengers in addition to the lift operator which the lift can carry;
- (e) the total weight of the lift car carrying the maximum load;
- (f) the weight of the counter weight of the lift;
- (g) the number, description, weight and size of the supporting cables of the lift or escalator;
- (h) the depth of the pit from the lowest part of the car when at the lowest floor of lift;
- (i) such details of the construction of the overhead arrangement with the weights and sizes of the beams for the lift as may be prescribed;
- (j) angle of inclination for escalator;
- (k) type of balustrading in escalator;
- (l) the width between balustrades in escalator;
- (m) details of handrails in escalator;
- (n) details of steps treads in escalator;
- (o) details of landing in escalator;
- (p) details of combplates in escalator;
- (q) details of trusses or girders in escalator;
- (r) details of step wheel tracks in escalator;
- (s) the rated load in kilograms on escalator;
- (t) the factor of safety, based on the static loads, in the lift or escalator; and
- (u) such other particulars as may be prescribed.

(2) On receipt of an application under sub-section (1), the officer authorised under this section shall, after making such inquiry and requiring the applicant to furnish such information as may be necessary, forward the application with his remarks to the Chief Inspector. The Chief Inspector may thereupon either grant or refuse the permission to erect lift or escalator. Such permission shall be valid for a period of six months from the date on which it is

granted or for such further period not exceeding six months as may be allowed by the Chief Inspector for sufficient reasons.

Licence to use lift or escalator.

4. (1) The owner who is permitted to instal a lift or escalator under section 3 shall, within one month after the completion of erection of such lift or escalator, make an application to such officer as the State Government may authorise in this behalf, for a licence for working of the lift or an escalator.

(2) An application for licence made under sub-section (1) shall be in such form and accompanied by such fees as may be prescribed.

(3) On receipt of an application under sub-section (1), such officer may, after making such inquiry as may be necessary, forward the application with his remarks to the Chief Inspector.

(4) If the Chief Inspector is satisfied that the applicant has complied with the requirements of the provisions of the Act, he may grant the licence in such form and on such terms and conditions as may be prescribed:

Provided that where the Chief Inspector refuses to grant the licence, he shall give a reasonable opportunity of being heard to the applicant.

Application for licence in case of existing lifts and escalators.

5. (1) Notwithstanding anything contained in sections 3 and 4, every owner of a place in which a lift or an escalator has been installed before the date of the commencement of this Act shall, within three months from such date, apply for a licence for the working of such lift or escalator.

(2) The provisions of sub-sections (2) and (3) of section 4 shall, as far as may be, apply to such application.

Duration and renewal of licence.

6. (1) Every licence shall be valid for a period of one year from the date on which it is granted.

(2) A licence may be renewed on an application made in that behalf to the Chief Inspector in such form and accompanied by such fee as may be prescribed and every such application shall be made not less than thirty days before the date on which the period of validity of the licence is due to expire.

Lift or escalator not to be operated without licence.

7. No lift or escalator shall be worked except under and in conformity with the terms and conditions of the licence granted in respect of the same.

Additions and alterations to lift or escalator installation.

8. No additions or alterations other than those required to be made under sub-section (2) of section 9 shall be made to any lift or escalator installation except with the previous permission in writing of an officer authorised in this behalf by the State Government.

Right to enter
any building
for inspection
of lift or esca-
lator and lift or
escalator in-
stallation, etc.

9. (1) An officer authorised in this behalf by the State Government may, at any time after giving a reasonable notice to the occupant, enter upon any building in which a lift or an escalator is installed or is being installed or in connection with which an application has been made for licence, for the purpose of inspecting the lift or escalator or lift or escalator installation or the site thereof.

(2) The officer, on such inspection, is of the opinion that any lift or escalator in any building is in an unsafe condition, he may direct by an order to the owner of the building or his agent appointed under sub-section (2) of section 12 to make such repairs or alterations to be made to such lift or escalator as he may deem necessary, within the time specified therein and may also if necessary, order the use of such lift or escalator to be discontinued until such repairs or alterations are made or such unsafe condition is removed. The owner or his agent, as the case may be, shall thereupon comply with the order within the period specified therein and shall forthwith report in writing to the officer of having so complied with.

Appeal.

10. (1) Any person aggrieved by an order of the Chief Inspector made under sub-section (4) of section 4, may within thirty days from the date of such order, appeal to the State Government.

(2) Any person aggrieved by an order of the officer made under sub-section (2) of section 9, may within thirty days from the date of such order, appeal to the Chief Inspector.

(3) Any person aggrieved by an order of the Chief Inspector made under sub-section (2), may within thirty days from the date of such order, appeal to the State Government.

(4) An appellate authority may pass such order on appeal as it deems just and proper.

(5) The order made by the Chief Inspector on appeal, subject to the appeal to the State Government, and the decision of the State Government on appeal, shall be final and shall not be called in question in any court.

(6) Notwithstanding any appeal made under this section, any order to discontinue the use of lift or escalator made by the officer under sub-section (2) of section 9 shall be complied with unless the appellate authority has suspended such order.

Owner to
give facili-
ties for in-
spection.

11. The owner of a building in which a lift or an escalator is installed or his agent appointed under sub-section (2) of section 12 shall afford all reasonable facilities to the officer for inspecting a lift or an escalator under sections 9 and 14 and whenever ordered to do so by the officer shall, at his own cost, procure at such inspection the attendance of the person, if any, with whom he has entered into a contract for the erection or maintenance of the lift or escalator (being a person holding a certificate of registration for the work of erection or maintenance of a lift or an

escalator under the rules) or a representative of such person who is competent to guide the officer in inspecting the lift or escalator.

Report of accidents and inquiries.

12. (1) Where any accident occurs in the operation of any lift or escalator which results or is likely to have resulted in loss of human life or injury to any person, the owner of the building in which the lift or escalator is working or if such owner has appointed an agent and has communicated his name to the Inspector under sub-section (3), such agent, shall as soon as may be after such accident, give notice in such form and in such manner as may be prescribed, with full details of the accident to the Inspector and also in the area for which a Commissioner of Police has been appointed, to the Commissioner of Police and elsewhere to the District Magistrate or such other officer as the State Government may, by order, specify and the lift or escalator installation shall not be interfered with in any manner and the working of such lift or escalator shall not be resumed except with the written permission of the officer authorised in this behalf by the State Government.

(2) For the purposes of sub-section (1), the owner of every building in which a lift or an escalator has been installed, or in the case where such owner does not reside in such building, an agent (who shall be a resident in the town or village in which the building is situate) appointed by the owner, shall give notice of any accident occurring in the operation of the lift or escalator.

(3) The name of every agent appointed under sub-section (2) shall be communicated in writing to the Inspector.

(4) The State Government may authorise the Inspector or any other competent person appointed in this behalf, to inquire and report,-

- (a) as to the cause of any accident affecting the safety of the persons which may have been occasioned by, or in connection with, the lift or escalator installation, or
- (b) as to the manner in, and extent to, which the provisions of this Act or the rules made thereunder so far as those provisions affect the safety of any person, have been complied with.

(5) Every Inspector or other person holding an inquiry under sub-section (4) shall have all the powers of a civil court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witness and compelling the production of documents and material objects; and every person required by an Inspector or such other person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.

V of 1908.

XLV of 1860.

Appointment of
Chief Inspector,
Inspectors and
Assistant In-
spectors of lifts
and escalators.

13. (1) The State Government may, by notification in the *Official Gazette*, appoint persons duly qualified as Electrical Inspector under the Indian Electricity Act, 1910, to be-

IX of 1910.

- (a) the Chief Inspector of lifts and escalators;
- (b) Inspector of lifts and escalators.

(2) The Chief Inspector so appointed shall, in addition to the powers conferred on him under this Act, exercise the powers of an Inspector through out the State.

(3) Every Inspector so appointed shall exercise the powers and perform the functions of the Inspector under this Act within such areas or in respect of such class of lift or escalator installations and subject to such restrictions as the State Government may direct.

(4) The State Government may, by notification in the *Official Gazette*, appoint persons duly qualified to assist an Electrical Inspector under the Indian Electricity Act, 1910, to be Assistant Inspector of lifts and escalators.

IX of 1910

Inspection of
lifts and esca-
lators and
charging of
fees.

14. (1) Every lift or escalator-

(a) shall be inspected by the officer authorised in this behalf by the State Government,-

(i) before the grant of a licence under section 4; and

(ii) once in every six months in a year commencing from the month of April;

(b) may be inspected by such officer to check up compliance with the order made under sub-section (2) of section 9, if necessary.

(2) The fee as may be prescribed shall be paid by the owner of the building in which the lift or escalator is installed for each inspection under sub-section (1) and such fee shall be inclusive of the fee for the inspection of electrical installation attached to the lift or escalator installation. The fee shall be paid within such period and in such manner as may be prescribed.

(3) Where the owner or any person liable to pay fee under this section does not pay the same within the prescribed period, there shall be paid by such owner for the period commencing immediately after the prescribed period and ending on the date of payment of fees, simple interest at the rate of twenty-four per cent. per annum on the amount of fees not so paid.

Recovery of
fees, etc.

15. All sums payable as fees or interest under this Act shall be recoverable as arrears of land revenue.

Penalty.

16. Whoever contravenes any of the provisions of this Act, rules or the conditions of a licence or a direction given by the

Chief Inspector or the Inspector under this Act or the rules shall, on conviction, be punishable with fine not exceeding five thousand rupees and, in the case of continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Offences by
companies.

17. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in-charge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purpose of this section,-

(a) "company" means any body corporate, and includes a firm or other association of individuals, and

(b) "director", in relation to a firm, means a partner in the firm.

Cognizance
of offence.

18. No court shall take cognizance of any offence under this Act except with the previous sanction of the Chief Inspector or the State Government.

Service of
notice, or-
der or docu-
ment.

19. (1) Every notice, order or document by or under this Act required or authorised to be addressed to any person may be served by post or left,-

(a) where a local authority is the addressee, at the office of the local authority,

(b) where a company is the addressee, at the registered office of the company or in the event of the registered office of the company not being in India, at the head office of the company in India,

(c) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or the agent of the owner or the occupant of any premises shall be deemed to be properly addressed, if addressed by the description of the "owner" or "agent of the owner" or "occupant" of the premises (naming the premises) and may be served by delivering it or a true copy thereof, to some person on the premises or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

Protection
for acts done
in good faith.

20. No suit, prosecution or other legal proceedings shall be instituted against any officer for anything which is in good faith done, or intended to be done under this Act, or the rules or order made thereunder.

Application of
Act to lifts or
escalators be-
longing to
Government.

21. In the application of the provisions of this Act to lifts or escalators installed by the Government, the provisions of this Act shall be deemed to have been adopted or modified to the extent specified in the Schedule.

Power to
make rules.

22. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

- (a) the specifications for lifts and escalators;
- (b) the manner in which erection plans of lifts and escalators shall be submitted;
- (c) the manner in which the lifts and escalators may be tested;
- (d) the form of application for permission to erect a lift or escalator under sub-section (1) of section 3;
- (e) details of the construction of the over-head arrangement with the weights and sizes of the beams under item (i) of sub-section (1) of section 3;
- (f) other particulars which the application for permission to erect a lift or an escalator shall specify under item (u) of sub-section (1) of section 3;
- (g) the form in which an application for licence shall be made and the fee which shall accompany such application under sub-section (2) of section 4;
- (h) the form in which and the terms and conditions on which the licence may be granted for the working of a lift or an escalator under sub-section (4) of section 4;

(i) the form in which an application for renewal of licence shall be made and the fee which shall accompany such application under sub-section (2) of section 6;

(j) the form of notice to be given under sub-section (1) of section 9;

(k) the form and the manner in which notice of accident shall be given under sub-section (1) of section 12;

(l) the rate of fee which shall be charged for inspection of every lift or escalator and the period within which and the manner in which such fee shall be paid under sub-section (2) of section 14;

(m) any other matter which is to be, or may be, prescribed.

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

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

Provisions of Indian Electricity Act not affected.

23. Nothing contained in this Act shall affect the provisions of the Indian Electricity Act, 1910 or any rules made thereunder.

IX of 1910.

Repeal and savings.

24. On the commencement of this Act, the Bombay Lifts Act, 1939 in its application to the State of Gujarat shall stand repealed:

Bom. X of 1939.

Provided that such repeal shall not affect the previous operation of the said Act and anything done or action taken (including any appointment or delegation made, application or other document filed, licence granted, inquiry or inspection made, notification or notice issued, rule made, proceeding instituted, fees recovered or penalty imposed) by or under the provisions of the said Act, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force unless and until superseded by anything done or any action taken under this Act.

SCHEDULE (See section 21)

(1) In section 5, in sub-section (1), for the words "every owner", the words "every Government Officer-in-charge" shall be substituted.

(2) In section 12, in sub-section (2),---

(i) for the words beginning with the words "the owner of every building" and ending with the words "in such building", the following shall be substituted, namely :--

"for every building in which a lift or an escalator has been installed by Government, the Government or";

(ii) for the words "appointed by the owner" the following words shall be substituted, namely :--

"appointed by the Government".

(3) In section 19, in sub-section (1), for clause (a), the following shall be substituted, namely :-

"(a) where Government is the addressee, at the office of the agent appointed by Government under sub-section (2) of section 12,"

STATEMENT OF OBJECTS AND REASONS

At present, the Bombay Lifts Act, 1939 is applicable to the State of Gujarat. While administering the said Act, it is found that the existing provisions are not adequate to carry out the object. It is also found that some amendments in the present provisions are also necessary so far as the applicability to the State of Gujarat is concerned. After the enactment of the Bombay Lifts Act, 1939, the escalator installations have come into existence in the State and therefore, it has also become necessary to make some provisions for regulating the construction, maintenance and operating of an escalator installations. It is, therefore, considered necessary to replace the said Bombay Act by a new Act. The following notes on clauses explain the important provisions of the Bill :--

Clause 2. -- This clause defines certain terms used in the Bill.

Clause 3. -- This clause provides for the person intending to instal a new lift or escalator installation to make an application for permission to erect the lift or escalator.

Clause 4. - This clause lays down the procedure to be adopted for the issue of a licence to use the lift or escalator.

Clause 5. - This clause provides for making of an application by the owner of the place in which lift or escalator is installed before the commencement of the Act for grant of a licence to use the lift or escalator.

Clause 6. - This clause provides for the duration and renewal of licence.

Clause 7. - This clause prohibits the use of lift or escalator installation without licence.

Clause 8. - This clause provides for the permission of an authorised officer to make any additions or alterations to the lift or escalator installations.

Clause 9. - This clause gives powers to the authorised officer to enter any building for inspections of lifts or escalators, lift or escalator installation or the site thereof.

Clause 10. - This clause contains provisions for appeal.

Clause 11. - This clause requires the owner of a building in which the lift or escalator is installed or his agent to give facilities for inspection.

Clause 12. - This clause lays down the procedure for reporting any accident which may occur in the operation of any lift or escalator and inquiries.

Clause 13. - This clause provides for the appointment of the Chief Inspector, Inspector and Assistant Inspector of lifts and escalators.

Clause 14.- This clause provides for inspection of lift or escalator and charging of fees and penal interest.

Clause 15.- This clause provides for the recovery of fees or interest as arrears of land revenue.

Clause 16.- This clause provides for the penalty to be imposed for contravention of the provisions of the Act, etc.

Clause 17.- This clause relates to the offences committed by the companies.

Clause 18.- This clause provides that the court shall take cognizance of the offence only on the previous sanction of the Chief Inspector or the State Government.

Clause 19.- This clause lays down the procedure for the service of notices and orders to be issued under the Act.

Clause 20.- This clause provides for usual indemnity for acts done in good faith.

Clause 21.- By this clause the provisions of the Act are made applicable to the lifts or escalators belonging to Government with certain modification specified in the Schedule.

Clause 22.- This clause empowers the State Government to make, by notification in the *Official Gazette*, rules generally for carrying out the purposes of Act and particularly for all or any of the matters specified in sub-clause (2).

Clause 23.- This clause provides that the provisions of the Indian Electricity Act, 1910 and the rules made thereunder shall not be affected by the provisions of the Act.

Clause 24.- This clause provides for the repeal of the Bombay Lifts Act, 1939 and savings.

VAJUBHAI VALA,

FINANCIAL MEMORANDUM

Clause 13 of this Bill provides for the appointment of the Chief Inspector of lifts and escalators, Inspectors and Assistant Inspector of lifts and escalators. Since the existing Government Officers are to be appointed, the appointment as such would not involve any additional expenditure from the Consolidated Fund of the State.

VAJUBHAI VALA,

V-Ex-13-4

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

Clause 1.-Sub-clause (3) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, a date on which the Act shall come into force.

Clause 3.-(i) Sub-clause (1) of this clause empowers the State Government to authorise an officer to receive the application for granting permission to erect a lift or an escalator.

(ii) This sub-clause empowers the State Government to prescribe by rules the form of such application.

(iii) Item (i) of this sub-clause empowers the State Government to prescribe by rules details of the construction of the overhead arrangement with the weights and sizes of the beams for the lift which such application shall specify.

(iv) Item (u) of this sub-clause empowers the State Government to prescribe by rules other particulars which such application shall specify.

Clause 4.-(i) Sub-clause (1) of this clause empowers the State Government to authorise an officer to whom the application for licence for working of lift or escalator shall be made.

(ii) Sub-clause (2) of this clause empowers the State Government to prescribe by rules the form in which an application for licence shall be made, the fee which shall accompany such application.

(iii) Sub-clause (4) of this clause empowers the State Government to prescribe by rules the form in which and the terms and conditions on which licence shall be granted.

Clause 6.-Sub-clause (2) of this clause empowers the State Government to prescribe by rules the form in which an application for renewal of a licence shall be made, the fee which shall accompany such application.

Clause 9.-Sub-clause (1) of this clause empowers the State Government to authorise an officer to enter and inspect the building in which the lift or escalator is or being installed and in respect of which an application for licence has been received by such officer.

Clause 12.-Sub-clause (1) of this clause empowers the State Government to prescribe by rules the form and the manner in which notice of accident shall be

given. This clause also empowers the State Government to specify by order the other officer to whom such notice shall be given.

Clause 13.-This clause empowers the State Government to appoint the Chief Inspector, Inspectors and Assistant Inspectors of lifts and escalators.

Clause 14.-(i) Sub-clause (1) of this clause empowers the State Government to authorise an officer by whom lift or escalator installation shall be inspected.

(ii) Sub-clause (2) of this clause empowers the State Government to prescribe by rules the fee, the period within which, and the manner in which fee shall be paid.

Clause 22.-This clause empowers the State Government to make, by notification in the *Official Gazette*, rules generally for carrying out the purposes of the Act and particularly for all or any of the matters specified in sub-clause (2).

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

Dated the 13th February, 1996.

VAJUBHAI VALA.

Gandhinagar,
Dated the 20th February, 1996.

V. H. DAVE,
SECRETARY,
GUJARAT LEGISLATIVE
ASSEMBLY.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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

PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 29th February, 1996 by Shri Bhavsinhbai Rathod, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

“Gujarat Bill No. 14 of 1996.

**THE GUJARAT PREVENTION OF CONTEMPT OF THE PEOPLE
 (BY PUBLIC SERVANT) BILL, 1995.**

A BILL

to provide for the protection of the people from insult and disrespect shown by public servant against them and for assuring dignity of the individual.

It is hereby enacted in the Forty-Sixth Year of the Republic of India as follows;

1. (1) This Act may be called the Gujarat Prevention of Contempt of the People (By Public Servant) Act, 1995.

Short title,
 extent and
 commen-
 cement.

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

(3) It shall come into force at once.

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

Defini-
 tions.

(1) The words “contempt of the people” denotes an act or an omission by Public servant falling under any of the description hereinafter following, namely:—

(a) wandering or remaining absent from the place of duty in order to avoid work during duty hours.

(b) reading newspapers, magazines or other books or hearing radio which is not a part of his duty during the duty hours at one's duty place.

(c) sitting or behaving in disorderly manner at one's place of duty during duty hours.

(d) not replying properly and politely to any person coming for any official work or for inquiry.

(e) not replying properly and to the point to any written application made by any person.

(f) insulting or disrespecting any person by using abusive or offensive language.

(g) asking for or accepting anything from any person which is not necessary for one's duty or job assigned to a public servant.

(h) furnishing false information to any person.

(i) omitting to render or furnish assistance to any person.

(j) disobedience of any law, rule, order or direction issued by the State Government.

(2) "public servant" means every person ;

(a) in the service or pay of the State Government or remunerated by fees or commission for the performance of any public duty by the State Government.

(b) in the service or pay of a local authority or a corporation established under a Central or State Act or a Government company as defined in section 617 of the Companies Act, 1956, excepting 'Judges' as defined in the Indian Penal Code.

1 of 1956
45 of 1960.

Punish-
ment for
Contempt.

3. Any Public servant who commits contempt of the people shall be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both :

Provided that the public servant may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Judge.

Jurisdic-
tion.

4. Any person who feels or comes to know that any public servant has committed contempt of the people may apply to the Civil Judge within whose jurisdiction the alleged contempt has been committed with supporting affidavits of himself and of witnesses, if any, and with all or any documentary evidence available with him :

Provided that application referred to in this section may be presented personally or may be sent by post.

Show-
cause
Notice.

5. The Civil Judge will give or send by post receipt of the application within three days to the applicant and issue a show cause notice to the public servant concerned within eight days.

Public
Servant
to reply
affidavit.

6. A public servant who receives a show cause notice from the Civil Judge will send his reply with affidavit of himself and of witnesses, if any, and with all or any documentary evidence available with him for his or her defence within ten days from the receipt of the show cause notice.

Hearing
and
disposal.

7. After receiving reply from the public servant if the Civil Judge thinks it necessary to call the applicant and the public servant for personal hearing, he will fix a date for the same and intimate about it to the applicant and the public servant concerned and after hearing the both, pass a necessary order under section 3 or dismiss the application.

Revision
by High
Court.

8. The order of the Civil Judge shall be final, subject to any modifications alteration or correction made by the High Court in revision either on application of any party or suo moto.

9. No court shall have jurisdiction to question the legality of any action taken or any decision given by the Civil Judge under this Act in connection with the contempt of the people by public servant and no suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act.

Protection for the acts done in good faith.

10. Nothing in this Act shall be deemed to prohibit or restrict any action for which the public servant is liable under any other law or rules for the time being in force.

No prohibition for action under other law.

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

Power to make rules

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

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

STATEMENT OF OBJECTS AND REASONS

The constitution of India recognises dignity of the individual in the preamble but during these forty six years of independence, people feel by experience that instead of peoples' rules, public servants at many a times are openly disrespecting and insulting common people in the State and behaving many a times in such a way that people at large have been losing confidence in public administration and hence for the protection of the people from insult and disrespect by public servants and for assuring dignity of the individual some easy and quasijudicial summary remedies are necessary.

This Bill seeks to achieve the above objects.

Gandhinagar,

Dated the 12th December, 1995.

BHAVSINHBHAI RATHOD,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the State Government to make rules for carrying out the purposes of the Act.

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

Gandhinagar,

Dated the 12th December, 1995.

BHAVSINHBHAI RATHOD,
M.L.A.

Gandhinagar,

Dated the 29th February, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 29th February, 1996 by Shri Parbatbhai Patel, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

"Gujarat Bill No. 15 of 1996.

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 1996.

A BILL

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

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

Short title and
commence-
ment.

1. (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 1996.

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

Amendment of
section 4 of
Guj. X of
1962.

2. In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act"), in section-4, in the proviso, the following words shall be added, at the end, namely :—

"or the registration of which may be contrary to the policy directives which the State Government or the Registrar, with the previous approval of the State Government, may from time to time issue."

Amendment of
section 6 of
Guj. X of
1962.

3. In the principal Act, in section 6.

(a) in sub-section (1), after the words " at least ten persons " the following words shall be inserted, namely :—

"or such higher number of persons as the Registrar may, having regard to the objects and economic liability of the society and development of the Co-operative movement, determine from time to time for a class of societies."

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

" *Explanation* :—For the purpose of this section and section 8, the expression members of family means a wife, husband or unmarried son and unmarried daughter who are dependent."

Amendment of
section 9 of
Guj. X of 1962.

4. In the principal Act, in section 9, in sub-section (1), in clause (a), after the words "not contrary to this Act and the rules" the words and figure "or any other law for the time being in force, or policy directives issued by the State Government or the Registrar under section 4" shall be inserted.

Substitution of
section 11 of
Guj. X of 1962.

5. In the principal Act, for section 11, the following section shall be substituted, namely:—

"11. When any question arises whether a person is an agriculturist or a non-agriculturist or whether any person is a resident in a town or village or group of villages or whether two or more villages, shall be considered to form a group or whether any person belong to any particular tribe, class or occupation or whether a person is or is not engaged in or carrying on any profession, business or employment or whether a person belongs or does not belong to such class of persons as declared under section 22, the question shall be decided by the Registrar."

Amendment of
section 13 of
Guj. X of
1962.

6. In the principal Act, in section 13, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) No amendment of the bye-laws of a society shall be registered by the Registrar under this section if the amendment is repugnant to the policy directives, if any, issued by the State Government under section 4 in respect of any class of societies to which such society belongs."

7. In the principal Act, in section 17A, in sub-section (4), for the words "Every member of each of" the words "Every member or creditor or other person interested in", shall be substituted. Amendment of section 17A of Guj. X of 1962.

8. In the principal Act, after section 20, the following section shall be inserted, namely :— Insertion of section 20A in Guj. X of 1962.

"20A. (1) If the Registrar is satisfied that any society is registered on misrepresentation made by applicants or where the work of the society is complete or exhausted or the purposes for which the society has been registered are not served, he may, after giving an opportunity of being heard to the Chief Promoter or the committee of the society, as the case may be, deregister the society. Deregistration of societies.

(2) When a society is de-registered under the provisions of sub-section (1), the Registrar may notwithstanding anything contained in this Act or any other law for the time being in force, make such incidental and consequential orders including appointment of official Assignee as the circumstances may require.

(3) Subject to the rules made under this Act, the Official Assignee shall release the assets and liquidate the liabilities within a period of two years from the date he takes over the charge of property, assets, books, records, and other documents, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed four years in the aggregate.

(4) The official assignee shall be paid such remuneration and allowances as may be prescribed; and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowances.

(5) The powers of the Registrar under sub-section (1) and (2) shall not be exercised by any person or persons on whom all or any of the powers of the Registrar are conferred under section 3."

9. In the principal Act, after section 21, the following section shall be inserted, namely :— Insertion of section 21A in Guj. X of 1962.

"21A: (1) Any society or societies may, with the prior approval of the State Government, enter into collaboration with any Government undertaking or any undertaking approved by the State Government for carrying on any specific business or businesses, including industrial investment, financial aid or marketing and management expertise. Collaboration by societies.

(2) Before approving any such scheme of collaboration by any society or societies under sub-section (1), the State Government shall have due regard to the following matters, namely :—

(a) that the scheme is economically viable;

(b) that it can be implemented without in any way, eroding the co-operative character of the society or the societies concerned;

(c) that the scheme is in furtherance of the interest of the members of the society or societies concerned, or in the public interest, and in the interest of the co-operative movement in general."

Amendment of
section 22 of
Guj. X of 1962.

10. In the principal Act, in section 22,—

(a) in sub-section (3), the following words and figure shall be added at the end, namely :—

"and the question whether a person is or is not engaged in or carrying on any profession, business or employment or whether a person belongs or does not belong to such class of persons as declared under this sub-section and has or has not incurred a disqualification under this sub-section shall be decided by the Registrar under section-11."

(b) after sub-section (3), the following sub-section shall be inserted, namely :—

"(3A) Notwithstanding anything contained in sub-section (1), where the Registrar has decided under section 11, that a person has incurred a disqualification under sub-section (3), the Registrar or the person not below, the rank of District Registrar of Co-operative Societies, authorised by him in this behalf, may, by order, remove such person from the membership of the society."

Amendment of
section 24 of
Guj. X of 1962.

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

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

"(1A) Where a society refuses to accept the application from a person for admission as a member, or the payment made by him in respect of membership, such person may tender an application in such form as the Registrar may, determine, together with payment in respect of membership, if necessary, to the Registrar, who shall, with all reasonable despatch, forward the application and the amount, if any paid, to the society concerned; and thereupon if the society fails to communicate any decision to the applicant within three months from the date of the receipt of such application and the amount by the society, the applicant shall be deemed to have become a member of such a society."

(b) in sub-section (4), the following words shall be added, at the end, namely :—

"Every such appeal, as far as possible, be disposed of by the Registrar within a period of six months from the date of its receipt :

Provided that where such appeal is not so disposed of within the said period of six months, the Registrar shall record the reasons for the delay".

Amendment of
section 26 of
Guj. X of 1962.

12. In the principal Act, in section 26, the following words shall be added at the end, namely :—

"or where a firm, company, any other corporate body, society or trust is a member, on its dissolution or ceasing to exist."

Insertion of section
26A in Guj.
X of 1962.

13. In the principal Act, after section 26, the following section shall be inserted, namely :—

"26A. The Committee of a society shall remove from the register of its members the name of a person who has ceased to be a member or who stands disqualified by or under the provisions of this Act from being the member or continuing to be member of a society :

Removal of names of members from membership register.

Provided that, if the society does not comply with the requirement of this section, the Registrar shall direct such society to remove the name of such person, and the society shall be bound to comply with such direction."

14. In the principal Act, after section 33, the following section shall be inserted, namely:—

Insertion of section 33-A in Guj. X of 1962.

" 33-A (1) A society which gives loans to its members or a society or class of societies which the State Government may notify in the *Official Gazette*, from time to time, shall furnish each member with a pass book, which shall contain an account of the transactions with the member, such as, the date of the transaction, the amount of loan advanced, the rate of interest, the repayment made by the member, the amount of the principal and interest due and such other particulars as may be prescribed. The necessary entries shall be made in the pass book, from time to time which shall be countersigned by such office bearer of the society as may be authorised in this behalf by the committee. For this purpose, the member shall be bound to present the pass book to such office bearer and if the pass book is required to be kept for some time, for making the necessary entries, the member shall be given a receipt thereof, by such office-bearer.

Certain societies to give pass books to members and entries in such books evidence of amount due.

(2) The entries in the pass book duly made shall, until the contrary be proved, be *prima facie* evidence of the account of transactions of the society with the member."

15. In the principal Act, after section 45, the following section shall be inserted, namely :—

Insertion of section 45-A in Guj. X of 1962.

"45-A. Notwithstanding anything contained in any agreement or any law for the time being in force, a society (including a Co-operative Bank, but excluding a land development bank) shall, for any loan given by it to any member (including a member-society), recover, in any manner whatsoever, on account of interest, a sum greater than the amount of the principal of the loan".

Limit on interest in certain cases.

16. In the principal Act, in section 49, in sub-section (1), in clause (g), the words "and also the particulars of extinction of such charge" shall be added at the end.

Amendment of section 49 of Guj. X of 1962.

Amendment of section 50 of Guj. X of 1962.

17. In the principal Act, in section 50,—

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

" (1) A member of a society may execute an agreement in favour of the society, providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such total amount payable to the society and in such instalments as may be specified in the agreement, and to pay to the society the amounts so deducted in satisfaction of any debt or other demand of the society against the member. A copy of such agreement duly attested by an officer of the society shall be forwarded by the society to the employer."

(b) in sub-section (2),—

(i) for the words "on the execution of such agreement" the words "on receipt of a copy of such agreement" shall be substituted :

(ii) for the words, "society does not intimate that the whole of such debt or demand has been paid", the words "total amount shown in the copy of the agreement as payable to the society has been deducted and paid to the society" shall be substituted.

(c) in sub-section (3) for the portion beginning with the words "Payment thereof", and ending with the words "wages in areas" the following shall be substituted, namely :—

"Payment of such amount or where the employer has made deductions but the amount so deducted is not remitted to the society, then such amount together with interest thereon at one and half times the rate of interest charged by the society to the member for the period commencing on the date on which the amount was due to be paid to the society and ending on the date of actually remitting it to the society; and such amount together with the interest thereon, if any, shall on a certificate issued by the Registrar, be recoverable from him as an arrear of land-revenue, and the amount and interest so due shall rank in priority in respect of such liability of the employer as wages in arrears."

Amendment of
section 66 of Guj.
X of 1962.

18. In the principal Act, in section 66, for sub-section (1), the following sub-section shall be substituted, namely :—

Ascertainment
and appropriation
of profits.

" (1) A society shall construct its relevant annual financial statement and arrive at its consequent net profit or loss in the prescribed manner."

Substituted of
section 68 of Guj.
X of 1962.

19. In the principal Act, for section 68, the following section shall be substituted namely :—

Restriction on
dividend.

"68. No society shall pay a dividend to its members at a rate exceeding 12 percent except with the prior sanction of the State Government "

Amendment of
section 69 of
Guj. X of
1962.

20. In the principal Act, in section 69,—

(a) in sub-section (2) for the words "within two months from the date on which its accounts are adopted by the general body of members", the words "within three months after the closing of the co-operative year" shall be substituted.

(b) after sub-section (2), the following sub-section shall be added, namely:—

" (3) where any society fails to pay the contribution within the period specified in sub-section (2), the amount of contribution due shall be recoverable as an arrear of land revenue and on the Gujarat State Co-operative Union making a report of such failure to the Registrar, the Registrar shall after making such inquiry as he deems fit, grant a certificate for recovery of the amount due as an arrear of land revenue".

Amendment of
section 71 of
Guj. X of 1962.

21. In the principal Act, in section 71, in sub-section (1), for clause (e) the following clause shall be substituted, namely :—

"(e) in shares, or security bonds, or debentures, issued by any other society with limited liability and having the same classification to which it belongs:

Provided that, no society shall invest more than such portion of its paid up share capital as may be prescribed : or".

22. In the principal Act, after section 72; the following section shall be inserted, namely:-

Insertion of section 72 in Guj. X of 1962.

" 72-A. (1) No expenditure from the funds of a society shall be incurred for the purpose of defraying the cost of any proceeding filed or taken by or against any officer of the society in his personal capacity. If any question arises whether any expenditure can be so incurred or not, such question shall be referred to and decided by the Registrar, and his decision shall be final.

Fund not to be utilised for certain proceeding filed or taken by or against officers in personal capacities.

(2) If any person incurs expenditure in violation of sub-section (1), the Registrar shall direct the person to repay the amount to the society within one month and where such person fails to repay the amount as directed, such amount shall on a certificate issued by the Registrar, be recoverable as arrears of land revenue.

(3) The person against whom action is taken by the Registrar under sub-section (2), shall be disqualified to continue to be the officer of any society or to be officer of any society at any next election including any next by-election held immediately after the expiration of a period of one month during which such person has failed to pay the amount referred to in sub-section (2)".

23. In the principal Act, section 74 shall be renumbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :—

Amendment of section 74 of Guj. X of 1962.

" (2) Notwithstanding anything contained in any bye-laws of a society or class of societies, the Registrar may, having regard to the area of operation, subscribed share capital or turnover of a society or class of societies, by general or special order, published in the *Official Gazette*, prescribe the maximum number of members on the committee of such society or class of societies, as may be specified in such order ".

STATEMENT OF OBJECTS AND REASONS

The Gujarat Co-operative Societies Act, 1961 has been enacted for the purpose of providing for the orderly development of the co-operative movement in the State of Gujarat in accordance with the relevant directive principles of the State policy enunciated in the Constitution of India. This Act has been in operation for over one and a half decades. It is expedient to scrutinise the provisions thereof in the context of the continuous growth of cooperative movement in the State. This movement has spread to all parts of the State and has covered diversified activities including commercial activities.

Although the Co-operative movement has been responsible for making progress in all walks of life and particularly in the rural areas and has some glorious achievements to its credit, nevertheless the working of the movement has also revealed some glaring deficiencies. The diversification of activities through the co-operative movement has raised certain attendant problems of the conduct of their business and activities and it was therefore, considered necessary to streamline the working of the societies in proper and efficient manner.

For making provisions for removal of deficiencies which have come to the notice and for streamlining certain provisions, it is proposed to amend the Act so as to ensure smooth functioning of the societies and to foster the co-operative movement. The following notes on some of the clauses explain the more important provisions of the Bill, namely :

Clause-2.—Requires that if the registration is contrary to the directives issued by the State Government or Registrar, then Registrar can refuse to register the society.

Clause-9.—Section 21 provides that two or more societies may, with the prior approval of the Registrar enter into partnership for carrying out any specific business. In view of this provisions it may not be possible for a society to enter into partnership with any other business organisation other than a society. Hence it is, considered necessary to make a provision for enabling a society to collaborate with business organisations other than a society, and that such collaboration should be permitted only to the extent of collaboration with Government undertakings or any undertaking approved by the State Government for carrying on any specific business, including industrial investment, financial aid or marketing and management expertise. For this purpose new section 21A is proposed to inserted.

Clause-8.—By this clause new section 20A is proposed to be inserted to provide for deregistration of a society. Section 20 provides for cancellation of registration of a society in the circumstances mentioned therein. However there is at present no provision for de-registration of a society in cases where registration has been given on misrepresentation by the applicants or where the work of the society is complete and exhausted and there is no activity for the society or the purpose for which the society has been registered, is not served. The only course available in such cases was therefore to initiate proceeding for liquidation of the society which involves lengthy and time-consuming procedure. Therefor, it is considered necessary to make a provision for de-registration of a Society to which any of the aforesaid description apply. This provision is proposed to be made in Section 20A.

Clause-11.—It is proposed to amend section 24 which provides that no society shall, without sufficient cause, refuse admission of membership to any person duly qualified therefor. In case such refusal, it also provides for an appeal to the Registrar. Despite these provisions, certain societies indulge in refusal to accept the application for membership and membership fees and consequently the question of refusal of membership does not arise so as to attract the provisions of present section 24. With a view to check this tendency on the part of societies section 24 is proposed to be amended so as to enable the aggrieved party to make an application together with the payment of membership fees to the registrar who shall forward the same to the society and if the society fails to take any decision in respect of such application within a period of three months from the receipt thereof the applicant shall be deemed to have been admitted to the membership of the society.

Clause-15.—It is proposed to insert section 45-A which provides for limit on interest in certain cases. That section now provides clearly that where the loan is advanced by a society including a society doing business of banking it shall not, in any manner whatsoever, recover interest on such loan in excess of the amount of the principal of the loan.

Clause-17.—By this clause, it is proposed to amend section 50 which provides for reduction from salary of an employee by the employer, if an employee has executed an agreement in favour of the society for deduction of society's claim from his salary. Instances have come to the notice that although certain employers have made recoveries of dues of the society from the salaries payable to their employees who are members of such society, they have not remitted the amounts deducted by them to the society towards payment of their dues by employers. In this way such employers take the undue advantage of this provision by retaining the amount so deducted for being utilised by them for their business purpose. With a view to check this tendency on the part of these employers it proposed to provide for recovery of interest on the amounts so deducted but not remitted to a society.

Clause-21.— Under this clause it is proposed to amend section 71 to provide that a society shall not invest more than proportion of its paid up share capital as may be prescribed and shall not make such investment in a society other than the one falling under a classification to which the investing society belongs. This will curb the tendency on the part of certain societies to make undesirable investments co-operative societies falling under different classification.

Opportunity is also taken to amend some other sections of the Act which are considered necessary in view of experience gained in the administration of the Act.

Gandhinagar,

Dated the 11th January, 1996.

PARBATBHAI PATEL,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 1 (2).—This clause empowers the State Government to bring the Act into force on such date as it may, by notification in the *official gazette*, appoint.

Clause 2.—By this clause section 4 of the principal act is proposed to be amended to take power to the State Government to issue, from time to time, the policy directives or to give previous approval to policy directives to be issued by the Registrar, contravention of which shall disentitle a society to registration.

Clause 3.—By this clause section 6 of the principal Act is proposed to be amended whereunder powers have been conferred on the Registrar to determine from time to time, for a class of societies, the minimum number of members a society should consist of, for being entitled for registration by the registrar.

Clause 8.—By this clause new section 20-A is proposed to be inserted. The said new section empowers the State Government to make rules subject to which the official assignee shall release the assets and liquidate the liabilities and also the rules to prescribe the remuneration to the official assignee.

Clause 11.—By this clause section 24 of the principal Act is proposed to be amended inter alia to insert a new sub-section (1A), under which the Registrar is empowered to determine the form in which a person may apply for membership of the society.

Clause 14.—By this clause new section 33-A is added. Sub-section (1) of the said new section empowers the State Government to notify from time to time, a society or class of society which shall furnish each member with a pass-book under sub-section (1). New sub-section (1) also empowers the State Government to prescribe other particulars than those prescribed in the sub-section.

Clause 18.—It is proposed to substitute sub-section (1) of section 66 which will require a society to construct its annual financial statement in accordance with the rules to be made in this behalf.

Clause 21.—By this clause section 71 of the principal Act is proposed to be amended and under the proposed amendment power is taken to the State Government to make rules to provide that no society shall invest more than such proportion of its paid up share capital as may be prescribed.

Clause 23.—By this clause section 74 is proposed to be amended so as to insert therein sub-section (2) under which the registrar is empowered to prescribe, by a general or special order, published in the Official Gazette, the maximum number of members on the committee of a society or class of societies as may be specified in such order.

The above proposals for delegation of legislative powers are of normal character.

Gandhinagar,

Dated the 11th January, 1996.

PARBATBHAI PATEL,
M.L.A.

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for insertion of Section 20A in the principal Act. Sub-section (4) of this section provides for payment of remuneration and allowances to the official assignee appointed under sub-section (2) of this section. An annual amount of Rs. 60,000/- is estimated to be involved from the Consolidated Fund of the State for this purpose.

Dated the 11th January, 1996.
Gandhinagar,

PARBATBHAI PATEL,
M.L.A."

Gandhinagar,
Dated the 29th February, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.



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

PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 29th February, 1996 by Shri Madhubhai Bhuva, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

“GUJARAT BILL NO. 16 OF 1996.

THE GUJARAT WIDOWS WELFARE CORPORATION BILL, 1996.

A BILL

to provide for the establishment of a Corporation for the welfare of widows in the State of Gujarat and for matters connected therewith.

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 Widows Welfare Corporation Act, 1996.

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

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

(a) “Corporation” means the Gujarat Widows Welfare Corporation established under section 3;

(b) “Widow” means a female living in the State of Gujarat, who has attained the age of eighteen years and whose husband has died;

(c) “prescribed” means prescribed by rules made under this Act.

Short
title and
commen-
cement.

Defini-
tions.

Constitution of Corporation.

3. (1) The State Government shall establish a Corporation to be called "The Gujarat Widows Welfares Corporation".

(2) The Corporation shall consist of a Chairman and not more than 15 members appointed by the State Government as follows:—

(a) five members from widows.

(b) five members from women workers in the State.

(c) two members from amongst the members of the Legislative Assembly of the State of Gujarat; and

(d) the rest shall be from amongst persons having bright records of dedication and self-less service to the widows in the State of Gujarat.

(3) The terms and conditions of office of the Chairman and members of the Corporation shall be such as may be prescribed.

Functions of Corporation.

4. (1) The functions of the Corporation shall be:—

(a) to promote economic and social welfare of the widows.

(b) to take all necessary steps (including pension benefits to the widows) to carry on livelihood honourably.

(c) to discharge such other functions as may be prescribed.

(2) The Corporation shall prepare a time bound programme for promotion of around welfare of widows in consultation with the State Government.

State Government to provide initial capital.

5. (1) The State Government may provide to the Corporation such sum not exceeding fifty lacs of rupees as the State Government may think fit as capital that may be required by the Corporation for the purpose of carrying out its functions,

Provided that where the capital initially provided is less than fifty lacs of rupees the State Government may, from time to time increase the capital to sum not exceeding fifty lacs of rupees.

(2) Such capital may be provided subject to such terms and conditions as may be determined by the State Government.

(3) The capital so provided shall form part of the fund of the Corporation.

Fund of Corporation.

6. (1) The Corporation shall have its own fund.

(2) The Corporation may accept grants, subventions, donations and gifts from the Central or State Government or a local authority or any individual or body of individuals whether incorporated or not, for all or any of the purposes of this Act.

(3) All sums which may from time to time be paid to it by the State Government and all other receipts of the Corporation shall be carried to the fund of the Corporation and all payments by the Corporation shall be made therefrom.

(4) The Corporation may spend such sums as it thinks fit for the performance of its functions under this Act, and such sums shall be treated as expenditure payable out of fund of the Corporation.

(5) All moneys belonging to the fund of the Corporation shall be deposited in such bank or invested in Government securities or in such other manner as the State Government may, by general or special order, direct.

7. For the efficient performance of the Corporation the officers and servants of the Corporation shall be appointed by the Corporation and the pay and allowances and conditions of service thereof shall be such as may be prescribed.

Appoint-
ment of
Officers
and
Servants

8. The State Government shall accord top-priority to the Corporation in giving financial assistance required by the Corporation in view of the most urgent task entrusted to it.

Priority

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

Power
to
make
Rules.

(2) The power to make rules conferred by this section shall be subject to the conditions of the rules being made after previous publication.

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

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

STATEMENT OF OBJECTS AND REASONS.

In Gujarat, the exact figure of widows is not available. It is generally found that a large number of women belonging to lower and middle income group of our society become destitute after the death of their husbands who do not leave behind them an adult earning son. Sometimes conditions of such widows become so miserable due to poverty that unscrupulous persons of the society exploit the situation and make their lives disgraceful in the society. It is expedient to liquidate this evil from the society.

The benefit of the Act is to be given to widows irrespective of their caste, creed and religion. The measures and the programme of removing the miserable condition and the details thereof will be worked out by the Corporation. This problem will be solved by a radical, progressive, dynamic and unconventional approach to the problem.

Hence this Bill

Gandhinagar.

Dated the 5th February, 1996.

MADHUBHAI BHUVA,
M.L.A.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 5 of the Bill seek to provide to the Corporation such sum not exceeding fifty lacs of rupees as the State Government may think fit as capital. The Bill would thus involve a non-recurring expenditure upto rupees fifty lacs from the Consolidated Fund of the State.

Gandhinagar.

Dated the 5th February, 1996.

MADHUBHAI BHUVA,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

Clause 3.—(i) Sub-clause (2) of clause 3 empowers the State Government to appoint Chairman and Members of the Corporation.

(ii) Sub-clause (3) of clause 3 empowers the State Government to prescribe the terms and conditions of office of the Chairman and Members of the Corporation.

Clause 4.—Sub-clause (1) of clause 4 empowers the State Government to prescribe functions other than those prescribed in that sub-clause.

Clause 6.—Sub-clause (5) of this clause empowers the State Government to direct by the general or special order the other manner in which moneys in the Fund shall be deposited, or invested.

Clause 7.—This clause empowers the State Government to prescribe the pay and allowances and conditions of service of officers and servants of the corporation.

Clause 9.—This clause empowers the State Government to make rules for carrying out the purposes of this Act.

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

Gandhinagar,
Dated the 5th February, 1996.

MADHUBHAI BHUVA,
M.L.A."

Gandhinagar,
Dated the 29th February, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.

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PART V

Bill Introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 29th February, 1996 by **Shri Madhubhai Bhuya, M.L.A.** is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information:—

"GUJARAT BILL NO 17 OF 1996

THE GUJARAT WOMEN PROTECTION FORCE BILL, 1996.]

A BILL

to provide for the establishment of the Gujarat Women Protection Force for the protection of lives, properties and interests of women in the State of Gujarat and for matters connected therewith.

It is here by enacted in the Forty-Seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Women Protection Force Act, 1996.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.

Short title
 extent
 and co-
 mence-
 ment.

2. There shall be established in each taluka of the State of Gujarat, a special wing of women police force to be called "the Gujarat Women Protection Force" (hereinafter referred to as "the force"), consisting of not less than 25 women headed by a women police inspector and assisted by a women police sub-inspector, for the protection of lives, properties and interests of women in the taluka.

Establish-
 ment of
 Gujarat
 Women
 Protection
 force

**Functions
of force.**

3. The functions of the force shall be as under

(a) to protect women in the event of an assault or attack on them, to protect their lives and properties and to render all necessary and prompt help in such event

(b) to be helpful to women and their children and to render all assistance needed for the implementation of laws enacted for their benefit and welfare;

(c) to discharge such other functions as may be prescribed.

**[Powers
of force.]**

4. The force shall have powers to arrest or detain any person found or apprehended to be dangerous to the life or property of any woman or her child and to take suitable action for the welfare of women.

**Advisory
Committee**

5. There shall be formed by the State Government for each Taluka an advisory committee consisting of seven members selected from amongst the women social workeres of the taluka to assist and advice the force in relation to its functions.

STATEMENT OF OBJECTS AND REASONS

There are 50 percent females in the total population of the state. To tackle effectively the problems presently faced by the educationally and economically and socially backward and exploited females in the state of Gujarat, establishment of a women protection force is a must and a necessity. This Bill seek to achieve the above objects.

Gandhinagar,
Dated the 5th February, 1996.

MADHUBHAI BHUVA

M. L. A.

FINANCIAL MEMORANDUM.

Clause 2 of the Bill provides for the establishment of a special wing of women police force in each taluka, and for this purpose, total annual expenditure to involved from the Consolidated Fund of the State is estimated to be Rs. 25 lacs.

Gandhinagar
Dated the 5th February, 1996.

MADHUBHAI BHUVA,

M. L. A.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clause 3 (c) of the Bill empowers the State Government to prescribe functions of the Gujarat Women Protection Force other than those prescribed in sub-clauses (a) and (b) of clause 3.

Gandhinagar,
Dated the 5th February, 1996.

MADHUBHAI BHUVA

M. L. A.

Gandhinagar,
Dated the 29th February, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 21st March, 1996 by Shri Vinendrasinh Zala, Minister of State for Tourism is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

**THE GUJARAT TAX ON LUXURIES (HOTELS AND
 LODGING HOUSES) (AMENDMENT) BILL, 1996.**

GUJARAT BILL NO. 18 OF 1996

A BILL

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

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 Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Act, 1996.

Short title and
commence-
ment.

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

Guj. 24 of
1977.

2. In the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 (hereinafter referred to as "the principal Act"), in section 2, clause (c) shall be deleted.

Amendment of
section 2 of
Guj. 24 of
1977.

Amendment
of section 3
of Guj. 24
of 1977.

3. 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 check out 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."

Amendment
of section 4
of Guj. 24
of 1977.

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

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

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

"(4) 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."

Amendment
of section 5
of Guj. 24
of 1977.

5. In the principal Act, in section 5, in sub-section (1), for the words "eight days", the words "fifteen days" shall be substituted.

Amendment
of section
10 of Guj.
24 of 1977.

6. 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 designated officer, as the case may be, 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 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 of injunction of any Civil Court;

shall be excluded."

7. 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.

Amendment of
section 13 of
Guj. 24 of 1977.

8. In the principal Act, after section 20, the following new sections shall be inserted, namely :—

Insertion of new
sections 20A,
20B and 20C in
Guj. 24 of 1977.

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 public interest, by notification in the *Official Gazette*, exempt 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 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 OF OBJECTS AND REASONS.

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.

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

Clauses 2 and 4.—(i) Under the existing provisions of sub-section (3) of section 4 of the said 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 proposed to levy tax on the actual charge of lodging paid by the person. Hence it is proposed by these clauses to delete clause (c) of section 2 and sub-section (3) of section 4.

(ii) Sub-section (4) of section 4 proposed to be substituted by sub-clause (ii) of clause 4 also provides 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.

Clause 3.— It has been represented by the proprietors of the hotels that the luxury tax should not be levied for the stay after the check out time particularly when charge of lodging is not collected from such person for such stay. In view of such representations, it is proposed in new sub-section (1A) of section 3 to be inserted by this clause to provide that where charge for lodging for a period not exceeding three hours immediately following the check out 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.

Clause 5.— Sub-section (1) of section 5 proposed to be amended by this clause provides to increase the period of furnishing monthly returns from eight days to fifteen days.

Clause 6.— 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 proposed to be amended by this clause to provide accordingly.

Clause 7.— This clause seeks to amend sub-section (1) of section 13 to provide for increasing the amount of penalty from one thousand rupees to ten thousand rupees.

Clause 8.— This clause proposes to insert new sections 20A, 20B and 20C.

(i) 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.

(ii) New section 20B empowers the State Government by notification in the *Official Gazette*, to exempt 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.

(iii) New section 20C makes the proprietor liable to pay luxury tax in event of the breach of conditions for such exemption.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

SURESHCHANDRA MEHTA,

MEMORANDUM REGARDING DELEGATED LEGISLATION.

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

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

Clause 8.—(i) Sub-section (1) of section 20A proposed to be inserted by this clause empowers the State Government, by notification in the *Official Gazette*, to reduce the rate of tax specified in sub-section (1) of section 3 of the Act.

(ii) Sub-section (1) of section 20B proposed to be inserted by this clause empowers the State Government, by notification in the *Official Gazette*, to exempt 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. The delegation of the legislative powers as aforesaid is necessary and is of a normal character.

Dated the 14th March, 1996.

SURESHCHANDRA MEHTA.

Gandhinagar,

Dated the 21st March, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.

V-Ex-18—2

Government Central Press, Gandhinagar.



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VOL XXXVII.]

FRIDAY, MARCH 22, 1996/CAITRA 2, 1918

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

PART V

Bills introduced in the Gujarat Legislative Assembly

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

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

THE GUJARAT (SUPPLEMENTARY) APPROPRIATION BILL, 1996

GUJARAT BILL NO. 19 OF 1996.

A BILL

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

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.

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/ Appro- priation	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
5	Co-operation	Capital	1,50,00,000	1,50,00,000
6	Other expenditure pertaining to Agriculture Co-operation and Rural Development Department	Revenue	2,26,47,000	2,26,47,000
7	Education Department	Revenue	2,12,000	2,12,000
8	Education	Capital	74,22,000	74,22,000
9	Other expenditure pertaining to Education Department	Revenue	19,25,000	19,25,000
12	Energy Projects	Revenue	1,11,68,81,000	1,16,50,66,000
13	Other expenditure pertaining to Energy and Petro-Chemicals Department	Revenue	4,81,85,000	1,16,50,66,000
14	Finance Department	Capital	55,10,000	55,10,000
15	Tax Collection Charges (Finance Department)	Revenue	2,000	2,000
16	Treasury and Accounts Administration	Revenue	3,87,20,00,000	3,87,20,00,000
17	Pension and Other Retire- ment Benefits	Capital	3,94,000	3,94,000
18	Other expenditure pertain- ing to Finance Department	Revenue	40,63,000	40,63,000
19	Repayment of Debt pertaining to Finance Department and its servicing	Revenue	3,30,77,000	3,30,77,000
20	Food and Civil Supplies Department	Revenue	2,19,16,000	2,19,98,000
21	Civil Supplies	Revenue	1,18,34,00,000	1,18,34,00,000
		Capital	27,000	27,000
		Revenue	31,35,38,000	31,35,38,000
		Revenue	17,33,09,000	17,33,09,000
		Revenue	36,28,000	36,28,000
		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	4	5
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	4,23,27,000
		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	9,26,02,000
35	State Legislature	Revenue	..	2,50,000
36	Loans and Advances to Government Servants in Gujarat	Capital	5,53,000	5,53,000
37	Legislature Secretariat	Revenue	23,48,000	23,48,000
38	Health and Family Welfare Department	Revenue	24,84,73,000	24,84,73,000
39	Medical and Public Health	Revenue	9,77,37,000	9,77,37,000
40	Family Welfare	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	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	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

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 Capital	1,000 1,000	1,000 1,000
95	Tribal Area Sub Plan	Revenue Capital	4,000 4,38,58,000	13,22,000 17,64,000
96	Urban Development and Urban Housing Department	Revenue	24,80,000	24,80,000
97	Urban Housing	Revenue Capital	2,27,25,000 3,56,03,000	2,27,25,000 3,56,03,000
98	Urban Development	Revenue Capital	2,20,56,000 40,00,000	2,20,56,000 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
		Capital	3,17,21,21,000	2,75,25,000
Grand Total :			13,51,53,89,000	55,11,35,000
				14,06,65,24,000

STATEMENT OF OBJECTS AND REASONS.

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 1996.

The amounts are shown below :—

(a) Revenue Expenditure	Rs. 10,86,68,78,000
(b) Capital Expenditure	Rs. 3,19,96,46,000
Total	Rs. <u>14,06,65,24,000</u>

Dated the 21st March, 1996.

VAJUBHAI VALA

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

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

Gandhinagar, dated the 22nd March 1996.



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

PART V

Bills introduced in the Gujarat Legislative Assembly.

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

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

THE BOMBAY STAMP (GUJARAT AMENDMENT) BILL, 1996.

GUJARAT BILL NO. 20 OF 1996.

A BILL

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
commence
ment.

(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.

Bom.
LX of
1958.

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

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend Article 6 of Schedule-I to the Bombay Stamp Act, 1958 with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on the 16th February, 1996.

Dated The 25th March, 1996.

ASHOK BHATT

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

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

Gandhinagar, dated the 25th March, 1996.

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PART V

Bills introduced in the Gujarat Legislative Assembly.

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

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

**THE BOMBAY MOTOR VEHICLES TAX (GUJARAT
AMENDMENT) BILL, 1996.**

GUJARAT BILL NO. 21 OF 1996.

A BILL

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.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend section 3A of the Bombay Motor Vehicles Tax Act, 1958 with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Legislative Assembly on the 16th February, 1996.

Dated the 25th March, 1996.

C. K. RAULJI

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

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

Gandhinagar, dated the 25th March, 1996.

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PART V

Bills introduced in the Gujarat Legislative Assembly.

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

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

THE GUJARAT SALES TAX (AMENDMENT) BILL, 1996.

GUJARAT BILL NO. 22 OF 1996.

A BILL

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 (1), 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.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend certain entries in Schedule II, Part A of the Gujarat Sales Tax Act, 1969 with a view to giving effect to the proposals contained in the Budget Speech of the Finance Minister in the Legislative Assembly on the 16th February, 1996.

Dated the 25th March, 1996.

VAJUBHAI VALA,

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

Smt. K. R. TRIVEDI,

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

Gandhinagar, dated the 25th March, 1996.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

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

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

THE GUJARAT APPROPRIATION BILL, 1996.
GUJARAT BILL NO. 23 OF 1996.

A BILL

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

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.

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.

SCHEDULE

(See Section 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 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 Capital 10,93,43,000		13,31,80,000 10,93,43,000
73	Fisheries	Revenue 14,74,74,000 Capital 8,89,76,000		14,74,74,000 8,89,76,000
74	Other expenditure pertaining to Ports and Fisheries Department	Revenue 41,59,000 Capital 35,73,000		41,59,000 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 Capital 2,00,00,000		1,39,36,00,000 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 Capital 26,00,000	23,00,000 9,00,000	13,61,95,000 35,00,000
81	Other expenditure pertaining to Revenue Department	Revenue 54,49,000 Capital 2,64,22,000	1,000 ..	54,50,000 2,64,22,000
82	Roads and Buildings Department	Revenue 2,68,80,000	..	2,68,80,000

No. of Vote/ Appropriation	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 Police	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/ Appro- priation	Services and Purposes	Sums 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	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	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	93,35,55,46,000
		Capital	22,67,79,69,000	29,17,31,35,000
Grand Total :			1,00,50,50,73,000	1,22,52,86,81,000

STATEMENT OF OBJECTS AND REASONS

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

- (a) the grants so made by the Assembly, and
- (b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of this State for the financial year ending on the 31st March, 1997.

The amount are shown below :—

Rs.

(a) Revenue Expenditure	93,35,55,46,000
(b) Capital Expenditure	29,17,31,35,000
Total ..	1,22,52,86,81,000

Dated the 25th March, 1996.

VAJUBHAI VALA.

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

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

Gandhinagar, dated the 25th March, 1996.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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

PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 25th March, 1996 by Shri Ashok Bhatt, Minister for Revenue, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

THE BOMBAY LAND REVENUE CODE
(GUJARAT AMENDMENT) BILL, 1996.
GUJARAT BILL NO. 24 OF 1996.

A BILL

further to amend the Bombay Land Revenue Code, 1879.

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

Short title
and
commencement.

1. (1) This Act may be called the Bombay Land Revenue Code (Gujarat Amendment) Act, 1996.

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

Amendment
of section 48
of Bom. V of
1879.

2. In the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the principal Act"), in section 48, after sub-section (2), the following new sub-section shall be inserted, namely:—

Bom. V of 1879.

V-EX-24-1

24-1

"(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."

Insertion of new
section in Bom.
V of 187.

3. 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

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—

(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, 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 condition 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 (I) 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 to the Collector sent by him 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 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 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.

V-Ex-24-2

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 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. 29 of 1986.

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."

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

4. 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 and 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."

Amendment of
section 214 of
Bom. V of 1879.

5. 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 OF OBJECTS AND REASONS

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 proposed 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 proposed to be 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 under the Environment (Protection) Act, 1986 are excluded. The said section 65B also seeks to provide 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 proposed.

This Bill seeks to amend the said Code to achieve the aforesaid objects.

ASHOK BHATT

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

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

Clause 2. — Sub-section (2A) proposed to be inserted in section 48 by this clause empowers the State Government to prescribe by rules the authority by which and the rules subject to which the assessment of land revenue fixed under the Act shall be altered and fixed at a different rate.

Clause 3. — This clause proposes to insert new section 65B.

(i) Clause (b) of sub-section (2) of the new section 65B empowers the State Government to prescribe by rules the form of notice of the date of the commencement of use of land for a *bonafide* industrial purpose alongwith the particulars to be sent to the Collector.

(ii) Clause (a) of sub-section (3) of the new section 65B empowers the State Government to prescribe by rules the form in which and the period within which the Collector shall issue a certificate specified therein.

(iii) Clauses (a) and (c) of sub-section (4) of the new section 65B empowers the State Government to prescribe the rule subject to which the Collector may direct the pay ment of such fine not exceeding than that specified under these clauses.

(iv) The proviso to clause (a) of sub-section (5) of the new section 65B empowers the State Government to prescribe by rules the circumstances in which the Collector may extend the period of three years or five years referred to in said clause (a) of sub- section (5).

Clause 5. — Clause (h) which is sought to be inserted in sub-section (2) of section 214 by this clause empowers the State Government to make rules in respect of matters specified in said clause (h).

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

Dated the 19th March, 1996.

Gandhinagar,

Dated the 25th March, 1996.

ASHOK BHATT.

V. H. DAVE,

Secretary,

Gujarat Legislative Assembly.



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

PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 25th March, 1996 by Shri Ashok Ghatt, Minister for Revenue, is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

**THE GUJARAT TENANCY AND AGRICULTURAL LANDS LAWS
 (AMENDMENT) BILL, 1996.**

GUJARAT BILL NO. 25 OF 1996.

A BILL

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.

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 Tenancy and Agricultural Lands Laws (Amendment) Act, 1996. Short title and commencement.

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

Bom.
LXVII
of 1948.

2. In the Bombay Tenancy and Agricultural Lands Act, 1948 (hereinafter referred to as "the Bombay Tenancy and Agricultural Lands Act"), in section 43,—

Amendment of
section 43 of
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).";

(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.

Insertion of new section in Bom. LXVII of 1948.

3. 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:

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 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 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 be 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 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."

4. 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:—

Amendment of
section 82 of
Bom. LXVII of
1948.

"(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;"

Sau.
Ord.
XLI of
1949.

5. 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 :—

Inserti
on of
new sec-
tion in
S a u .
O r d .
XLI of
1949.

Sale of Land for
bonafide in-
dustrial purpose
permitted in cer-
tain 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 *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 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 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 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."

6. 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 :—

Amendment of section 73 of Sau. Ord. XLI of 1949.

"(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 conditions 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."

Amendment of section 57 of Bom. XCIX of 1958.

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

Bom. XCIX of 1958.

"(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)."

Bom. V of 1879.

Insertion of new section in Bom. XCIX of 1958.

8. 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 :

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 *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.

(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 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."

9. 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 :—

Amendment of
section 118 of
Bom. XCIX of
1958.

"(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 OF OBJECTS AND REASONS

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 proposed to amend those Acts with a view to doing away with bar against sale of land by tenant without the permission of the Collector and the bar against the sale of land by an agriculturist to non-agriculturist without taking permission of the Collector so that the land could be used for a *bonafide* industrial purpose. However, where the total extent of such land proposed to be 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 proposed 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.

This Bill seeks to amend the three Acts to achieve the aforesaid object.

ASHOK BHATT

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

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

Clause 3.—(1) Clause (b) of the proviso to sub-section (1) of new section 63AA proposed to be inserted by this clause in the Bombay Tenancy and Agricultural Lands Act, 1948 empowers the State Government to authorise, by an order, any other officer to grant previous permission to the person to whom the land proposed to be sold exceeds ten hectares.

(2) (i) Clause (a) of sub-section (3) of the new section 63AA empowers the State Government to prescribe by rules the form of notice of purchase of land and the other particulars to be sent to the Collector.

(ii) Clause (b) of the said sub-section (3) empowers the State Government to prescribe rules subject to which the Collector may direct the payment of fine not exceeding two thousand rupees.

(iii) Sub-clause (i) of clause (c) of the said sub-section (3) empowers the State Government to prescribe by rules the form in which and the time within which the Collector shall issue the certificate specified therein.

(iv) Sub-clause (i) of clause (d) of the said sub-section (3) empowers the State Government to authorise, by an order, an officer to whom an appeal may be filed against the refusal to issue the certificate by the Collector.

(3) The proviso to sub-section (4) of new section 63AA empowers the State Government —

(i) to authorise, by an order, an officer to extend from time to time, the period of three years or five years referred to in the said sub-section (4), and

(ii) to prescribe by rules the circumstances in which the Collector or the authorised officer may extend the said period.

Clause 4.—Clause (kaa) sought to be inserted in sub-section (2) of section 82 by this clause empowers the State Government to provide by rules the matters specified in that section.

Clause 5.—(1) Clause (b) of the proviso to sub-section (1) of new section 55 proposed to be inserted by this clause in the Saurashtra Gharkhed, Tenancy Settlement and Agricultural Land Ordinance, 1949 empowers the State Government to authorise, by an order, any other officer to grant previous permission to the person to whom the land proposed to be sold exceeds ten hectares.

(2) (i) Clause (a) of sub-section (2) of the new section 55 empowers the State Government to prescribe by rules the form of notice of purchase of land and the other particulars to be sent to the Collector.

(ii) Clause (b) of the said sub-section (2) empowers the State Government to prescribe rules subject to which the Collector may direct the payment of fine not exceeding two thousand rupees.

(iii) Sub-clause (i) of clause (c) of the said sub-section (2) empowers the State Government to prescribe by rules the form in which and the time within which the Collector shall issue the certificate specified therein.

(iv) Sub-clause (i) of clause (d) of the said sub-section (2) empowers the State Government to authorise, by an order, an officer to whom an appeal may be filed against the refusal to issue the certificate by the Collector.

(3) The proviso to sub-section (3) of new section 55 empowers the State Government —

(i) to authorise, by an order, an officer to extend from time to time, the period of three years or five years referred to in the said sub-section (3), and

(ii) to prescribe by rules the circumstances in which the Collector or the authorised officer may extend the said period.

Clause 6.—Sub-section (2) of section 73 sought to be substituted by this clause empowers the State Government to provide by rules the matters specified in that section.

Clause 8.—(1) Clause (b) of the proviso to sub-section (1) of new section 89A proposed to be inserted by this clause in the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 empowers the State Government to authorise, by an order, any other officer to grant previous permission to the person to whom the land proposed to be sold exceeds ten hectares.

(2) (i) Clause (a) of sub-section (3) of the new section 89A empowers the State Government to prescribe by rules the form of notice of purchase of land and the other particulars to be sent to the Collector.

(ii) Clause (b) of the said sub-section (3) empowers the State Government to prescribe rules subject to which the Collector may direct the payment of fine not exceeding two thousand rupees.

(iii) Sub-clause (i) of the clause (c) of the said sub-section (3) empowers the State Government to prescribe by rules the form in which and the time within which the Collector shall issue the certificate specified therein.

(iv) Sub-clause (i) of clause (d) of the said sub-section (3) empowers the State Government to authorise, by an order, an officer to whom an appeal may be filed against the refusal to issue the certificate by the Collector.

(3) The proviso to sub-section (4) of new section 89A empowers the State Government —

(i) to authorise, by an order, an officer to extend from time to time, the period of three years or five years referred to in said sub-section (4), and

(ii) to prescribe by rules the circumstances in which the Collector or the authorised officer may extend the said period.

Clause 9.—Clause (xix-a) sought to be inserted in sub-section (2) of section 118 by this clause empowers the State Government to provide by rules the matters specified in the said clause (xix-a).

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

Dated the 18th March, 1996.

ASHOK BHATT

Gandhinagar,
Dated the 25th March, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.

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PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 27th March, 1996 by Shri Madhubhai Bhuvra, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

“Gujarat Bill No. 26 of 1996.

THE GUJARAT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 1996

A BILL

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

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 Co-operative Societies (Amendment) Act, 1996.

Short title and
Commence-
ment.

(2) It shall come into force at once.

2. In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act") in section 2, after clause (4), the following clause shall be inserted, namely :—

Amendment of
section 2 of Guj.
Act of 1962.

"(4A) "Commission" means the Gujarat Co-operative Service Commission constituted under section 156A.

Amendment of
section 76A of
Guj. X of 1962.

3. In the principal Act, in section 76A, in sub-section (1) and (2), for the words "previous approval of the Registrar", the words "previous approval of the Commission" shall be substituted.

Amendment of
section 76B of
Guj. X of 1962.

4. In the principal Act, in section 76B, after sub-section (2), the following sub-section shall be added, namely:—

"(3) No order under sub-section (1) or (2) shall be made except after consultation with the Commission".

Insertion of new
section 156A in
Guj. X of 1962.

5. In the principal Act, after section 156, the following section shall be inserted, namely:—

Constitution of
Co-operative
Service
Commission.

"156A. (1) There shall be constituted for the purpose of selection of candidates for appointment in co-operative societies, a commission to be called the Gujarat Co-operative Service Commission.

(2) The Commission shall consist of a Chairman and not less than two and more than four other members as the State Government may think fit to appoint.

(3) The Chairman of the Commission shall be the person who has been, or is a judge of the High Court or a person who holds or has held a post not below the rank of a Secretary to the State Government.

(4) Members of the Commission shall be person who, in the opinion of the State Government, have sufficient experience in the field of personnel management and co-operation.

(5) The qualifications and experience of the members of the Commission shall be such as may be determined by the State Government.

(6) The Chairman and members of the Commission shall hold office for a term of five years from the date of their appointment and on ceasing to hold office after the expiration of their term, they shall be ineligible for reappointment as such Chairman and members.

(7) The Commission shall have a Secretary and such other officers and servants as may be required to enable the Commission to discharge its functions under this Act who may be appointed by the State Government.

(8) The salary and allowances and other conditions of services of the Chairman and other members of the Commission and of the Secretary and other officers and servants of the Commission shall be such as the State Government may, by order determine.

(9) It shall be the duty of the Commission to select candidates for appointment in such societies as may be specified by the State Government by notification in the *Official Gazette*.

(10) Every society shall consult the Commission :—

(a) on all matters relating to methods of recruitment in society, and

(b) on all disciplinary matters affecting a person serving under the society who is appointed on the recommendation of the Commission.

(11) The procedure to be followed in respect of the selection of candidates and the internal working of the commission shall be such as may be determined by the State Government."

STATEMENT OF OBJECTS AND REASONS

At present each Co-operative Society selects its employees at its own ways. In order to make Co-operative movement effective in the State and with a view to avoiding the complaints regarding irregularities and malpractices in the selection of staff of the Co-operative Societies, it is considered necessary to establish a Co-operative Service Commission. Moreover, in the matters regarding disciplinary action, it is also considered necessary to consult the Commission. This Bill seeks, to amend the Gujarat Co-operative Societies Act, 1961 so as to achieve the aforesaid objects.¹

Gandhinagar,
Dated the 5th February, 1996.

MAD HUBHAI BHUVA,
M.L.A.

FINANCIAL MEMORANDUM

Sub-section (8) of new section 156-A Proposed to be inserted by clause 5 of the Bill provides for the salary and allowances and other conditions of service of the Chairman, members, officers and servants of the co-operative service commission. This provision if enacted and brought into operation would involve an estimated annual expenditure of about rupees fifteen lakhs from the Consolidated Fund of the State, out of which about rupees ten lakhs would be of a recurring nature and about rupees five lakhs would be of a non recurring nature.

Gandhinagar,
Dated the 5th February, 1996.

MADHUBHAI BHUVA,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 :—

(1) Sub-section (5) of new Section 156A proposed to be inserted by this clause empowers the state Government to determine the qualifications and experience of the members of the Co-operative Service Commission.

(2) Sub-section (8) of the said new section 156A, empowers the state government to determine by order the salary and allowances payable to, and other conditions of service of the Chairman, secretary other officers and servants of the commission.

(3) Sub-section (9) of the said new section 156A, empowers the state government to specify, by notification, the societies for which the Commission shall select candidates for appointment in such societies.

(4) Sub-section (11) of the said new Section 156A, empowers the State Government to determine the procedure to be followed by the Commission in respect of the selection of candidates and the internal working of the Commission.

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

Gandhinagar,

Dated the 5th February, 1996.

MADHUBHAI BHUVA,

M.L.A."

Gandhinagar,

Dated the 27th March, 1996.

V. H. DAVE,

Secretary,

Gujarat Legislative Assembly.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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

PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 27th March, 1996 by Shri Madhubhai Bhuva, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

“ Gujarat Bill No. 27 of 1996.

THE GUJARAT POPULATION CONTROL BOARD BILL, 1996.
A BILL

to promote and monitor the population control programme in the State of Gujarat at the grass-root level and for matters connected therewith.

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 Population Control Board Act, 1996. Short title, extent, commencement and application

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

(3) It shall come into force at once.

(4) This Act shall apply to all ‘ordinarily residents’ of the State of Gujarat except the nationals holding foreign pass-ports.

Definitions.

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

(a) ‘Board’ in relation to any person means a Taluka Population Control Board constituted under section 8 of this Act and in whose jurisdiction he or she resides or is employed.

(b) "Chairman" means the Chairman of the Board.

(c) "contraceptive treatment" means and includes I.U.C.D. insertion or any other treatment which would prevent a woman from conceiving for a period of one year from the date of insertion of I.U.C.D. or the date of the treatment.

(d) "ordinarily resident" means a person who is ordinarily residing in any part of the State of Gujarat for a period of more than six months and includes a person who is in employment for the said period in any part of the State of Gujarat.

(e) "Prescribed" means prescribed by rules made by the State Government under this Act.

Furnishing of
certain infor-
mation to the
Board.

3. Every person who has two or more children shall, within six months from the commencement of this Act, or within three months from the date on which he gets the second child, whichever is later, furnish to the Board the information regarding the number of his living children and such other particulars as may be prescribed.

Penalty for
failing or fur-
nishing false
information.

4. Any person who fails to furnish the information or who knowingly furnishes false information to the Board as provided in section 3, shall, on conviction, be punished with fine which may extend to Rs. 1000/-.

Pursuance and
incentives for
sterilisation.

5. (1) Immediately after getting information, the Board shall cause to approach the informant and give him full understanding regarding benefits of sterilisation to himself, to the State and to the Nation at large.

(2) If the person gets himself sterilised on pursuance the Board shall give him such incentives either in cash or in kind as may be prescribed.

Sterilisation.

6. (1) Every person who has three or more living children shall be sterilised at such dispensary or hospital, within such time which shall not be less than 21 days from the date of the receipt by him of the communication from the Board, as may be fixed by the Board :

Provided that in the case of a woman, sterilisation shall not be done at any time after 15 days from the date of the birth of the last child :

Provided further that if the Board is satisfied that a person is not physically fit for undergoing sterilisation operation, it may exempt him from such operation for such period as it may think fit :

Provided also that in such a case the Board may recommend contraceptive treatment to such person.

(2) Every woman who has two living children shall take a contraceptive treatment from such date and for such period as may be recommended to her by the Board.

7. Every person who fails to get himself sterilised or take contraceptive treatment as required by section 6 without, any valid reason shall, on conviction, be punished with fine which may extend to Rs. 1000/- and if the failure continues after conviction, with fine of Rs. 5/- for every day on and from which the failure continues. Punishment for non sterilisation etc,

8. (1) The State Government shall constitute a Board for each Taluka in the State to be called the Taluka Population Control Board to perform the duties and functions entrusted to the Board under this Act. Taluka Population Control Board.

(2) The Board shall consist of the following members, namely:—

- (i) Deputy Collector incharge of the Taluka;
- (ii) Mamlatdar of the Taluka;
- (iii) Taluka Development Officer of the Taluka Panchayat;
- (iv) Chief Officer of every Municipality in the Taluka;
- (v) Secretary of every Nagar Panchayat in the Taluka;
- (vi) District Family Planning Officer;
- (vii) Medical Officer of each primary health centre in the Taluka;
- (viii) District Health Officer;
- (ix) Five non-official members to be appointed by the State Government.

(3) The Deputy Collector shall be the ex-officio Chairman of the Board constituted under sub-section (1).

Bom. LIX of 1949. (4) Notwithstanding anything contained in sub-section (1), in the case of a taluka where there is a Municipal Corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949, there shall be two Boards one for the area comprising the limits of the corporation and the other for the rest of the area of the taluka and the Board for the area of the corporation shall consist of—

- (i) The Deputy Mayor of the Corporation, who shall be ex-officio Chairman of the Board;
- (ii) The Deputy Municipal Commissioner;
- (iii) The Chief Medical Officer of the Municipal Corporation;
- (iv) The Family Planning Officer of the Municipal Corporation;
- (v) Five non-official members to be appointed by the State Government;

(5) The term of office and pay and allowances, if any of the members of the Board and the procedure to be followed at the meetings of the Board shall be such as may be prescribed.

(6) The quorum at a meeting of the Board for a taluka shall be five and the quorum for a Board for Municipal Corporation shall be three.

Duties of the Board.

9. It shall be the duty of every Board—

- (i) to make within a period of six months from the commencement of this Act such arrangements at such places as may be prescribed for sterilisation and contraceptive treatment of all persons within its jurisdiction who under section 6 are required to be sterilised or to take contraceptive treatment;

(ii) to prosecute any person who has committed any offence under this Act, and

(iii) to take all other measures necessary for the success of the voluntary population control programme involving all sections of society for the acceptance of "small family norm".

Non-application of the provisions of the Act to certain persons.

10. Notwithstanding anything contained in the foregoing provisions, this Act shall not apply to—

- (i) a man who has reached the age of 55 years;
- (ii) a woman who has reached menopause;
- (iii) a person who has already been sterilised and who produces a certificate to that effect from such medical practitioner as may be recognised by the Board; and
- (iv) in case of a person who has neither a living son nor a real living brother nor a living son of a real brother, such person and his wife, till such time as he or his real brother has a son.

Appointment of officers etc.

11. (1) A Board may with the approval of the State Government appoint such officers and staff as it may deem necessary.

(2) The pay, allowances and conditions of service of the officers and staff of the Board shall be such as may be prescribed.

Grant to the Board.

12. The State Government shall every year, give to every Board a grant of such amount as may be determined in this behalf.

Board to bear expenses.

13. All expenses in connection with the provisions of this Act and sterilisation and contraceptive treatment of the persons required to be sterilised or to take contraceptive treatment under this Act shall be borne by the Board.

Protection of action taken under the Act.

14. No suit or prosecution or other legal action shall lie against any member, officer or servant of the Board for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Powers to make rules.

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

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

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

STATEMENT OF OBJECTS AND REASONS

The census report of 1981 has reported 27.21% rise in Gujarat population in the last decade. This birth rate is higher than those in all other States of India, and which has direct bearing to development process and will greatly hamper/jeopardise the onward march of our State towards economic prosperity. If the present birth rate is not controlled effectively right from now, it will be too late to avert unemployment and starvation in the State which is facing scarcity and famine conditions, practically every third year and which is otherwise also a deficit State. To mitigate this, the State Government has to set up autonomous Board for each Taluka and a separate Board for the Municipal Corporation where there is such a corporation in a Taluka to control population growth and to promote and monitor the population programme in the State at the grass-root level.

This Bill seeks to achieve this object.

Gandhinagar,
Dated the 5th February, 1996.

MADHUBHAI BHUVA
M.L.A.

FINANCIAL MEMORANDUM

To achieve the objects of this Bill and works to be carried out by each Board a substantial amount would be required to be spent by the State Government. For the establishment of the Board for each Taluka and a separate Board for the Municipal Corporation area where there is such a corporation in a Taluka, for payment to the members of the Board and the officers and staff of each Board, to make all arrangements for sterilisation and contraceptive treatment and for giving incentives it is necessary to provide for a grant by the State Government to each Board to meet these expenses every year and for that total annual expenditure to be involved from the Consolidated Fund of the State is estimated to be Rs. 5 crores.

Gandhinagar,
Dated the 5th February, 1996.

MADHUBHAI BHUVA
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the State Government to prescribe other particulars to be furnished by certain persons falling under the clause.

Sub-clause (2) of clause 5 empowers the State Government to prescribe the incentives to be given by the Board to the person who gets himself sterilised.

Sub-clause (1) of clause 8 empowers the State Government to constitute Population Control Board for each Taluka. Paragraph (ix) of sub-clause (2) empowers the State Government to appoint non-official members on the Board.

Sub-clause (5) of clause 8 empowers the State Government to prescribe the term of office and pay and allowances of members of the Board and procedure to be followed at the meeting of the Board.

Paragraph (i) of clause 9 empowers the State Government to prescribe the arrangements and the places at which such arrangements shall be made by the Board for sterilisation and contraceptive treatment.

Sub-clause (2) of clause 11 empowers the State Government to prescribe the pay, allowances and conditions of service of the officers and staff of the Board.

Clause 12 empowers the State Government to determine the amount of grant to be given to each Board.

Clause 15 empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as provided in the Bill is necessary and of normal character.

Gandhinagar,
Dated the 5th February, 1996.

MADHUBHAI BHUVA
M.L.A."

Gandhinagar,
Dated the 27th March, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.



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PART V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 27th March, 1996 by Shri Madhubhai Bhuva, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

“Gujarat Bill No. 28 of 1996.

THE GUJARAT PUBLIC ENTERPRISES SERVICE COMMISSION BILL, 1996

A BILL

to provide for the constitution of a commission for the selection of staff for appointment to the posts in Public enterprises and for matters connected therewith and incidental thereto.

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

Short title
& com-
mence-
ment

1. (1) This Act may be called the Gujarat Public Enterprises Service Commission Act, 1996.

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

Definitions

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

(a) “Chairman”, means the Chairman of the Commission.

(b) “Commission” means the Gujarat Public Enterprises Service Commission constituted under sub-section (1) of Section 3.

(c) "Government" means the State Government of Gujarat;

(d) "Notification" means notification published in the *Official Gazette* and the word "notified" shall be construed accordingly;

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

(f) "Public enterprise" means a public enterprise of the State of Gujarat whether created by law or registered under any law for the time being in force.

Constitution of
the Gujarat
Public
Enterprises
Service
Commission.

3. (1) The State Government may, by notification, constitute a Commission by the name of the Gujarat Public Enterprises Service Commission.

(2) The Commission shall be a body corporate having perpetual succession and a common seal and shall be sued by the said corporate name.

(3) The Headquarters of the Commission shall be located at such place as may be prescribed by the Government.

Constitution
of the
Commission.

4. (1) The Commission shall consist of not less than three and not more than nine members of whom one shall be the Chairman, to be appointed by the State Government.

(2) The Chairman and Members shall be persons who, in the opinion of the Government are man of ability and integrity and have special knowledge of or practical experience in the public administration or personnel management or industrial management,

Terms and
Conditions
of service
of Chairman
and
members.

5. (1) The Chairman or any other member of the Commission shall hold office for a term of three years from the date on which he enters upon his office.

Provided that a person who has held office as Chairman or other member shall, on the expiration of his term of office, be eligible for appointment for another term of three years only;

Provided further that no person who has attained the age of sixty two years shall be eligible to hold office in any capacity, whether as Chairman or other member.

(2) If the office of the Chairman or any other member becomes vacant by resignation or otherwise or if the Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall until some person is appointed to the vacant office, or as the case may be, until the Chairman has assumed his duties, be performed by such one of the other members as the Government may appoint for the purpose.

(3) The Chairman or any other member may resign his office, by writing under his hand, addressed to the Government but he shall continue in office, until his resignation is accepted by the Government.

(4) The salary of the Chairman and other members shall be such as may be prescribed by the Government and the other terms and conditions of service shall be such as may be prescribed.

6. The Government may, after making an inquiry in such manner as may be prescribed, remove the Chairman or any other member from his office on any one of the following grounds :-

Removal of
Chairman or
members.

(a) misconduct involving moral turpitude,

(b) insolvency;

(c) infirmity of mind or body or

(d) engages during his term of office in any paid employment outside the duties of his office.

7. (1) The staff of the Commission shall consist of :-

Staff
of the
Commission.

(a) Secretary, who shall be appointed by the Government; and

(b) such other employees as the Commission may, with the previous approval of the Government, appoint from time to time.

(2) The salary of the Secretary and other employees of the commission shall be such as may be prescribed.

(3) The other terms and conditions of service of the Secretary and employees of the Commission shall be such as may be prescribed.

8. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, it shall be the duty of the commission to select persons for appointment to the posts in the public enterprises.

Functions
of the
Commission.

(2) It shall be the duty of the Commission to advise the public enterprise on such matters as may be referred to them.

9. It shall be the duty of every public enterprise to communicate to the Commission the vacancies existing at the commencement of this Act and estimated total number of vacancies in the public enterprise and such communication shall be sent in respect of all such existing and estimated total number of various vacancies and which are likely to be occurred during the unexpired portion of the year, within the month after such commencement and in respect of all vacancies such as are likely to be occurred during each subsequent year within one month after the commencement of such year.

Duty of public
Enterprises to
Communicate
to the
Commission.

10. (1) The manner of selection of the persons for the appointment to the public enterprise shall be such as may be provided for by regulations.

Manner of
Selection of
persons and
procedure
for the
conduct of
the business
of the
Commission.

(2) The procedure for the conduct of business of the Commission shall be such as may be provided for by regulations.

Duty of Commission to make recommendations.

11. It shall be the duty of the Commission to make recommendations to each of the public enterprise in such manner as may be specified by regulations for appointments to fill the vacancies, communicated to it by such public enterprise.

Communicated vacancies to be filled only on the recommendations of Commission.

12. (1) Appointment to all the vacancies required to be communicated to the Commission under section 9 shall, on or from such date as the Commission may notify in respect of each public enterprises be made by such public enterprise only on the recommendations of the Commission.

(2) If in any year, the Commission is unable to make recommendations for appointment to all the vacancies communicated to it by a public enterprises under section 9, or if the public enterprise is unable in any year to make appointment on the basis of the recommendations made by the Commission, the vacancies may be carried forward to the subsequent year.

Effect of recommendation of the Commission.

13. Notwithstanding anything contained in any other law for the time being in force, or in any contract, custom or usage to the contrary appointments to the posts in public enterprises shall be made on the recommendations of the Commission.

Power to call for record.

14. The Commission may, call for any record, report or any other information from any public enterprises if in its opinion such record, report or other information is necessary for the efficient discharge of its functions, and the public enterprise shall furnish such record, report or other information to the commission.

Obligation as to secrecy.

15. The chairman and members and the Secretary and other employees of the Commission shall maintain strictest secrecy regarding the affairs of the Commission and shall not divulge, directly or indirectly any information of a confidential nature to members of the public unless compelled to do so by any judicial or other authority or unless instructed to do so by superior officer in the discharge of his duties.

Chairman, members etc., to be public servants under Act. XLV of 1860.

16. The Chairman, members, the Secretary and other employees of Commission appointed under this Act, shall while acting or purporting to act under this Act be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Proceedings not to be invalidated by reasons of vacancies etc. in the Commission or its committees.

17. No act or proceedings of the Commission or any of its committees shall be deemed to be invalid by reasons or on the ground that the Chairman of the Commission or any member of the Commission or committee as the case may be, was not entitled to hold or continue in such office, or by reason of such act or proceeding having been done or conducted during the period of any vacancy in office of the Chairman of the Commission or any of the members of the Commission or committee, as the case may be.

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

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

Power of State Government to make Rules.

(2) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

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

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

20. (1) The Commission may, by notification in the *Official Gazette*, make regulations with the previous approval of the State Government for carrying out the purposes of this Act.

Power of Commission to make Regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the terms and conditions of services of the employees of the Commission under sub-section (3) of section 7.

(b) the manner of selection of persons for appointment to the posts in the public enterprise under sub-section (1) of section 10;

(c) the procedure for the conduct of business of the Commission under sub-section (2) of section 10 and 13.

(d) the income and expenditure, budget accounts and audit and annual report of the Commission.

STATEMENT OF OBJECTS AND RAESONS

At present each public enterprise (i.e., Government Company, Corporation etc.) selects its staff in its own ways. There are so many complaints regarding irregularities and malpractices in the Selection of Staff. Some time, method of Selection of Staff is also not scientific. With a view, therefore to avoiding complaints regarding irregularities and malpractices in the selection of the staff for the public enterprises, it is considered necessary to establish a Gujarat Public Enterprises Service Commission. The following notes on clauses explain the important provisions of the Bill:-

Clause 3.-This clause provides for the constitution of the Gujarat Public Enterprises Service Commission, which shall be a body corporate having perpetual succession.

Clause 4.-This clause provides for the Constitution of the Commission with members not less than three and not more than nine.

Clause 5.-This clause provides for terms and conditions of the office of the Chairman and Members.

Clause 6.-This clause provides for the removal of members on certain grounds.

Clause 8.-This clause provides for the functions of the Commission.

Clause 9.-This clause imposes the Duty on the public Enterprise to Communicate the vacancies in the Public Enterprises to the Commission.

Clause 12.-This clause provides that the vacancies in a enterprise shall be filled only on the recommendation of the Commission.

Clause 16.-This clause provides that the Chairman, members and other staffs shall be public servants within the meaning of Indian Penal Code.

Clause 18.-This clause is indemnity clause.

Clause 19.-This clause provides for the powers to State Government to make rules for the purposes of this Act.

Gandhinagar.
Dated, the 5th February, 1996.

MADHUBHAI BHUVA,
M.L.A.

FINANCIAL MEMORANDUM

Sub-Clause (4) of Clause 5 provides for the Salary and allowances and other conditions of service of the Chairman and other members of the Commission.

Sub-clause (2) and (3) of Clause 7 provides for the Salary and other terms and conditions of services of the Secretary and other employees of the Commission.

These provisions if enacted and brought into operation would involve an estimated annual expenditure of about rupees twenty lakhs from the Consolidated Fund of the State out of which about rupees ten lakhs would be of recurring nature and about rupees ten lakhs would be of non-recurring nature.

Gandhinagar,
Dated the 5th February, 1996

MADHUBHAI BHUVA,
M.L.A.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 1.-Sub-clause (2) of this clause empowers the State Government to appoint the date from which the Act shall come into force.

Clause 3.-Sub-clause (3) of this clause empowers the State Government to prescribe the place at which the Headquarters of the Commission, shall be located.

Clause 5.-Sub-clause (4) of this clause empowers the State Government to prescribe the salary of the Chairman and other members of the Commission and the other terms and conditions of their service.

Clause 6.-This clause empowers the State Government to prescribe the manner in which the inquiry shall be made.

Clause 7.-(i) Sub-clause (2) of this clause empowers the State Government to prescribe the salary of the Secretary and other employees of the Commission.

(ii) Sub-clause (3) of this Clause empowers the State Government to prescribe the other terms and conditions of the service of Secretary and other employees of the Commission.

Clause 10.-(i) Sub-clause (1) of this clause empowers the Commission to provide by regulation the manner of selection of the persons for the appointment.

(ii) Sub-clause (2) of this clause empowers the Commission to provide by regulation the procedure for the conduct of its business.

Clause 11.-This clause empowers the Commission to specify the manner by regulations for making its recommendations to the public enterprises.

Clause 19.-This clause empowers the State Government to make Rules for carrying out the purposes of this Act.

Clause 20.-This clause empowers the Commission to make regulations with the previous approval of the State Government.

Gandhinagar,
Dated the 5th February, 1996

MADHUBHAI BHUVA,
M.L.A."

Gandhinagar,
Dated the 27th March, 1996.

V. H. DAVE,
Secretary,
Gujarat Legislative Assembly.