GOVERNMENT OF GUJARAT

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

The Gujarat Panchayats Act, 1993

(GUJARAT ACT No. 18 of 1993)

(As modified upto the 31st May, 2017.)

PRINTED IN INDIA BY THE MANAGER GOVERMENT PRESS, RAJKOT

PUBLISHED BY THE DIRECTOR, GOVERNMENT PRINTING PUBLICATIONS AND S
GUJARAT STATE, GANDHINAGAR.

2017

2017

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Government Printing & Stationery,

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GUJARAT ACT NO. 18 OF 1993[1]*

[THE GUJARAT PANCHAYATS ACT, 1993]

[26th August, 1993.]

Amended by Guj. 5 of 1998. Amended by Guj. 6 of 2001. Amended by Guj. 12 of 2001.

Amended by Guj. 17 of 2005. Amended by Guj. 10 of 2008. Amended by Guj. 21 of 2011.

Amended by Guj. 21 of 2014.

Amended by Guj. 23 of 2014.

Amended by Guj. 15 of 2015.

Amended by Guj. 22 of 2015.

Amended by Guj. 4 of 2017.

Amended by Guj. 19 of 2017.

AN ACT to consolidate and amend the law relating to panchayats in the State of Gujarat.

WHEREAS by the Constitution (Seventy-Third Amendment) Act, 1992, Part IX relating to the Panchayats has been inserted in the Constitution;

AND WHEREAS it is expendient to bring the law relating to Panchayats in the State of Gujarat in conformity with the said part IX.

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

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

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

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

(3) This section shall come into force at once; and all or any of the remaining provisions of this Act shall come into force in respect of such class of panchayats, in such district and on such date as the State Government may, by notification in the *Official Gazette,* appoint; and different dates may be appointed in respect of different classes of, panchayats, different districts and different provisions.

Definitions.

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

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

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

Bom. LIX of 1949.

(3) "city" means a city defined in the Bombay Provincial Municipal Corporations Act, 1949;

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

Explanation :- For the purposes of this clause, a Government Officer includes a Government Officer posted under a panchayat under sections 136, 161 or 232.

(5) "district" means a district constituted from time to time under the Land Revenue Code; except the area over which a district panchayat has no authority under section 6;

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

1 For statements of objects and Reasons, see Gujarat Government Gazette, Part V, Extraordinary, dated the 6th August, 1993.

* This Act was assented to by the Governor on the 26th August, 1993.

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

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

(9) "Finance Commission" means the Finance Commission constituted under clause (1) of article 243-1 of the Constitution;

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

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

(12) "Land Revenue Code" means the Bombay Land Revenue Code, 1879 in force in the State of Gujarat; **Bom V of 1879.**

[1][(12A) "mobile tower" means a temporary or permanent structure, equipment or instrument erected or installed on land or upon any part of the building or premises for providing telecommunication services;]

(13) [2][* * * * *]

(14) "panchayat" means a village panchayat, taluka panchayat or district panchayat;

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

(16) "prescribed" means prescribed by rules;

(17) "public street" means any street—

(a) over which the public have a right of way, or

(b) heretofore levelled, paved, metalled, channelled, served or repaired out of a panchayat fund or other public fund, or

(c) which under the provisions of this Act is declared by a panchayat to be or which under the provisions of this Act becomes a public street;

(18) "revenue district" or "revenue taluka" means a district or, as the case may be, a taluka or mahal constituted under the Land Revenue Code;

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

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

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

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

(23) "State Election Commission" means the State Election Commission referred to in clause (1) of article 243-K of the Constitution;

(24) "Street" means any road, footway, square, court, alley or passage accessible whether permanently or temporary to the public, whether a thoroughfare or not;

(25) "taluka" means a taluka constituted from time to time under the Land Revenue Code, except the area over which a taluka panchayat has no authority under section 6;

1. Clause (12A) was inserted by Guj. 21 of 2011, s.10.

2. Clause (13) was deleted by Guj. 12 of 2001, s.2.

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

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

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

(29) "vehicle" includes a bicycle, tricycle, motor car and every wheeled conveyance which is used or capable of being used on a public street;

(30) "village panchayat" means a village panchayat constituted under this Act;

(31) "ward" means an area into which a village is divided under section 16;

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

(33) the words "gram sabha" "panchayat area" "population and "village" shall have the meanings respectively assigned to them in Part IX of the Constition.

CHAPTER II.

ESTABLISHMENT OF PANCHAYATS OF DIFFERENT TIERS.

(A) Establishment of Panchayats and their area of Jurisdiction

Establishment of Panchayats of different tiers.

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

(1) a village panchayat for each village.

(2) a taluka panchayat for each taluka and

(3) a district panchayat for each district.

Gram sabha.

4. There shall be a gram sabha for a village for performing such functions as are provided by or under this Act.

Incorporation of Panchayats of different classes.

5. (1) A village panchayat shall be a body corporate by the name of "The ..... Village Panchayat".

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

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

(4) Every panchayat mentioned in sub-section (1), (2) or (3) shall have perpetual succession and a common seal and may sue and be sued in its corporate name, and subject to the provisions of this Act, shall be competent to acquire and hold property, both movable and immovable, whether within or without the limits of the area over which it has authority, to lease, sell or otherwise transfer any movable or immovable property which may have become vested in it or have been acquired or constructed by it, to raise loans upon the security of its fund in the manner and subject to the limits and other requirements including guarantees prescribed by rules, and to contract and do all other things necessary for the purpose of this Act.

Explanation.— Where a panchayat, with the previous sanction of the competent authority, creates a remunerative asset, such creation of an asset shall be deemed to be for the purposes of this Act. .

Subordination of panchayats amongst themselves and their powers, functions and

6. (1) A village panchayat, subject to the authority of the taluka panchayat and the district panchayat, have authority for the purposes of this Act over the area for which it is constituted.

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

Provided that a district panchayat or, as the case may be, a taluka panchayat shall have also authority over such area outside the area for which it is constituted for such purposes as the State Government may by notification in the *Official Gazette* specify.

(3) Subject to the control of the State Government and the competent authority-(a) a village panchayat shall be subordinate to the taluka panchayat and the district Panachayat, and

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

Recommendation Specification of village.

(4) Subject to the contorl of the State Government and the competent authority, a district panchayat, a taluka panchayat, and a village panchayat shall exercise such powers, perform such functions and duties and shall have such responsibilities and authority as are provided by or under this Act or any other law for the time being in force.

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

7. (1) After making such inquiries as may be prescribed, the competent authority may recommend any local area comprising a revenue village, or a group of revenue villages, or hamlets

forming part of a revenue village, for being specified a village under clause (g) of article 243 of the Constitution if the population of such local area does not exceed [1][twenty-five thousand.]

Constitution of Village Panchayats.

(2) After consultation with the taluka panchayat, the district panchayat and village panchayat concerned (if already constituted), the competent authority may at any time recommend inclusion within or exclusion from any villages any local area or otherwise alternation of limits of any village, or recommend cesser of any local area to be a village, to the Governor for exercise of his powers under clause (g) of article 243 of the the Constitution.

8. (1) The village panchayats, taluka panchayats, district panchayats and gram sabhas shall constitute the Panchayat Organisation of the State of Gujarat.

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

(B) Constitution of Panchayats and their duration.

9. (1) A village panchayat shall consist of persons elected as provided in this

(2) The members of a village panchayat shall be elected from amongst the qualified voters of the village.

(3) (a) A village Panchayat shall have a Sarpanch and an Upa-Sarpahch.

(b) The Sarpanch shall be elected by ballot by the qualified voters of the village from amongst themselves.

(c) The Upa-Sarpanch shall be elected by the members of the village panchayat from amongst themselves.

(4) A village panchayat of a village having population not exceeding three thousand shall consist of [2][eight] members and in case of a village panchaya* where the population of the village exceeds three thousand, than for every [3][three thousand] or part thereof in excess of three thousand, the said number of [2][eight] shall be increased by two:

[4][Provided that the amendment made in this sub-section by the Gujarat Local Authorities Laws (Amendment) Act, 2014 shall not have effect till the expiration of duration of any village panchayat, unless sooner dissolved.]

Guj. 23 of 2014.

1. These Words were substituted for the words "fifteen thousand" by Guj. 23 of 2014, s. 5.
2. These Words was substituted for the words "seven" by Guj. 21 of 2014, s. 6 (i). 3. These Words were substituted for the words "one thousand" by Guj. 23 of 2014, s. 6 (a). 4. This proviso was added, *ibid.,* s. 6 (b).

(5) (a) (i) Seats shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes in every village panchayat in the State and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in that panchayat as the population of the Scheduled Castes in the village or as the case may be, of the Scheduled Tribes in that village bears to the total population of that village, and such seats shall be allotted by the State Election Commission by rotation to different wards in that village in the prescribed manner.

(ii) Where in a village there is in the opinion of the State Government population of socially and educationally backward classes, there shall be reserved by the State Government for the socially and educationally backward classes one tenth of the total number

of seats in a village panchayat and such seats shall be allotted by the State Election Commission by rotation to different wards in that village in the prescribed manner.

(b) [1][As nearly as may be one-half] of the total number of seats reserved under clause (a) shall be reserved by the State Government for women belonging to the Scheduled Castes, the Scheduled Tribes or, as the case may be, socially and educationally backward classes.

(c) [2][As nearly as may be one-half] (including the number of seats reserved for women belonging to the Schedule Castes, the Scheduled Tribes and socially and educationally backward classes) of the total number of seats in a village panchayat shall be reserved by the State Government for women and such seats shall be allotted by the State Election Commission by rotation to different wards in the village in the prescribed manner.

Constitution of Taluka Panchayats.

10. (1) A taluka panchayat shall consist of elected members as provided in sub-section (4). (2) The elected members of a taluka panchayat shall be elected from amongst the qualified voters of the taluka.

(3) A taluka panchayat shall have a President and Vice-President elected by its elected members from amongst themselves.

(4) A talukapanchayat of a taluka having population not exceeding one lakh shall consist of [3][sixteen] members and in case of a taluka panchayat where the population of the taluka exceeds one lakh, then for every twenty-five thousand or part thereof in excess of one lakh, the said number of [3][sixteen] shall be increased by two.

(5) (a) (i) Seats shall be reserved by the State government for the Scheduled castes and the Scheduled tribes in every taluka panchayat in the State and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that panchayat as the population of the Scheduled castes in the taluka or as the case may be, of the Scheduled tribes in the taluka bears to the total population in the taluka and such seats shall be allotted by the State Election Commission by rotaion to different territorial constituencies in that taluka in the prescribed manner.

(ii) One tenth of the total number of seats n a taluka panchayat shall be reserved by the State Government for socially and educationally backward classes and such seats shall be allotted by the State Election Commission by rotation to different territorial constituencies in that taluka in the prescribed manner.

(b) [4][As nearly as may be one-half] of the total number of seats reserved under clause (a) shall be reserved by the State Government for women belonging to the Scheduled Castes, the Scheduled tribes or as the case may be, socially and educationally backward classes.

(c) [5][As nearly as may be one-half] (including the number of seats reserved for women belonging to the Schedule Castes, the Scheduled Tribes and socially and educationally backward classes) of the total number of seats to be filled by direct election in a taluka panchayat shall be reserved by the State Government for women and such seats shall be allotted by the State Election Commission by rotation to different territorial constituencies in taluka in the prescribed maner.

1. These words were substituted for the words “One third” by Guj. 21 of 2014, s. 6(2)(i). 2. These words were substituted for the words “One third”, *ibid.,* s. 6 (2)(ii).
3. Thise Words was substituted for the words “fifteen”, *ibid.,* s. 7 (1). 4. This Words were substituted for the words “One third”, *ibid.,* s. 7 (2)(i). 5. This Words were substituted for the words “One third”, *ibid.,* s. 7 (2)(ii).

(6) Members of the Gujarat Legislative Assembly elected from any constituency in the taluka or a part thereof, shall be permanent invitees to such taluka panchayat, but such invitees shall not have the right to vote in the meetings of the taluka panchayat:

Provided that when a person ceases to be a member of the Gujarat Legislative Assembly, he shall cease to be a permanent invitee to the taluka panchayat.

Explanation.— For the removal of doubts, it is hereby clarified that status of a permanent invitee shall not be construed to be that of member of the Taluka Panchayat referred to in clauses (3) and (4) of article 243C of the Constitution of India.

Constitution of District Panchayats.

11 (1) A district panchayat shall consist of elected member as provided in sub-section (4).

(2) The elected members of a district panchayat shall be elected from among the qualified voters of the district.

(3) A district panchayat shall have a President and a Vice-President elected by its elected members from amongst themselves.

(4) A district panchayat of a district having population not exceeding four lakhs shall consist of [1][eighteen] members and in case of a district panchayat where the population of the district exceeds four lakhs, then for every one lakh or part thereof in excess of four lakhs, the said number of [1][eighteen] shall be increased by two.

(5)(a)(i) Seats shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes in every district panchayat in the State and the number of seats so reserved shall bear, as nearly as may be the same proportion to the total number of seats to be filled in by direct election in that panchayat as the population of the Scheduled Castes in the district or as the case may be the Scheduled Tribes in the district bears to the total population in the district, and such seats shall be allotted by the State Election Commission by rotation to different territorial constituencies in that district in the prescribed manner.

(ii) One tenth of the total number of seats in a district panchayat shall be reserved by the State Government for socially and educationally backward classes and such seats shall be allotted by the State Election Commission by rotation to different territorial constituencies in that district in the prescribed manner.

(b) [2][As nearly as may be one-half] of the total number of seats reserved under clause (a) shall, be reserved by the State Government for women belonging to the Scheduled Castes, the Scheduled Tribes or, as the case may be, the socially and educationally backward classes.

(c) [3][As nearly as may be one-half] (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and socially and educationally backward classes) of the total number of seats to be filled by direct election in a district panchayat shall be reserved by the State Election Commission by rotation to different territorial constituencies in the district in the prescribed manner.

(6) Members of the Guiarat Legislative Assembly elected from any constituency in the Disirict or a part thereof shall be permanent invitees to the District Panchayat, but such invitees shall not have the right to vote in the meetings of the District Panchayat:

Provided that when a person ceases to be a Member of the Gujarat Legislative Assembly, he shall cease to be a permanent invitee to the District Panchayat.

Explanation .— For the removal of doubts, it is hereby clarified that status of a permanent invitee shall not be construed to be that of a member of the District Panchayat referred to in clauses (3) and (4) of article 243 C of the Constitution of India.

1. These words were substituted for the words “seventeen” by Guj. 21 of 2014, s. 8(1).
2. These words were substituted for the words “One third”, *ibid.,* s. 8 (2)(i).
3. These words were substituted for the words “One third”, *ibid.,* s. 8 (2)(ii).

Location of head quarters of a district or taluka

12. (1) The headquarters of a district panchayat and a taluka panchayat shall be located at such place in the district or, as the case may be, taluka as the State Government may by order in writing direct.

(2) Where the headquarters of a district or taluka are located in a city or municipal borough, it shall be lawful for the district panchayat of the district or, as the case may be, the taluka panchayat of the taluka to hold property in such city or, as the case may be, municipal borough notwithstanding that the area within the limits of such city or municipal borough is not included in the district or, as the case may be, municipal borough.

Duration of panchayats and their

13. (1) Every panchayat, unless sooner dissolved under this Act shall continue for five years from the date apointed for its first meeting and no longer.

(2) An election to consititute a panchayat shall be completed-

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

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

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

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

CHAFTER III.

ELECTION OF MEMBERS OF PANCHAYATS, ELECTION DISPUTES, ETC.

Definitions.

14. In this Chapter, unless the context otherwise requires,-

(a) "Assembly" means the Gujarat Legislative Assembly;

43 of 1950.

(b) "Central Act" means the Representation of the People Act, 1950.

(c) "qualifying date" means the 1st day of January of the year in which the list of voters for the purposes of the general election of members for constituting or reconstituting a panchayat is prepared under section 18 or, as the case may be, is revised under the proviso to section 23.

Election.

15. (1) The election of members to a panchayat shall be held on such date as State Election Commission may appoint in that behalf:

provided that—

(i) in the case of reconstitution of a panchayat on account of the expiry of its duration of five years such date shall not be earlier than two monts or later than fifteen days before the expiry of the duration.

(ii) in the case of reconstitution of a panchayat on account of dissolution of a panchayat where the remainder of the period for which the dissolved panchayat would have continued is six months or more than six months such date shall not be later than two months after the date of dissolution of the panchayat.

(iii) in the case of reconstitution of a panchyat on account of dissolution of a panchayat where the remainder of the period for which the dissolved panchayat would have continued is less than six months, such date shall not be earlier than two months or later than fifteen days before the expiry of such lesser period, except with the sanction of the State Government which may be given either prospectively or retrospectively.

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

(3) The superintendence, direction and control of the conduct of such election shall be vested in the State Election Commission.

(4) The names of the elected members shall be published in the prescribed manner by the State Electon Commission.

PROVISIONS RELATING TO ELECTIONS

Electoral divisions.

16. (1) For the purposes of elections of members to a village panchayat, a village shall be divided by the State Election Commission into as many single member wards as the total number of members specified in respect of the village panchayat or that village in sub-section (4) of section 9, and in such manner that as far as practicable the population of all the wards is the same; and one member shall be elected from each such ward.

(2) For the purposes of elections of members to a taluka panchayat, a taluka shall be divided by the State Election Commission into as many single member territorial constituencies as the total number of elected members specified in respect of the taluka panchayat of that taluka in sub-section (4) of section 10 and in such manner that the population
of all the territorial constituencies is, as far as practicable, the same and each territorial constituency is so delimited as to include therein as far as practicable whole wards of a village and one member shall be elected from each such constituency.

(3) For the purposes of elections of members to a district panchayat, a district shall be divided by the State Election Commission into as many single member territorial constituencies as the total number of elected members specified in respect of the district

panchayat of that district in sub-section (4) of section 11 and in such manner that the population of all the territorial constituencies is as far as practicable the same and each teritorial constituency is so delimited as to include therein as far as practicable whole territorial constituencies of a taluka; and one member shall be elected from each such constituency.

(4) At any time not later than two months before the date of the expiry of the duration of a panchayat under section 13 and in the case ,of a panchayat which is to be constituted or reconstituted under the provisions of this Act otherwise than on the expiry of its duration under section 13, at any such time before it is to be constituted or, as the case may be reconstituted, it shall be lawful for State Election Commission—

(a) to alter, for reasons to be recorded in writing, the limits of any ward of the concerned village, for the purpose of general election in relation to a village panchayat.

(b) to alter, for reasons to be recorded in writing, the limits of any territorial constituency of the concerned taluka or district, for the purpose of general election in relation to a taluka or district panchayat.

(5) Each ward constituted under sub-section (1) and each territorial constituency constituted under sub-sections (2) and (3) shall subject to alteration, if any, made under sub-section (4) be an electoral division.

List of Voters for every electoral division.

17. For every electoral division, there shall be a list of voters which shall be prepared and maintained in accordance with the provisions of sections 18 to 22 under the superintendence, direction and control of the State Election Commission.

Prepration of list of Voters.

18. At any time not later than two months before the expiry of the duration of a panchayat under section 13 and in the case of a panchayat which is to be constituted or reconstituted under the provisions of this Act otherwise than on the expiry of its duration under section 13 at any such time as the State Election Commission may after consulting the State Government determine there shall be prepared for the purpose of the general election of members for constituting or, as the case may be, reconstituting

such panchayat, a list of voters for every electoral division in respect of such panchayat as determined under section 16 and in force at the time when such list is prepared.

Persons qualified to be registered as voters.

19. Every person who is entitled to be registered in the relevant part of the electoral roll of the Gujarat Legislative Assembly under the Central Act shall be entitled to be registered as a voter in the list of voters for the electoral division, to be prepared under secton l8.

List of voters.

20. (1) The electoral roll of the Gujarat Legislative Assembly prepared under the provisions of the Central Act, for the time being in force for such part of the constituency of the Assembly as is included in the relevant electoral division, shall, subject to any amendment, deletion or addition made under sub-section (3) or any inclusion of any name

(2) Such officer of the State Government as the State Election Commission may specify in this behalf (hereinafter referred to as "the specified officer") shall, subject to superintendence, direction and control of the commission, maintain a list of voters for each electoral division; the list shall be published in the prescribed manner.

(3) If on an application made to him in this behalf or on his own motion the specified officer is satisfied that the list of voters is at variance with the relevant part of the electoral roll of the Gujarat Legislative Assembly on account of any mistake in the list, he shall amend the list so as to bring it in conformity with the said electoral roll and for that purpose may amend, delete or add any entry in that list.

(4) Any person who has become entitled to be registred in the relevant part of the electoral roll of the Gujarat Legislative Assembly under the Central Act, after the qualifying date may apply to the specified officer for inclusion of his name in the list.

(5) Where the specified officer after making such inquiry as he may consider necessary, is satisfied that the applicant is entitled to be registered in the

relevant past of the electoral roll of the Gujarat Legislative Assembly under the Central Act, he shall direct the name of the applicant to be included in the list of voters:

Provided that no such direction shall be given if the applicant is disqualified to vote under this Act or any other law for the time being in force.

(6) No amendment, deletion or addition of any entry in the list of voters for an electoral division shall be made under sub-section (3) and no direction for inclusion of a name in that list shall be given under sub-section (5) during the period between such date as the State Election Commission may, by general or special order, notify in this behalf and the date of the completion of any concerned election if the electoral division.

Explanation :- In this section the expression "qualifying date", has the same meaning as in clause (b) of section 14 of the Central Act.

(7) The list of Voters shall after it is finally prepared under this section be published in the prescribed manner and shall come into operation immdiately upon its final publication.

Name of person not to be included in list of voters for more than one electoral division.

21. No person shall be entitled to have his name included in the list of voters for more than one electoral division of the same panchayat.

Name of person not to be included in list of voters more than once.

22. No person shall be entitled to have his name included in the list of voters for any electoral division more than once.

Period for which a list of voters shall remain in Operations.

23. The list of voters for any electoral division which has been published and has come into operation under sub-section (7) of section 20 shall, subject to any revision made under the proviso to this section, remain in operation until a new list of voters for that electoral division is prepared, published and comes into operation:

Provided that the State Election Commission may, after consulting the State Government for reasons to be recorded in writing, direct that such list for any electoral division may be revised in the prescribed manner by reference to the qualifying date, before any bye-election is held to fill a casual vacancy in a seat allotted to that electoral division.

Staff of Panchayat to be made available.

24. Every panchayat shall make available to the State Election Commission such staff as it may require for the performance of any duties in connection with the preparation and revision of a list of voters for an electoral division and conduct of elections in respect of that panchayat.

Jurisdiction of civil courts barred.

25. No civil court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to have his name included in a list of voters; or

(b) to question the legality of any action taken or decision given by or under the authority of the State Election Commission in connection with the preparation, mantenance or revision of any such list.

Making false declaration.

26. If any person makes in connection with—

(a) the preparation, revision or correction of a list of voters, or

(b) the inclusion or exclusion of any entry in or from a list of voters, a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Breach of official duty in connection with the preparation, etc. of list of

27. (1) If any Government servant, panchayat servant or any other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of a list of voters or the inclusion of any entry in or from that list, is without reasonable cause, act or omission involving breach of such official duty, he shall be punishable with fine which may extend to five hundred rupees.

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

(3) No court shall take cognizance of any offence punishable under sub-section (1) except on a complaint made by order of, or under authority from the State Government or the State Election Commission.

Person qualified to vote and be elected.

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

(2) (a) Every person who has attained the age of twenty one years and whose name is in the list of voters shall, unless disqalified under this Act or under any other law for the time being in force, be qualified to be elected from any electoral division.

(b) No person whose name is not entered in the list of voters for the village, shall be qualified to be elected from any electoral division thereof.

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

Restriction on simultaneous or double membership.

29. (1) No person shall, save as expressly authorised by this Act, be a member of two or more panchayats.

(2) Where a person while being a member of one panchayat, intends to stand as a candidate for membership of another panchayat, he may stand as a candidate for such membership notwithstanding anything contained in sub-section (1):

Provieed that if he is chosen for the seat for which he stood as a candidate, the seat already held by him shall become vacant on the date on which he is so chosen unless the seat so held is in another panchayat and the term of that panchayat is to expire within a period of four months from the date on which he is so chosen.

(3) If any person is simultaneously chosen as a member of two or more panchayats, the person shall, within fifteen days from the date or the later of the dates on which he is so chosen, intimate to the competent authority, one of the panchayats in which he wishes to serve and thereupon his seat in the panchayat other than the one in which he wishes to serve, shall become vacant.

(4) Any intimation given under sub-section (3) shall be final and irrevocable.

(5) In default of intimation referred to in sub-section (4) within the aforesaid period, the competent authority shall determine the seat which he shall retain and thereupon the remaining seats from which he was chosen, shall become vacant.

Disqualification.

30. (1) No person shall be a member of a panchayat or continue as such who-

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

XXII of 1955. Bom. XXV of 1949.

(i) of an offence under the Protection of Civil Rights Act, 1955 or under the Bombay Prohibition Act, 1949, unless a period of five years, or such lesser period as the State Government may allow in any particular case, has elapsed since his conviction; or

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

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

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

(d) has been removed from any office held by him in any panchayat under any provision of this Act or in any panchayat before the commencement of this Act under the Gujarat Panchayats Act, 1961 and a period of five years has not elapsed from the date of such removal, unless he has, by an order of the State Government notified in the *official Gazette* been

Guj. 6 of 1962.

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

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

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

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

(i) fails to pay any arrears of any kind due by him to the panchayat or any panchayat subordinate thereto or any sum recoverable from him in accordance with Chapter X of this Act, within three months after a special notice in accordance with the rules made in this behalf has been served upon him; or

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

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

[1][(kk) has no facility of water closet or privy accommodation at the place of his ordinary residence:

Provided that a sitting member shall be deemed to have incurred disqualification if he does not submit to the Taluka Development Officer of the taluka, within six months from the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2014, a certificate issued by the Gram Panchayat Mantri of the panchayat.

Guj. 23 of 2014.

Explanation.- For the purpose of this clause, "water closet or privy accommodation" shall have the same meaning as is given to the term "water closet" in Explanation to section 107 of the Act;]

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

[2][(m) has more than two children:

Provided that a person having more than two children on the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2005 (hereinafter in this clause referred to as "the date of such commencement"), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase:

Guj. 17 of 2005.

Provided further that a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification under this clause.

Explanation.- For the purpose of this clause,-

(i) where a couple has only one child on or after the date of such commencement, any number of children born out of single subsequent delivery shall be deemed to be one entity;

(ii) 'child' does not include an adopted child or children.]

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

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

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

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

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

(e) having any share or interest in any lease of immovable property in which the amount of rent has been approved by the taluka panchayat in the case of a village panchayat, or by the taluka panchayat or by the district panchayat in its own case or in any sale or purchase of immovable property or in any agreement for such lease, sale or purchase; or

1. Clause (kk) was inserted by Guj. 23 of 2014, s.7.
2. Clause (m) was inserted by Guj. 17 of 2005, s.4.

(f) having a share or interest in the occassional sale to the panchayat of any article in which he regularly trades or in the purchase from the panchayat of any article, to a value in either case not exceeding in any year one thousand rupees; or

(g) merely being a relative of a person in employment with or under or by or on behalf of the panchayat.

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

(i) a person shall not be deemed to be disqualified if he has paid the arrears or the sum referred to in clause (i) of this sub-section, prior to the day prescribed for the nomination of candidates;

(ii) failure to pay the arrears or the sum referred to in clause (i) of this sub-section to the panchayat by a member of an undivided Hindu family or by a person belonging to a group or unit, the members of which are by custom joint in estate or residence, shall be deemed to disquilify all members of such undivided Hindu family or as the case may be, all the members of such group or unit.

Bom. 3 of 1874.
Bom. 23 of 1986.

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

(2) A person who at any time during the term of his office is disqualified under the Gujarat Provision for Disqualification of Members of Local Authorities for Defection Act, 1986 for being a member of a taluka panchayat or, as the case may be a district panchayat shall cease to hold office as such member.

[1][(3) A Person shall be disqualified to continue as a member of a Panchayat if such person has been declared as a defaulther voter under sub-section (3) of section 34D subject to the decision in appeal, if preferred under section 34E.]

Determination of validity of election, inquitry by judge and procedure.

31. (1) If the validity of any election of a member of a panchayat is brought in question by any person contesting the election or by any person qualified to vote at the election to which such question relates, such person may, at any time within fifteen days after the date of the declaration of the results of the election, present an election petition to the Civil Judge (Junior Division), and if there be no Civil Judge (Junior Division) then to the Civil Judge (Senior Division), (hereinafter referred to as "the Judge") having ordinary jurisdiction in the area within which the election has been or should have been held, for the determination of such question.

(2) A petitioner shall not join as respondents to his election petition persons except those mentioned in the following clauses, namely:-

(a) where the petitioner in addition to challenging the validity of the election of all or any of the returned candidates, claims a further relief that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner and where no such further relief is claimed, all the returned candidates, and

(b) any other candidate against whom allegations of any corrupt practice are made in the election petition.

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

(4) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under section 274 or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

1. Sub-section (3) was added by Guj. 22 of 2015, s. 9.

Explanation :- The expression "error" in this sub-section does not include any breach of or any omission to carry out or any non-compliance with the provisions of this Act or the rules made thereunder whereby the result of the election has been materially affected.

(5) All election petitions received under sub-section (1)-

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

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

(6) Notwithstanding anything contained in the Code of Civil Procedure, 1908 the Judge shall not permit- **v of 1908.**

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

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

(7) (a) If on the holding of such inquiry the Judg finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (8) he shall declare the candidate disqua fied for the purpose of that election and of such fresh election as may be held under section 33 and shall set aside the election of such candidate if he has been elected.

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

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

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

(8) A person shall be deemed to have committed a corrupt practice-

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

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

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

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

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

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

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

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

Disability from continuing as members.

32. (1) If any member of a panchayat,

(a) who is elected, as such, was subject to any of the disqulifications mentioned in [1][sub-section (1) of section 30] at the time of his election,

(b) during the term for which he has been elected, incurs any disqualifica-tions mentioned in [1][sub-section (1) of section 30],

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

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

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

Fresh election if election is invalid.

33. If the election of any member is set aside under section 31 or if his office becomes vacant under section 32 a fresh election for the vacancy so caused shall, as soon as may be, be held in accordance with the provisions of this Act.

Power of State Election Commission to require services of panchayat staff for

34. Every panchayat shall make available to the State Election Commission such members of its staff as such Commission may require for the performance of any duties in connection with an election and every such member shall carry out such directions as may be issued to him by such Commission or any competent officer in relation to such election.

[2][OBLIGATION TO VOTE

Obligation to vote.

34A. (1) It shall be the duty of a qualified voter of the Panchayats to vote at the election of the Panchayat, however, he will be free to cast his vote in favour of none of the candidates contesting election as indicated in sub- section (2).

(2) The qualified voter shall cast his vote in favour of none of the candidates contesting election, in the manner as may be prescribed by rules, in case where he does not want to cast his vote in favour of any candidate.

1. These words, brackets and figures were substituted for the word and figure "section 30" by Guj. 19 of 2017, s. 2.

2. Sections 34A to 34E were inserted by Guj. 21 of 2014, s. 9.

Declaration of a voter to be a defaulter voter.

34B. (1) The election officer, as may be designated by the State Election Commission, may declare the voter to be the defaulter voter who failed to vote at the election of a Panchayat after giving him a notice in the form prescribed by rules.

(2) The State Government shall be competent to prescribe by rules to be laid before the State Legislature, the disadvantages or consequences to be suffered by a defaulter voter.

Valid and sufficient reasons for not voting.

34C. A qualified voter shall be exempted to vote at the election of the Panchayat- (1) if he is physically incapable due to illness to vote or other bodily infirmity to come and discharge his obligation, or

(2) if he is absent on the date of election from the country or State of Gujarat, or

(3) for such other valid and sufficient reasons as may be prescribed by rules by the State Government in consultation with the State Election Commission.

Notice.

34D. (1) An election officer shall issue a notice to the voter who failed to vote at the election of the Panchayats.

(2) The election officer shall by a notice inform the voter that he appears to have failed to vote at the election and that it is the duty of voter to vote at election. The voter may within a period of one month inform the valid and sufficient reasons, if any, for not voting alongwith supporting documents such as medical certificate, a copy of passport, etc.

(3) If no reply to the notice referred to in sub-section (1) is received within a period of one month or where the voter writes to the election officer reasons for not voting and where the election officer is not satisfied with the reasons given by voter as valid and sufficient, the election officer shall by an order in writing containing reasons declare him a defaulter voter.

Appeal.

34E. (1) The voter who is aggrieved by the order of the election officer under section 34D may prefer an appeal in the form prescribed by rules, within a period of one month to the Appelate Officer designated as such by the State Election Commission.

(2) The Appellate Officer after providing an opportunity of being heard to the appellant may pass an appropriate order. The order of the Appellate Officer shall be final.]

ELECTION OFFENCES

Prohibition of canvassing in or near

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

(a) canvassing for votes;

(b) soliciting the vote of any voter;

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

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

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

(2) Any person who contravenes the provision of sub-section (1) shall, on conviction, be punished with fine which may extend to one thousand rupees.

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

Penalty for disorderly conduct in or near polling station.

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

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

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

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

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

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

Penalty fo misconduct at polling

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

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

(3) If any person who has been so removed from a polling station reenters the polling station without the permission of the presiding officer, he shall, on conviction be punished with fine which may extend to one thousand rupees.

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

Maintenance of secrecy of voting.

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

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

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

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

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

(a) to persuade any person to give his vote at an election, or

(b) to dissuade any person from giving his vote at an election, or

(c) to influence the voting of any person at an election in any manner.

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

Breaches of official duty in conection with

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

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

(3) The persons to whom this section applies are the returning officers, presiding officers, polling officers and any other persons appointed to

perform any duty in connection with the maintenance of the list of voters, the receipt of nominations or withdrawal of candidatures or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

ballot papers from polling station to be offence.

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

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

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

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

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

Other offences and penalties therefor.

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

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

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

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

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

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

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

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

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

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

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

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

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

Prosecution in certain offences.

43. No court shall take cognizance of an offence punishable under section 39 or under section 40 or under clause (a) of sub-section (2) of section 42 except on a complaint made by an order of, or under authority from the State Election Commission.

REQUISITIONING OF PREMISES FOR THE PURPOSES OF ELECTION

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

44. (1) If it appears to an official authorised by the State Government in this behalf (for condut of elections under this Act) (hereinafter referred to as "the requistioning authority") that in connection with an election under this Act-

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

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

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

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

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

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

(4) In this section —

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

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

Payment of compensation

45. (1) Whenever in pursuance of section 44 the requisitioning authority requisitions any premises, the panchayat shall pay to the persons interested compensation the açount of which shall be determined by the requisitioning authority by taking into consideration the following factors that is to say-

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

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

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

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

Explanation.-In this sub-section, the expression "person interested" means a person who was in actual possesion of the premises requisitioned under section 44 immediately before the requistion, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 44, the requisitioning authority requisitions any vehicle, vessel or animal, the panchayat shall pay to the owner thereof compensation the amount of which shall be determined by the requisitioning authority on the basis of fares of rates prevailing in the locality for the hire of such vehicle, vessel or animal :

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

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

Power to obtain information.

46. The requisitioning authority may, with a view to requisitioning any property under section 44 or determining the compensation payable under section 45 by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

Power of entry into and inspection

47. (1) Any person authorised in this behalf by the requisitioning authority may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so, in what manner, an order under section 44 should be made in relation to such premises, vehicles, vessel or animal, or with a view to securing compliance with any order made under that section.

(2) In this section, the expressions "premises" and "vehicles" have the same meaning as in section 44.

Eviction from requisitioned premises.

48. (1) Any person remaining in possession of any requisitioned premises in contravention of an order made under section 44 may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

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

Release of premises from requisition.

49. (1) When any premises requisitioned under section 44 are to be released from requisition, the possession thereof shall be dedivered to the person from whom possession was taken at the time when the premises were requisitioned or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authorty from all liabilities in respect of such delivery, but shall not prejudice any right in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 44 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the *Official Gazette.*

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

50. If any person contravenes any order made under section 44 or section 46, he shall on conviction, be punished with imprisonment for a term which may extend to one year or with fine, or with both. **Penalty for contravention of any order regarding requisition.**

CHAPTER IV.

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

PART I

VILLAGE PANCHAYATS

First meeting of panchayat and election of [1][* *]

51. (1) On the constitution of village panchayat or on its reconstitution under section 13 or under any other provision of this Act, there shall be called the first meeting thereof for the election of Upa-Srupanch from amongst the members of the panchayat.

Upa-- Sarpanch.

(2) (a) The offices of Sarpanch of village panchayats in the State shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes and the number of the offices of Sarpanch of village panchayats in the State so reserved shall bear as nearly as may be, the same proportion to the total number of offices of Sarpanch of village panchayat in the State as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State. There shall be reserved by the State Government for socially and educationally backward classes ten percent of the offices of Sarpanch of village panchayats in the State,

(b) (i) [2][As nearly as may be one-half] of the total number of offices of Sarpanch of village panchayats in the State reserved under clause (a), and

(ii) [2][As nearly as may be one-half] of the total number of offices of Sarpanch of village panchayats in the State, not so reserved, shall be reserved by the State Government, for women.

(3) The number of offices reserved under sub-section (2) shall be allotted by the State Government by rotation to different village panchayats in the State in the prescribed manner.

(4) The meeting shall be held on such day within four weeks from the date on which the names of members elected at the general election are published under section 15 as may be fixed by the competent authority:

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

1. In the marginal note, the words "Sarpanch and" were deleted by Guj. 15 of 2015, s. 10. 2. These words were substituted for the words "One third" by Guj. 21 of 2014, s. 10.

(5) In the case of village panchayat, where there has been a failure to elect a Srupanch or where the elected Sarpanch is not willing to take office, the first meeting of such village panchayat shall be presided over by such officer as the competent authority may by order appoint in that behalf.

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

(6) At the first meeting of the village panchayat no business other than the election of the Upa-Sarpanch shall be transacted.

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

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

Duty of retiring Sarpanch, etc. to handover charge of office.

52. (1) On the election of a new Sarpanch or Upa-Sarpanch it shall be the duty of the retiring Sarpanch or, as the case may be, Upa-Sarpanch, to hand over to him charge of his office and deliver to him the record and property belonging to the panchayat and in his custody.

(2) The provisions of the sub-section (1) shall apply *mutatis mutandis* to a retiring member in the matter of handing over charge of his office.

Term of office of members of village panchayats and of Sarpanch, etc. thereof.

53. Save as otherwise provided in this Act, the term of office of-

(a) the members of a village panchayat, and

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

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

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

(b) The Upa-Sarpanch may resign from his office by tendering his resignation in writing to the panchayat but the resignation shall not take effect untill it is accepted by the panchayat.

(2) Any other member of the panchayat may resign from his office by tendering his resignation to the Sarpanch and the resignation shall take effect on the date on which it is accepted by the Sarpanch.

(3) If any dispute regarding any resignation arises, it shall be referred for decision to such officer, as the State Government may, by general or special order, appoint in that behalf and the decision of such officer shall be final:

Provided that no such dispute shall be enteretained after the expirty of a period of thirty days from the date on which the resignation takes effect.

Executive functions of Sarpanch, or

55. (1) Save as otherwise expressly provided by or under this Act, the executive power, for the purpose of carrying out the provisions of this Act and the resolutions passed by a village panchayat shall vest in the Sarpanch thereof who shall be directly for the due fulfilment of the duties imposed upon the panchayat by or under this Act. In the absence of the Sarpanch his power and duties shall, save as may be otherwise prescribed by rules, be exercised and performed by the Upa-Sarpanch.

(2) Without prejudice to the generality of the foregoing provision:-

(a) the Sarpanch shall-

(i) preside over and regulate the meeting of the panchayat;

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

(iii) incur contingent expenditure upto [1][five hundred rupees] at any one occasion;

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

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

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

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

(b) the Upa-Sarpanch shall--

(i) in the absence of the Sarpanch preside over and regulate the meetings of the panchayat;

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

(iii) in case the Sarpanch has been continuously absent from the village for more than fifteen days or is incapacitated to exercise the powers and perform the duities of the Sarpanch.

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

(4) Notwithstanding anything contained in clause (iv) of sub-section (2), no money shall be withdrawn from the fund of the panchayat except with the signature of the [2][Sarpanch or a member of the panchayat authorized in that behalf by the panchayat, and the Secretary].

Motion of no-confindence.

56. (1) Any member who intends to move a motion of no confidence against the Sarpanch or the Upa-Sarpanch may give notice thereof in the prescribed form to the panchayat concerned. If the notice is supported by one half of the total number of members of the panchayat concerned, the motion may be moved.

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

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

(4) When the offices of both the Sarpanch and Upa-Sarpanch become vacant simultaneously, such Officer as the Taluka Development Officer may authorise in this behalf shall, pending the election of the Sarpanch, exercise all the powers and preform all the functions and duties of Sarpanch but he shall not have the right to vote in any meetings of the panchayat.

(5) (a) Notwithstanding anything contained in section 91 or 95 a meeting of the panchayat for dealing with a motion of no confidence under this section shall be called within a period of fifteen days from the date on which the notice of such motion is received by the panchayat ;

1. These words were substituted for the words “fifty rupees” by Guj. 15 of 2015, s. 11.
2. These words were substituted for the words “Sarpanch and any one of the two other members of the Panchayat authorised in that behalf by the panchayat” by Guj. 19 of 2017, s. 3.

(b) If the Sarapnach fails to call such meeting, the Secretary of the panchayat shall forthwith make a report thereof the competent authority and thereupon the competent authority shall call a meeting of the panchayat within a period of fifteen days from the date of the reciept of the report.

Removal from office.

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

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

Provided that an action under this sub-section shall be taken within six months from the date on which the person resigns or ceases to hold any such office;

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

Leave of absence.

58. (1) Any member of a village panchayat who during his term of office-

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

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

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

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

Provided that such reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (1) the member as to the vacancy.

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

Suspension of Sarpanch or Upa-Sarpanch.

59. (1) The District Development Officer may suspend from office the Sarpanch or the Upa-Sarpanch of a village panchayat against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the panchayat under section 30 or who has been detained under any law relating to preventive detention for the time being in force.

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

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

Elligibility of certain members for

60. A member of a village panchayat whose office has become vacant under section 32 or under section 58 shall, if his disqualification or disability has ceased, be eligible for re-election.

Filling up of vacancies.

61. (1) Any vacancy in the office of a Sarpanch, or Upa-Sarpanch, or member of a panchayat of which notice has been given to the competent authority in the prescribed manner shall be filled by the election of a Sarpanch, Upa-Sarpanch or as the case may be, member, who shall hold office so long only as the Sarpanch, Upa-Sarpanch or member, in whose place he has been elected, would have held office if the vacancy had not occurred:

Provided that if vacancy of a member occurs within [1][twelve months] preceding the date on which the duration of the panchayat expires under section 13, it shall not be filled:

[2][Provided, however, that vacancy in the office of a menber, if any, existing on the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2015, may not be filled till the general election is held for re-constituting the panchayat immediately after coming into force of the Gujarat Local Authorities Laws (Amendment) Act, 2015.]

Guj. 15 of 2015.

Guj. 15 of 2015.

(2) The meeting for the election of the [3][* *] Upa-Sarpanch of a village panchayat under sub-section (i) shall be convened by the competent authority on such date as it may fix and the election shall be held in the same manner in which the election of a [3][* *] Upa-Sarpanch is held under section 51 and the provisions of that section shall, so far as may be, apply in respect of such election.

Acts and proceeding of panchayat and committee not vitiated by dis-

62. (1) No disqualification of or defect in the election of any person acting as a member, Sarpanch, or Upa-Sarpanch or Chairman or member of a committee constituted under this Act or defect in the appointment of a presiding authority of the fttst general meeting shall be deemed to vitiate any act or preceding of the panchayat or of any such committee as the case may be, in which the person has taken part wherever the majority of persons parties to such act or proceeding were entitled to

(2) No resolution of a panchayat or of any committee constituted under this Act, shall be deemed invalid on account of any irregularity in the service of notice upon any member, provided that the proceedings of the panchayat or committee were not prejudicially affected by such irregularity.

(3) Untill the contrary is proved, every meeting of a panchayat or of a committee constituted under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified, and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the mintute.

(4) During any vacancy in a panchayat or committee thereof the continuing members may act as if no vacancy had occured.

1. These words were substituted for the words “four months” by Guj. 15 of 2015, s. 12(1)(i). 2. This proviso was inserted, *ibid.,* s. 12 (1)(ii).

3. The words “Sarpanch or” were deleted, *ibid.,* s. 12 (2).

PART II

TALUKA PANCHAYATS

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

63. (1) On the constitution of a taluka panchayat or on its reconstitution under section 13 or under any other provisions of this Act there shall be called the first meeting thereof for the election of its President and Vice-President from amongst its elected members.

(2) (a) The offices of the President of Taluka Panchayats in the State shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes and the number of offices of President of the Taluka Panchayats in the State so reserved shall bear at nearly as may be, the same proportion to the total number of offices of President of Taluka Panchayats in the State as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State. There shall be reserved by the State Government for socially and educationally backward classes ten percent of the offices of the

(b) (i) [1][As nearly as may be One-half] of the total number of offices of President of Taluka Panchayats inthe State reserved under clause (a), and

(ii) [1][As nearly as may be One-half] of the total number of offices of President of Taluka Panchayats in the State, not so reserved,

shall be reserved by the State Govemment for women.

(3) The number of offices reserved under sub-section (2) shall be allotted by the State Government by rotation to different taluka Panchayats in the State in the prescribed manner.

(4) The meeting shall be held on such day within four weeks from the date on which the names of members elected at the general election are published under section 15 as may be fixed by the competent authority:

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

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

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

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

(8) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section the dispute shall be referred within a period of thirty days from the date of the declaration of the result of the election to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court.

Duty of retiring president, etc. to handover charge of

64. (1) On the election of a new President or Vice-President, it shall be the duty of the retiring resident or, as the case may be, Vice-President to hand over to him charge of his office and deliver to him the record and property belonging to the panchayat and in his custody.

1. These words were substituted for the words "One third" by Guj. 21 of 2014, s. 11.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* to a retiring mymber in the matter of handing over charge of his office.

Honorarium

65. (1) Subject to the provisions of this Act, the taluka panchayat shall pay to its President an honorarium at such rate as may be prescribed.

allowances, etc. to President and Vice-

(2)(a) The President shall be entitled without payment of rent, to the use of a residence, in the headquarters of the panchayat or with the previous sanction of the State Goverment at any other place in the taluka throughout his term of office and for at period of fifteen days immediately there after, or in lieu of such residence, a house allowance at such rate as the State Governmet may determine by a general or special order.

President and travelling allowances to. members

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

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

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

Payment of honorarium to President during leave or absence.

66. (1) Subject to the provisions of sub-section (2), where the President of a taluka panchayat remains absent or is on leave for a continuous period exceeding fifteen days, he shall not be entitled to any honorarium under sub section (1) of section 65 for such period.

(2) Where the President remains absent on ground of illness duly certified by such medical authority as the State Government may by general or spcifial order specify, the President shall be entitled to an honorarium under sub-section (1) of section 65 during the period of such absence in so far as such period does not exceed ninety days during any year.

(3) Nothing in sub-section (1) shall apply to the absence of the President on account of his touring on public business.

Term of office of members, President and Vice-

[1][**67.** (1) Save as otherwise provided in the Act, the term of office of members of a Taluka Panchayat shall be co-extensive with the duration of the Panchayat.

(2) The term of office of the President and the Vice-President of a Taluka Panchayat, save as otherwise provided in this Act, shall be two and a half years.

(3) There shall be called a meeting of the elected members of the Taluka Panchayat by the competent authority within thirty days before the expiry of the term of two and a half years for the election of President and the Vice-President from amongst such elected members.

(4) Subject to the other provisions of this section, the President or the Vice-President shall be eligible for re-appointment.

(5) If, during the term of his office under sub-section (2), the President or the Vice-President, ceases to be a member of the Panchayat, he shall vacate the office held by him.

(6) Notwithstanding anything contained in sub-section (2), the President or the Vice-President who has completed a period of two and a half years on the date of the

Guj. 15 of 2015.

of the Gujarat Local Authorities Laws (Amendment) Act, 2015, shall continue to hold the office till the remainder term of the Panchayat.]

Resignation.

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

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

1. Section 67 was substituted by Guj. 15 of 2015, s. 13.

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

(4) If any dispute regarding any resignation arises it shall be referred for decision to such officer as the State Government may by general or special order appoint in that behalf and the decision of such officer shall be final:

Provided that no such dispute shall be entertained after the expiry of a period of thirty days from the date on which the resignation takes effect.

Powers and functions of President and Vice--President.

69. (1) (a) The President shall-

(i) convene, preside at, and conduct meetings of the taluka panchayat ;

(ii) have access to the records of the panchayat ;

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

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

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

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

Provided that, he shall report forthwith the action taken under this sub-section, and the reasons therefor, to the Executive Committee or any appropriate Standing Committee at its next meeting.

(2) The Vice-President shall-

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

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

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

Motion of no confidence.

70. (1) Any member who intends to move a motion of no confidence against the President or Vice-President may give a notice thereof in the prescribed form to the panchayat. If the notice is supported by such number of members as may be prescribed, the motion may be moved.

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

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

(4)(a) Notwithstanding anything contained in section l22, a meting of the panchayat for dealing with a motion of no confidence under this section shall be called within a period of fifteen days from the date on which a notice of such motion is received by the panchayat.

(b) If the President of the panchayat fails to call such meeting, the Secretary of the panchaya shall make a report thereof to the competent authority and thereupon the competent authority shall call a meeting of the panchayat within a period of fifteen days from the date of the receipt of the report.

Removal from office.

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

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

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

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

Leave of absence.

72. (1) Any member other than an associate member of a panchayat who during his term of office:-

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

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

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

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

Provided that such reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (1) the member as to the vacancy.

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

Suspension of President or Vice-President.

73. (1) The competent authority may suspend from office any President or Vice-President against who any criminal proceedings in respect of an offence involving moral turpitude have been instituted, or who has been detained in a prison during trial any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the panchayat under section 30 or who has been detained under any law relating to preventive detention for the time being in force.

(2) Where any President or Vice-President has been suspended under sub-section (1) another member shall, subject to the conditions to which the election of the President or, as the case may be, Vice-President so suspended was subject, be elected to perform all the

duties and exercise all the powers of a President or a Vice-President during the period for which such suspension continues.

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

Eligibility of certain members for re-election.

74. A member of a panchayat whose office has become vacant under section 32 or under section 72, shall, if his disqualification or disability has ceased, be eligible for re--election.

Filing up vacancies.

75. (1) Any vacancy in the office of a President, Vice-President or a member of a panchayat of which notice has been given to the competent authority in the prescribed manner shall be filled, by the election of a President or Vice-President or a member who shall hold office so long only as the President, Vice-President or member in whose place he has been elected would have held office if the vacancy had not occurred :

Provided that if the vacancy of a member occurs within [1][twelve months] preceding the date on which the duration of the panchayat expires under section 13, it shall not be filled:

[2][Provided, however, that vacancy in the office of member, if any, existing on the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2015, may not be filled till the general election is held for re-consituting the panchayat immediately after coming into force of the Gujarat Local Authorities Laws (Amendment) Act, 2015.] Guj. 15 of 2015. Guj. 15 of 2015.

(2) The meeting for the election of a President or Vice-President under sub-section (1) shall be convened by the competent authority on such date as it may fix and the election shall be held in the same manner in which the election of a President or Vice-President is held under [3][section 63] and the provisions of that section shall, so far as may be, apply in respect of such election.

Act and proceedings of panchayat and committee not vitiated by disqual-lification, etc. of members thereof.

76. (1) No disqulification of or defect in the election of any person acting as a member, President or Vice-President or Chairman or member of a committee constituted under this Act or defect in appointment of presiding autho ity to the first general meeting shall be deemed to vitiate any act or procee ing of the panchayat or of any such commitee, as the case may be, in which theperson has taken part, wherever the majority of persons, parties to such act or proceeding, were entitled to act.

(2) No resolution of a panchayat or of any committee constituted under the Act shall be deemed invalid on account of any irregularity in the service of notice upon any member, provided that the proceedings of the panchayat or committee, were not prejudicially affected by such irregularity.

(3) Until the contrary is proved, every meeting of a panchayat or a committee constituted under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified ; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

(4) During any vacancy in a Panchayat or committee thereof the continuing members may act as if no vacancy had occurred.

1. These words were substituted for the works “four months” by Guj. 15 of 2015, s. 14 (1)(i).

2. This proviso was inserted, *ibid.,* s.14(1) (ii).

3. These words and figures were substituted for the words and figures “section 62”, *ibid.,* s.14(2).

PART III

DISTRICT PANCHAYATS

First meeting

77. (1) On the constitution of a district panchayat or on its reconstitution under

section 13 or under any other provisions of this Act there shall be called the first meeting thereof for the election of its President and the Vice President from amongst its elected members.

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

(2) (a) The offices of President of District Panchayts in the State shall be reserved by the State Government for the Scheduled Castes and the Scheduled Tribes and the number of offices of President of the District Panchayats in the State so reserved shall bear as nearly as may be, the same proportion to the total number of offices of President of District Panchayats in the State as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State. There shall be reserved by the State Government for socially and educationally backward classes ten percent of the offices of the President of District Panchyats in the State;

(b) (i) [1][As nearly as may be one-half] of the total number of offices of President of District Panchayats in the State reserved under clause (a) and-

(ii) [1][As nearly as may be one-half] of the total number of offices of President of District Panchayats in the State, not so reserved, shall be reserved by the State Government for women.

(3) The number of offices reserved under sub-section (2) shall be allotted by the State Government by rotation to different District Panchayats in the State in the prescribed manner.

(4) The meeting shall be held on such day within four weeks from the date on which the names of members elected at the General election are published under section 15, as may be fixed by the competent authority:

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

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

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

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

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

Duty of retiring President, etc. to handover

78. (1) On the election of a new President or Vice-President it shall be the duty of the retiring President or, as the case may be, Vice-President to hand over to him charge of his office and to deliver to him the record and property belonging to the panchayat and in his custody.

(2) The provisions of sub-section (1) shall apply *mutatis mutandis* to a retiring member in the matter of handing over charge of his office.

1. These words were substituted for the words “One third” by Guj. 21 of 2014, s.12.

Honorarium and allowance, etc. to President and Vice-President and travelling allowances to members.

79. (1) Subject to the provisions of this Act, the district panchayat shall pay to its President an honorarium at such rate as may be prescribed.

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

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

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

(4) The President of the panchayat shall be paid a conveyance allowance or permanent travelling allowance or both at such rates and upon such conditions as the State Government may by order determine from time to time.

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

Payment of honoratium to President during leave or absence.

80. (1) subject to the provisions of sub-section (2), where the President of a district panchayat remains absent or is on leave for a continuous period exceeding fifteen days, he shall not be entitled to any honorarium under sub-section (1) of section 79 of for such period.

(2) Where the president remains absent on ground of illness duly certified by such medical authority as the State Government may by general or special order specify, the President shall be entitled to an honorarium under sub-section (1) of section 79 during the period of such absence in so far as such period does not exceed ninety days during any year.

(3) Nothing in sub-section (7) shall apply to the absence of the President on account of his touring on public business.

Term of office of members of district panchayat and of President and Vice-President.

[1][**81.** (1) Save as otherwise provided in the Act, the term of office of the members of a District Panchayat shall be co-extensive with the duration of the Panchayat.

(2) The term of office of the President and the Vice-President of a District Panchayat, save as otherwise provided in this Act, shall be two and a half years.

(3) There shall be called a meeting of the elected members of the District Panchyat by the competent authority within thirty days before the expiry of the said term of two and a half years for the election of President and the Vice-President from amongst such elected members.

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

(5) If, during the term of his office under sub-section (2), the President or the Vice-President, ceases to be a member of the Panchayat, he shall vacate the office held by him.

(6) Notwithstanding anything contained in sub-section (2), the President or the Vice-President who has completed a period of two and a half years as such on the date of the commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2015, shall continue to hold the office till the remainder term of the Panchayat.] **Guj. 15 of 2015.**

Resignation.

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

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

1. Section 81was substituted by Guj. 15 of 2015, s.15.

(3) Any other member of the panchayat may resign by tendering his resignation to the President and the resignation shall take effect on the date on which it is accepted by the President.

(4) If any dispute regarding any resignation arises it shall be referred for decision to such officer as the State Government may by general or special order appoint in that behalf and the decision of such officer shall be final:

Provided that no such dispute shall be entertained after the expiry of a period of thirty days from the date on which the resignation takes effect.

Powers and functions of President and Vice-President.

83. (l) (a) The President shall-

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

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

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

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

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

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

(2) The Vice-President shall-

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

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

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

Motion of no confidence.

84. (1) Any member who intends to move a motion of no confidence against the President or Vice-President may give notice thereof in the prescribed form to the panchayat. If the notice is supported by such number of members as may be prescribed, the motion may be moved.

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

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

(4) (a) Notwithstanding anything contained in section 144, a meeting of the panchayat for dealing with a motion of no confidence under this section shall be called within a period of fifteen days from the date which a notice of such motion is received by the panchayat.

(b) If the President of the panchayat fails to call such meeting, the Secretary of the panchayat shall make a report thereof to the competent authority and thereupon the competent authority shall call a meeting of the panchayat within a period of fifteen days from the date of the receipt of the report.

Removal from office

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

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

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

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

Leave of absence.

86. (1) Any member of a panchayat who, during his term of office-

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

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

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

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

Provided that such reference shall not be entertained if it is made after the expiry of fifteen days from the date on which the panchayat informs under sub-section (1) to the member as to the vacancy.

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

Suspension of President or Vice-President or Chairman of [1][*] Committee.

87. (1) The competent authority may suspend from office any President or Vice-President or Chairman of Committee against whom any criminal proceedings in respect of an offence involving moral turpitude have been instituted or who has been detained in a prison during trial for any offence or who is undergoing such sentence of imprisonment as would not disqualify him from continuing as a member of the panchayat under section 30, or who has been detained under any law relating to preventive detention for the time being in force.

1. In the marginal note, the word "education" was deleted by Guj. 15 of 2015, s. 16.

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

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

Eligibility of certain members for re-election.

88. A member of a panchayat whose office has become vacant under section 32 or under section 86 shall, if his disqualification or disability has ceased, be eligible for re-election.

Filling of vacancies.

89. (1) Any vacancy in the office of a President, Vice-President or member of a panchayat of which notice has been given to the competent authority in the prescribed manner shall be filled by the election of a President or Vice-President or member who shall hold office so long only as the President, Vice-President or member, in whose place he has been elected would have held office if the vacancy had not occurred:

Provided that if the vacancy of a member occurs within [1][twelve months] preceding the date on which the duration of the panchayat expires under section 13, it shall not be filled:

[2][Provided, however, that vacancy in the office of a member, if any, existing on the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2015, may not be filled till the general election is held for re-constituting the panchayat immediately after coming into force of the Gujarat Local Authorities Laws (Amendment) Act, 2015.]

Guj. 15 of 2015.

Guj. 15 of 2015.

(2) The meeting for the election of a President or Vice-President under sub-section (1), shall be convened by the competent authority on such date as it may fix and the election shall be held in the same manner in which the election of a President or Vice-President is held under section 77 and the provisions of that section shall, so far as may be apply in respect of such election.

Acts and procedings of panchayat and Committee not visiated by disqualifications, etc. of members thereof.

90. (1) No disqualification of or defect in the election of any person acting as a member, President or Vice-President or Chairman or member of a committee constituted under this Act, or in the appointment of a presiding authority of the first general meeting, shall be deemed to vitiate any act or proceeding of the panchayat or of any such committee, as the case may be, in which the person has taken part, wherever the majority of person, party to such act or proceedings were entitled to act.

(2) No resolution of a panchayat or of any committee constituted under this Act, shall be deemed invalid on account of any irregularity in the service of notice upon any members, provided that the proceedings of the panchayat or committee were not prejudicially affected by such irregularity.

(3) Until the contrary is proved, every meeting of a panchayat or of a committee appointed under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee such committee shall be deemed to have been duly constituted and to have has the power to deal with the matters referred to in the minute.

(4) During any vacancy in a panchayat or committee thereof the continuing members may act as if no vacancy had occurred.

1. These words were substituted for the words "four months" by Guj. 15 of 2015, s. 17 (i).

2. This proviso was inserted, *ibid.,* s. 17 (ii).

CHAPTER V

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

PART I

Provisions relating to village panchayats.

(A) Conduct of business.

Meeting of Panchayats.

91. The meeting of a village panchayat shall be held at such intervals as my be prescribed:

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

[1][Provided further that in case where such meeting is not called by the Sarpanch within a period of one month from the date of receipt of such written request, it shall be competent for the Taluka Development Officer to call such meeting on such date as may be specified by him.]

Village Panchayat Committees, their

92. (1) A village panchayat may constitute an Executive Committee for performing such of its functions and duties (not being those pertaining to its Social Justic Committee) as the panchayat may assign to it.

(2) The Executive Committee shall consist of five members to be elected by the panchayat from amongst its members, out of whom one shall belong to a Scheduled Castes or a Scheduled Tribes and one shall be a woman.

(3) A village panchayat shall constitute a committee called the Social Justice Committee for performing such functions as are essential for securing social justice to the weaker sections of the society including persons belonging to the Scheduled Castes and the Scheduled Tribes, as may be prescribed, and the constitution of such committee shall be such as may be prescribed.

(4) In addition to the aforesaid committees, a village panchayat may with the previous approval of the State Government constitute one or more committees consisting of such members of the panchayat and other residents of the village as the panchayat may determine, or appoint any of its members, to execute any work or scheme decided upon by the panchayat or to inquire into and report to the panchayat on matters which the panchayat may refer to such committee or member. The panchayat may make regulations for the procedure to be followed by any such committee.

(5) Where any committee is constituted under this section the members of the committee shall elect from amongst themselves the Chairman of the committee:

Provided that—

(a) where the Sarpanch and Upa-Sarpanch both are members of any such committee, the Sarpanch shall be the *ex-officio,* Chairman of such committee and if he declines to hold the office the Upa-Sarpanch shall be the *ex-officio,* Chairman of the committee, unless he also declines to hold the office, and

(b) where only one of them is a member thereof he shall be the *ex-officio,* Chairman of the committee, unless he declines to hold the office.

(6) (a) The term of each of the committee other than the Executive Committee and the Social Justice Committee shall be such as may be determined by the panchayat.

(b) The term of the Executive Committee shall be two years and on the expiry of its term, the committee may be reconstituted; and the term of the Social Justice Committee shall be co-extensive with the duration of the panchayat:

1. This Proviso was added by Guj. 15 of 2015, s. 18.

Provided that where the unexpired part of the duration of the panchayat during which the Executive Committee is constituted or reconstituted is less than two years, the term of the Executive Committee shall be co-extensive with the unexpired part of the duration of the panchayat.

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

(8) A member or Chairman may resign from membership or chairmanship of a committee by tendering his resignation to the panchayat.

(9) Any vacancy occuring in a committee shall be filled in as soon as possible.

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

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

(12) The panchayat may at any time withdraw from any committee other than the Social Justice Committee any of the powers, functions and duties assigned to it and may assign the same to any other committee other than the Social Justice Committee.

(13) A committee shall conform to any instructions that may from time to time be given to it by the panchayat; the panchayat may at any time call for any extract from any proceedings of any committee and for any return, statement, account or report in connection with any matter with which any committee has been authorised or directed to deal, every such requisition, shall without unreasonable delay, be complied with by the committee so called upon.

(14) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof,—

(a) any person aggrieved by a decision of a committee other than the Social Justice Committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat, and

(b) any person aggrieved by the decision of the Social Justice Committee may prefer an appeal to the Social Justice Committee of the taluka panchayat, within a period of sixty days from the date of such decision and the panchayat or, as the case may be, the Social Justice Committee of the taluka panchayat may after giving an opportunity to the appellant to be heard confirm, modify or reverse the decision appealed against and pass such order as it may think proper.

Meeting of Gram Sabha.

93. (1) There shall be held at least two ordinary meetings of the gram sabha every year on such date, at such time and place, as may be prescribed but in no case the intervening period between two ordinary meetings shall be less than three months:

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

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

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

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

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

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

(i) the annual statement of accounts;

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

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

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

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

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

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

Procedure in respect of meeting.

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

Questions to be decided by majority of votes.

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

Provided that in such circumstances and subject to such conditions as may be prescribed, a decision on any question before a panchayat or committee thereof may be taken by circulating the propositions therefore for the vote of members.

Modification or cancellation of resolutions.

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

Invitees of meetings of Panchayat.

98. (1) Notwithstanding anything contained in this Act, it shall be lawful for a village panchayat to invite at its meeting not more than two persons [1][who are not related to any of the members or the Sarpanch, as the case may be, of the village panchayat.]

[2]**[Explanation.-** For the purposes of this sub-section, the parents, brother, sister, father-in-law, mother-in-law, husband, wife, son, daughter, son-in-law, daughter-in-law shall be deemed to be related to a member or the Sarpanch, as the case may be, of the village panchayat.]

(2) An invitee at a meeting of the panchayat shall have the right to speak or otherwise take part in the proceeding of the meeting but shall not be entitled to vote.

(B) Administrative powers and duties.

Administrative powers of Panchayats.

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

Other functions of Panchayat

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

(2) A panchayat may also make provision for carrying out in the areas within the limits of its jurisdiction any other work or measure which is likely to promote,—

(a) the health, safety, comfort or convenience,

(b) social, economic or cultural well being, and

(c) education including secondary education of the inhabitants of the areas.

1. These words were added by Guj. 15 of 2015, s.19(1).
2. This Explanation was inserted, *ibid.,* s.19(2).

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

Provided that except with the previous sanction of the panchayat to which it is subordinate under section 6, the panchayat shall not incur expenditure exceeding [1][five thousand rupees] on any such reception, ceremoney, entertainment or gathering.

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

(5) A panchayat shall, in regard to the measures for the amelioration of the condition of Scheduled Castes and Scheduled Tribes and other backword classes, and in particular, in the removal of untouchability, carry out the directions or orders given or issued in this regard from time to time by the State Government or the competent authority and in case the panchayat fails to carry out any direction or order so given or issued, it shall be lawful for the State Government to withhold the payment to the panchayat of all or any of the grants payable under Chapter XI after the panchayat has been given a reasonable opportunity of being heard.

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

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

Power to compromise

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

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

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

Local inquiry and reports by village panchayat.

102. It shall be the duty of every village panchayat to enquire and report in any of the following cases, namely:—

(a) any case where a magistrate has directed that a previous local investigation be made by a village panchayat under section 202 of the Code of Criminal Procedure, 1973 and the words "such other person" in sub-section (1) of the said section shall be deemed to include a village panchayat;

11 of 1974.

(b) any case in which a magistrate making an inquiry under section 125 of the Code of Criminal Procedure, 1973, may require from the village panchayat in whose jurisdiction either the wife or child for whose maintenance the application is made or the husband or parents respectively of such wife or child reports as to the amount of maintenance which, having regard to the circumstances of the parties, should be payble and such report shall be evidence in such inquiry:

11 of 1974.

1. These words were substituted for the words "one hundred rupees" by Guj. 15 of 2015, s. 20.

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

Powers of panchayat to manage institutions or execute work transferred to it by taluka or district panchayat.

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

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

Control on erection of buildings.

104.(1) No person shall erect or re-erect or commence to erect or re-erect within the limits of the village, any building without the previous permission of the panchayat.

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

Provided that no such appeal shall be entertained if it is made after the expiry of thirty days from the date on which the refusal is communicated to the applicant.

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

(4) Whoever erects or re-erects or commences to erect or re-erect any building without such permission or in any manner contrary to the provisions of sub-section (1) or any bye-law in force, or any conditions imposed by the panchayat shall, on conviction be punished with fine, which may extend to two hundred rupees and in the case of a continuing

contravention, he shall be liable to an additional fine which may extend to twenty rupees for each day during which such contravention continues after conviction for the first such contravention.

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

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

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

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

Provided that when a notice for bringing any action against any direction for the alternation or demolition of any erection or re-erection issued under this sub-section has been given under sub-section (2) of section 270, alteration or demolition shall not be caused to be carried out until the expiry of the period of such notice and a further period of seven days.

(6) Nothing contained in this section shall apply to any building which is used or required for public service or for any public purpose, and if the property of the State or Central Government or any local authority, or is to be erected or re-erected by the State

or Central Government or the local authority but reasonable notice of the proposed construction shall be caused to be given to the panchayat, and the objections or suggestions of the panchayat, if any, shall be considered.

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

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

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

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

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

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

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

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

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

Obstruction and encroachment upon public streets and open

105. (1) Whoever, within the limits of a village-

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

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

(c) without written permission given to the owner or occupier of a building by a panchayat puts up, so as to project from an upper storey thereof any verandah, balcony, room or other structure or thing, in or over any public street or place, or in or upon any open drain, gutter, sewer or aqueduct in such street or place, or contravenes any conditions subject to which any permission as aforesaid is given or the provisions of any bye-law made in relation to any such projections or cultivates or makes any unauthorised use of any grazing land, not being private property, shall on conviction, be punished with fine, and with further fine which may

extend to twenty five rupees for each day on which such obstruction, deposit, projection, cultivation or unauthorised use continues after the date of first conviction for such offense.

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

Provided that if the site be vested in the State Government, the permission of the Collector or any officer authorised by him in this behalf, shall have first been obtained the expenses of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable under Chapter X:

Provided further that when before the removal of any such encroachment or projection a notice for bringing action in that behalf has been given under sab-section (2) of section 270, no action for the removal of the encroachment or projection shall be taken until the expiry of the period of such notice and further period of seven days.

(3) Nothing in sub-section (2) shall prevent the panchayat from permitting any construction referred to in clause (a) or clause (c) of sub-section (1) to stand on such terms and conditions as may be prescribed.

(4) The power under sub-section (2) may be exercised in respect of any obstruction, encroachment, or projection referred to therein whether or not such obstruction, encroachment, or projection has been made before or after the village is specified as such under clause (g) of article 243 of the Constitution or before or after the property is vested in the panchayat.

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

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

(7) Where the panchayat finds it difficult to remove any obstruction or encroachment or any crop unauthorised cultivated on grazing lands as referred to in sub-section (2), it shall inform the Taluka Development Officer accordingly and the Taluka Development Officer shall on receipt of such information exercise the powers of the panchayat under sub-section (2) and take action to remove the obstruction, encroachment or, as the case may be, the crop.

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

Provided that before taking action *suo motu* he shall direct the village panchayat to take action and if the panchayat fails to do so within a specified time, the Taluka Development Officer may thereafter take action.

Numbering of Premises.

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

(2) Any person who destroys, pulls down or defaces any such number or sub-number or puts any number or sub-number different from that put up by order of the panchayat and any

owner of any premises or part thereof, who does not at his own expense keep such number or sub-number in good order after it has been put up thereon, shall on conviction, be punished with fine which may extend to one hundred rupees.

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

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

Powers of Taluka Development Officer to require owner to provide water closect or privy accommodation.

107. (1) Where any premises in any village are, in the opinion of the Taluka Development Officer, without adequate and suitable water closet or privy accommodation in accordance with the rules or bye-laws made under this Act in that behalf, the Taluka Development Officer, may, by written notice, require the owner of such premises to provide such water or privy accommodation in accordance with the rules or bye-laws made under this Act in that behalf, within such time as may be specified in such notice and if the owner fails to comply with such requirement, within the time so specified or within such time as may, on the application of the owner, be extended by the Taluka Development Officer for any reasonable cause, it shall be lawful for the Taluka Development Officer to make such provision from the taluka fund and where such fund is inadequate, with the permission of the district panchayat, from the District Devlopment Fund. The expenses incurred by the Taluka Development Officer, in making such provision shall, on demand by the Taluka Development officer, be payable by the owner and if not paid by him on demand such expenses shall be recoverable by the Taluka Development Officer in accordance with provisions of section 215.

(2) Notwithstanding anything contained in sub-section (1), where the owner of any premises fails to comply with such requirement wit in the period specified under sub-section (1), the Taluka Development Officer may, in a case where the owner is not himself the occupier of such premises, permit the occupier of such premises to make provision for such water-closet or privy accommodation at the cost of the owner if the occupier is willing to do so instead of the Taluka Development Officer himself making such provision. Any such occupier who makes such provision shall, after obtaining the necessary certificate from the Taluka Development officer about such provision having been made by him in making such provision and the reasonableness of such expenses, be entitled to deduct, such amount of expenses as is certified by the Taluka Development Officer to be reasonable from the rent or any other sum payable by him to the owner or to recover, such amount from the owner in any other lawful manner.

(3) For the purpose of making the provision specified in sub-section (1), the Taluka Development Officer shall have power to do all acts necessary for that purpose and the Panchayat or the Taluka Development Officer shall not be liable to pay any compensation to the owner of the premises for any reasonable damage done to the premises in making such provision.

(4) Where any water-closet or privy accommodation is provided or set up by the Taluka Development Officer under sub-section (1) and the expenses incurred by the Taluka Development Officer in doing so are paid by, or recovered from the owner in full, such water-closet or privy accommodation shall belong to the owner of the premises and the owner shall be responsible for the expenses of maintaining it in good repairs and efficient condition.

(5) The provision as aforesaid made under sub-section (1) or sub-section (2) shall not be deemed to be a permanent structure for the purpose of clause (b) of sub-section (1) of section 13 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

Bom. LVII of 1947.

Explanation.— For the purposes of this section, "water closet" means a closet used as a privy in which discharge are pushed in or carried off by water and includes an acqua privy, gas plant, latrine attached with gas plant, a closet of type known as P. R. A. I. (Planning Research Action Institute) type, septic tank type, band flush type, bore hole type, clap trap type or any other type which the State Government may, by notification in the

Official Gazette, specify.

(C) Property and Funds

Goverment may vest certain lands in panchayat.

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

(2) Subject to any conditions and restrictions imposed by the State Government under sub-section (7) and with the previous sanction of the Collector, a panchayat may discontinue or stop up any such public road or street vested in it by the State Government, but which is no longer required as public road or street and may lease or sell any such land therefore used for the purposes of such public road or street:

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

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

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

Provided that in case of any improvement of such site or land made by the panchayat or any other person, the panchayat or person, as the case may be, shall be entitled to compensation equal to the value of such improvement and such value shall be determined in accordance with the provisions of the Land Acquisition Act, 1894. **1 of 1894.**

Other property of village

109. (1) A taluka panchayat or the district panchayat may from time to time direct that any property vesting in it shall vest in a village panchayat and thereupon not withstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908, such property shall vest in the village panchayat. **IV of 1882. XVI of 1908.**

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

Limitation on power of panchayat to transfer immovable property.

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

(2) In the case of a lease of immovable property other than the property vesting in the panchayat under section 108, no such previous sanction shall be necessary, if the period of lease does not exceed three years.

Village Fund.

111. (1) There shall be in each village a fund to be called the village fund.

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

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

(b) all sums ordered by a court to be paid as compensation;

(c) all other sums ordered by a court to be placed at the credit of the village fund;

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

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

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

(g) all sums received by the panchayat by way of gift or contribution;

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

(i) the net proceeds (after deducting the expenses of assessment and collection) of the cess authorised by section 203;

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

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

Application of fund.

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

(2) Any surplus funds in the hands of a panchayat which may not be required for current charges, may be invested in such manner as may be prescribed.

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

Decision on claims to property by or against village panchayat.

113. (1) In any revenue village where any property or any right in or over any property is claimed by or on behalf of the panchayat or by any person against the panchayat, it shall be lawful for the Collector, after formal enquiry of which due notice has been given, to pass an order deciding the claim.

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

Bom. V of 1879.

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

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

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

(D) Officers and servants of Panchayats

Secretary and servants of panchayats.

114. (1) Subject to the provisions of this Act and the rules made there under—

(a) there shall be a Secretary for every village panchayat who shall be appointed in accordance with the rules;

(b) a village panchayat shall have such other servants as may be determined under section 227. Such servant shall be appointed by such authority and their conditions of service shall be such as may be prescribed:

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

(2) A Secretary of a village panchayat shall subject to the control of the Sarpanch-

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

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

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

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

(3) The other servants of the panchayat shall perform such functions and duties and exercise such powers under this Act as may be imposed or conferred on them by the panchayat, subject to rules, if any, made in this behalf.

(E) Contribution to District Development Fund.

Contribution to District Development Fund.

115. Every village panchayat shall contribute every year to the District Development Fund constituted under section 223 a sum equal to such percentage not exceeding ten percent of its income from such sources as may be prescribed:

Provided that where any village panchayat fails in any year to make a contribution under this section, it shall be lawful for the State Government to deduct such amount from the grant payable to the panchayat under section 219 in the next succeding year as may be sufficient to make the contribution and credit the same to the District Development Fund on behalf of the village panchayat.

(F) Budget Estimates

Annual Budget Estimates

116. (1) Every village panchayat shall have prepared annualy on or before the 15th December of the current year of such date not later than 31st December of the current year as may be approved by the taluka Panchayat, in such form and manner as may be prescribed in this behalf a budget estimate of its income and expenditure for the next year and forward the budget estimate to the taluka panchayat on or before—

(a) the 31st December of the current year where the budget estimate is prepared on or before the 15th December of the Current year, or

(b) the 15th January of the current year where the budget estimate is prepared on or before the approved date:

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

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

(3) The panchayat shall thereupon approve the budget estimate on or before the 31st March of the current year with such modifications as it may think fit having regard to the observations and recommendations made by the taluka panchayat under sub-section (2).

(4) Where any village panchayat has failed to comply with the provisions of sub-section (3), it shall be lawful for the State Government to form an opinion that the panchayat is incompetent to perform the duties imposed on it or functions entrusted to it under the provisions of this Act.

Explanation.– A village panchayat shall not be deemed to have failed to comply with the provisions of sub-section (3), if such failure has resulted on account of non-compliance by the taluka panchayat of provisions of sub-section (2).

Revised or supplementary

117. (1) A taluka panchayat may at any time during the year for which any budget estimate has been approved cause a revised or supplementary budget estimate

to be prepared. Every such revised or supplementary budget shall be considered and approved by the panchayat in the same manner as if it were an original annual budget estimate:

budget of reappropriation of funds.

Provided that the taluka panchayat shall scrutinise the budget and return to the panchayat within one month of its receipt.

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

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

118. (1) Save in the case of a pressing emergency, no sum shall be expended by or on behalf of a village panchayat unless such sum is included in some budget estimate approved under seciion 116 or 117 and in force at the time of incurring the expenditure.

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

Accounts of income and Expenditure.

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

Annual administration report.

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

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

(G) Audit of the accounts of village panchayats

Audit of Accounts of Panchayat.

121. (1) The audit of the accounts of a panchayat shall, be carried out under the provisions of the Gujarat Loacal Fund Audit Act, 1963 and a copy of the audit note shall be forwarded to the panchayat and to the taluka panchayat within one month of the completion of the audit.

[1][(1A) Notwithstanding anything contained in sub-section (1), the state Government shall entrust the Comptroller and Auditor General of India the technical guidance and supervision over the audit of the village panchayat.

Guj. XLIX of 1963.

(1B) The State Government shall cause the audit report under the Gujarat Local Fund Audit Act, 1963 referred to in sub-section (1) alongwith the report of the Comptroller and Auditor General of India on technical guidance and supervision as referred to in sub-section (1A), to be laid before the State Legislature.]

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

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

1. Sub-sections (1A) and (1B) were inserted by Guj. 21 of 2011, s. 11.

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

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

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

(4) The taluka panchayat shall send a report of its decision to the Collector within one month of the date of receipt by it of the intimation or explanation referred to in sub-section (2), or in the event of the panchayat failing to give such intimation or explanation on the expiry of the period of three months referred to in the said

sub-section (2), and shall forward a copy of such report to the panchayat. If the taluka panchayat holds that any defects or irregularities have not been removed or remedied, it shall state in the report whether in its opinion the defects or irregularities can be regularised and if so by what method and if they do not admit of being regularised, whether they can be condoned, and if so, by what authority. The taluka panchayat shall also state whether the amounts to which the defects or irregularities relate should in its opinion be surcharged as hereinafter provided.

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

(a) if the person on whom the surcharge is made be a member, proceed against him in the manner described in sub-sections (2) and (3) of section 267; and

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

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

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

PART II

Provisions relating to Taluka Panchayats

(A) Conduct of business

Meeting of Taluka Panchayat.

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

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

Taluka Panchayat commitees, their constitution,

123. (1) A taluka panchayat shall constitute the following committees, namely:-

(i) An Executive Committee, for exercising such powers and performing such functions and duties of the taluka panchayat (not being function pertaining to its Social Justice Committee,) as the taluka panchayat may assign to it:

Provided that it shall be lawful for the Executive Committee to appoint not more than two sub-committees from amongst its members but the sub-committee so appointed shall not be competent to take any final decision on any matter.

(ii) A Social Justice Committee for performing such functions as are considered essential for securing social justice to the weaker sections of the society including persons belonging to the Scheduled Castes and the Scheduled Tribes as may be prescribed.

(2) In addition to the committees referred to in sub-section (1), a taluka panchayat may, with the previous approval of the State Government constitute a committee or committees consisting of such number of members of the panchayat as the panchayat may determine, to execute any work or scheme decided upon by the taluka panchayat or to inquire into the report to the taluka panchayat on matters which the panchayat may refer to such committee or commitees. The taluka panchayat may make regulations for the procedure to be followed by and such committee.

(3) No committee other than the Executive Committee shall consist of more than five members and the Executive Committee shall consist of not more than nine members.

(4) The constitution of the Social Justice Committee shall, subject to sub-section (3), be such as may be prescribed.

(5) The members of a Committee constituted under this section shall be elected by the panchayat from amongst its members:

Provided that the taluka panchayat may appoint, in accordance with any rules made in this behalf, any of the qualified voters of the taluka on a committee mentioned in sub-section (2) or sub-section (4) and the qualified voters so appointed shall have the right to speak or otherwise to take part in the proceedings of a meeting of the committee but shall not, except in the case of a committee mentioned in sub-section (4), be entitled to vote.

(6) Where any committee is constituted under this section, the members of the committee shall elect from amongst themselves the Chairman of the committee:

Provided that—

(a) Where the President and Vice-President both are members of any such committee, the President shall be the *ex-officio,* chairman of such committee and if he declines to hold the office, the Vice-President shall be the *ex-officio,* Chairman of the Committee, unless he also declines to hold the office,

(b) where only one of them is a member thereof he shall be the *ex-officio,* Chairman of the committee, unless he declines to hold the office, and

(c) a person who is not a member of the panchayat shall not be eligible to be the Chairman of any committee.

(7) (a) No member of the panchayat shall be a member of more than two comittees constituted under this section,

(b) If any member is simultaneously or otherwise elected as a member of more than two committees, the member shall, within ten days from the date or the later of the dates on which he is so elected, intimate to the President, two of the committees in which he wishes to serve and thereupon his seat in the committee or committees other than the aforesaid two committees shall become vacant,

(c) Any intimation given under clause (b) shall be final and irrevocable,

(d) Where a member commits default in giving intimation under clause (b), within the period prescribed therein, the panchayat shall determine the two committees in which such member shall retain his seat and thereupon his seat in the committee or committees other than the committees so determined, shall become vacant.

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

(9) (a) The term of each of the committees other than the Executive Committee and the Social Justice Committees shall be for such period not exceeding one year as may be determined by the panchayat.

[1][(b) the term of the Executive Committee and the Social Justice Committee, shall be two and a half years:

Provided that the term of the existing Executive Committee which has not completed a term of two years on the date of commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2015 shall be two and a half years or till the remainder period of duration of the Panchayat, whichever is earlier: **Guj. 15 of 2015.**

Provided further that the term of the existing Social Justice Committee which has completed a term of two and a half years on the commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2015 shall be co-extensive with the duration of the Panchayat.] **Guj. 15 of 2015.**

(10) A member or Chairman may resign from membership or Chairmanship of cammittee by tendering his resignation to the taluka panchayat.

(11) Any vacancy occuring in a committee shall be filed in as soon as possible.

(12) The Committee constituted under this section shall, in the performance of their functions, exercise such powers and discharge such duties of the taluka panchayat as may be assigned to them by the panchayat.

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

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

(15) A committee shall conform to any instructions that may, from time to time, be given to it by the panchayat.

The panchayat may at any time, call for any extract from any proceedings of any committee and for any return, statement account or report in connection has been authorised or directed to deal.

Every such requisition, shall without unreasonable delay, be complied with by the committee so called upon.

(16) Notwithstanding the assignment of any powers, functions and duties of panchayat to a committee thereof-

(a) any person aggrieved by the decision of a committee other than the Social Justice Committee in such classes of cases as may be prescribed may prefer an appeal to the panchayat, and

(b) any person aggrieved by the decision of the Social Justice Committee (not being a decision in appeal) may prefer an appeal to the Social Justice Committee of the district panchayat, within a period of sixty days from the date of such decision and the panchayat, or, as the case may be, the Social Justice Committee, may, after giving an opportunity to the appellant to be heard confirm, modify or reverse the decision appealed against and pass such order as it may think proper.

Honorarium to Chairman of Social Justice

124. The Chairman of the Social Justice Committee of a taluka panchayat shall be entitled to an honorarium at such rate as may be prescribed.

1. Clause (b) and provisos there under were substituted by Guj. 15 of 2015, s.21.

Travelling allowance to members of committee who are not members of a taluka pancbayat.

125. The members of any committee of a taluka panchayat constituted under section 123 who are not the members of such panchayat, shall be entitled to travelling allowance while touring for the purpose of attending a meeting of the committee or any business relating to the committee at such rates and subject to such conditions as may be determined by rules made either prospectively or retrospectively.

Procedure in respect of meetings.

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

Questions to be decided by majority of

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

Provided that in such circumstances and subject to such conditions as may be prescribed, a decision on any question before a committee may be taken by circulating the propositions therefor for the votes of members.

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

129. (1) Notwithstanding anything contained in this Act, it shall be lawful for a taluka panchayat or any of its committees, to invite at its meeting, not more than four experts or specialists in the subject matter under consideration at the meeting out of persons, who, in the opinion of such panchayat or, as the case may be, committee- **Invitees at meetings of taluka panchayat and its**

University established by law in India and experience of not less than five years in the field of activity pertaining to the subject, and

(b) are not disqualified to be members of the panchayat under any of the clauses (f), (g) and (h) of section 30.

(2) An invitee at a meeting of the panchayat or its committee, shall have the right to speak or otherwise take part in the proceedings of the meeting but shall not be entitled to vote.

(B) Administrative Powers and Duties

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

131. (1) A taluka panchayat may, with the previous sanction of the district panchayat, incur expenditure on education or medical relief outside its jurisdiction, if its finances permit. **Other functions of panchayat**

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

(3) A taluka panchayat may also make provision for carrying out in the taluka any other work, measure, scheme or project which is likely to promote;

(a) the health, safety, comfort or convenience,

(b) social, economic or cultural well-being, and

(c) education including secondary education of the inhabitants of the taluka or part thereof.

(4) A taluka panchayat may, by resolution passed at its meeting and supported by two-thirds of the whole number of members, make provision for any public reception,

ceremony or entertainment within the taluka or may make contribution towards an annual gathering or such other gathering of panchayats in the district or the State or towards the fund of any institution which is established with the object of promoting the spirit of community, self-help and mutual aid among village folk and suggesting ways and means for the efficient administration of panchayats and which is recognised by the State Government:

Provided that except with the previous sanction of the district panchayat, the panchayat shall not incur expenditure exceeding [1][fifteen thousand rupees] on any such reception, ceremony, entertainment or gathering.

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

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

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

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

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

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

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

Entrustment of work, etc. to taluka panchayat by district panchayat.

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

(C) Property and Fund

Property of taluka

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

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

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

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

1. These words were substituted for the words "two hundred rupees" by Guj. 15 of 2015, s.22.

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

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

Provided that in the case of a lease of immovable property other than the property referred to in clause (b) of sub-section (1), on such previous sanction shall be necessary if the period of lease does not exceed three years.

Taluka Fund.

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

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

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

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

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

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

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

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

(g) the net proceeds (after deducting the expenses of assessment and collection) of the stamp duty authorised by section 207;

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

Application of taluka fund.

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

(2) Any surplus funds in the hands of a panchayat which may not be required for current charges, may be invested in such manner as may be prescribed.

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

(D) Officers and Servants

Secretary, officers and servants of taluka

136. (1) Subject to the provisions of this Act and the rules made thereunder-

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

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

(c) a taluka panchayat shall have such other officers and servants as may be determined under section 227.

(2) The officers and servants referred to in clause (c) of sub-section (1), shall be appointed by such authority and their conditions of service shall be such as may by prescribed.

(3) The officers and servants appointed under sub-section (2), shall, in the discharge of their functions and duties, exercise such powers as may be conferred on them by the panchayat, subject to rules, if any, made in this behalf.

Powers and functions of Taluka Development Officer

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

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

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

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

(a) be entitled to-

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

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

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

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

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

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

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

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

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

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

(h) draw and disburse money out of the fund;

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

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

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

(E) Budget estimates

Annual Budget estimates.

138. (1) Every taluka panchayat shall have prepared annually on or before the 15th December of the current year or such date not later than 31 st December of the current year as may be approved by the District Panchayat, in such form and manner as may be prescribed in this behalf a budget estimate of its income and expenditure for the next year and forward it to the district panchayat on or before—

(a) the 31st December of the current year where the budget estimate is prepared on or before the 15th December of the current year, or.

(b) the 15th January of the current year the budget estimate is prepared after the 15th December of the current year but on or before the said approved date:

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

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

(3) The taluka panchayat shall thereupon approve the budget estimate on or before the 31st March of the current year with such modifications as it may think fit having regard to the observations and recommendations made by the panchayat under sub-section (2).

(4) Where any taluka panchayat has failed to comply with the provisions of sub-section (3) it shall be lawful for the State Government to form an opinion that the panchayat is incompetent to perform the duties imposed on it or functions entrusted to it under the provisions of this Act.

Explanation : A taluka panchayat shall not be deemed to have failed to comply with the provisions of sub-section (3) if such failure has resulted on account of non-compliance by the district panchayat of provisions of sub-section (2).

Revised or supplementary budget and re-appropriation of fund.

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

Provided that the district panchayat shall scrutinise the budget and return to the panchayat within one month of its receipt.

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

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

140. (1) Save in the case of a pressing emergency no sum shall be expended by or on behalf of a taluka panchayat unless such sum is included in some budget estimate approved under section 138 or 139 and in force at the time of incurring the expenditure.

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

Accounts of income and expenditure .

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

Annual Administration report.

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

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

(F) Audit of the accounts of panchayats

Audit of accounts.

143. [1][(l)] The Gujarat Local Fund Audit Act, 1963 shall apply to the auditing of the accounts of taluka panchayats. **Guj. XLIX of 1963.**

[2][(2) Notwithstanding anything contained in sub-section (1), the State Government shall entrust the Comptroller and Auditor General of India the technical guidance and supervision over the audit of the taluka panchayat.

(3) The State Government shall cause the audit report under the Gujarat Local Fund Audit Act, 1963 referred to in sub-section (1) alongwith the rport of the Comptroller and Auditor General of India on technical guidance and supervisions as referred to in sub section (2), to be laid before the State Legislature.] **Guj. XLIX of 1963.**

PART III

PROVISIONS RELATING TO DISTRICT PANCHAYAT

(A) Conduct of business

Meetings of district

144. The meeting of a district panchayats shall be held normally every three months:

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

District Panchayat Committees, their constitution, powers, functions and duties.

145. (1) A district panchayat shall constitute the following committes, namely:-

(i) An Executive Committee for performing functions pertaining to finance, home guards and village defence and such other functions and duties of the panchayat as are not assigned to any other committee:

Provided that it shall be lawful for the Executive Committee to appoint not more than two sub-committees from amongst its members but the sub-committee so appointed shall not be competent to take any final decision in any matter.

(ii) A Social Justice Committee for performing such functions as are considered essential for securing social justice to the weaker sections of the society including persons belonging to the Scheduled Castes and Scheduled Tribes as may be prescribed:

Provided that it shall be lawful for the Social Justice Committee to appoint one or more sub-committees from amongst its members to inquire into cases of any discrimination against members of backward class including Scheduled Castes and Scheduled Tribes, in the matter of use of wells, tanks, bathing ghats, roads and places of public resort, maintained wholly or partly out of the State or panchayat funds or dedicated to the use of the general public.

(iii) An Education Committee for performing the functions and duties pertaining to education and such other literary and cultural activities as the panchayat may assign to it.

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

1. Section 143 was renumbered as sub-section (1) by Guj. 21 of 2011, s.12.

2. Sub-section (2) and (3) were inserted, *ibid.,* s. 12

(v) A Public Works Committee for performing functions pertainning to public works, communications, buildings, rural housing and relief against natural calamities.

(vi) An Appeal Committee under [1][section 243]

[2][(vii) A Committee for production, co-operation and irrigation.

(viii) A Committee for woman and child development and youth activities.]

(2) In addition to the committees referred to in sub-section (1), a district panchayat may with the prior approval of the State Government constitute a committee or committees to execute any work or scheme decided upon by the district panchayat or to inquire into and report to the district panchayat on matters which the panchayat may refer to such committee or committees. The district panchayat may make regulations for the procedure to be followed by any such committee.

(3) No committee other than the Executive Committee and the Education Committee shall consist of more than five members and the Executive Committee and the Education Committee shall consist of not more than nine members.

(4) The constitution of the Education Committee and the Social Justice Committee shall, subject to sub-section (3), be such as may be prescribed.

(5) The members of a committee constituted under this section shall be elected by the panchayat from amongst its members:

Provided that the panchayat may appoint in accordance with rules made in this behalf any of the qualified voters of the district on a committee mentioned in clauses (ii) and (iii) of sub-section (1) and the qualified voters so appointed shall have the right to speak or otherwise take part in the proceedings of a meeting of the committee but shall not be entitled to vote.

(6) The members of each committee shall elect from amongst themeselves the Chairman of the committee:

Provided that -

(a) where the President and Vice-President both are members of any such committee, the President, shall be the *ex-officio,* Chairman of such committee and if he declines to hold the office, the Vice-President shall be the ex-officio Chairman of the committee, unless he also declines to hold the office, and

(b) where only one of them is a member thereof he shall be the *ex-officio,* Chairman of the committee, unless he declines to hold the office,

(c) a person who is not a member of the panchayat shall not be eligible to be Chairman of any committee :

Provided further that where the person so elected as Chairman of the Education Committee is also the President of the panchayat or at any time after his election as Chairman is elected as such President, he shall not be eligible to continue as the Chairman of the committee, unless he chooses to vacate the office of such President and accordingly vacates that office.

(7) (a) No member of the panchayat shall be a member of more than two committees constituted under this section.

(b) If any member is simultaneously or otherwise elected as a member of more than two committees, the member shall within ten days from the date or the later of the dates on which he is so elected intimate to the President, two of the committees in which he wishes to serve and thereupon his seat in the committee or committees other than the aforesaid two committees shall become vacant.

(c) Any intimation given under clause (b) shall be final and irrevocable.

1. This word and figures were substituted for the word and figures "section 241" by Guj. 15 of 2015, s.23(i).

2. Clauses (vii) and (viii) were substituted for Clause (vii) by Guj. 19 of 2017, s. 4.

(d) Where a member commits default in giving intimation under clause (b), within the period prescribed therein, the panchayat shall determine the two committees in which such member shall retain his seat and thereupon the seat in the committees other than the committees so determined shall become vacant.

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

[1][(9) (i) The term of the committees constituted under sub-section (1) shall be two and a half years:

Provided that the term of the existing Social Justice Committee and Education Committee which have completed a term of two and a half years on the commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2015 shall be co-extensive with duration of the Panchayat: **Guj. 15 of 2015.**

Provided further that the term of the Committees other than the Social Justice Committee and the Education Comittee which have not completed a term of two years on the date of the commencement of the Gujarat Local Authorities Laws (Amendment) Act, 2015 shall be two and a half years or till the remainder period of duration of the Panchayat, whichever is earlier. **Guj. 15 of 2015.**

(ii) The term of the committee or committees constituted under sub-section (2) shall not exceed one year.]

(10) A member or Chairman may resign from membership or Chairman ship of a committee by tendering this resignation to the panchayat.

(11) Any vacancy of an elected member occurring in the constitution of a committee shall be filled in by election.

(12) The Education Committee shall, in the discharge of its functions exercise all the powers and discharge all the duties of the panchayat:

Provided that where the Education Committee, exercises the powers and discharges the duties and functions of the District School Board vested in the District Panchayat under the Bombay Primary Education Act, 1947, the Committee shall notwithstanding anything contained in the said Act, exercise those powers and discharge those duties subject to the control of the District Panchayat. **Guj. 6 of 1947.**

(13) The committees, other than the Education Committee constituted under this section shall, in the performance of their functions, exercise such powers and discharge such duties of the district panchayat as may be assigned to them by the Panchayat.

(14) A district Panchayat may at any time, withdraw from-

(a) any committee other than the Social Committee and the Education Committee, any of the powers, functions and duties assigned to it,

(b) the Education Committee, any of the powers, functions and duties, not falling in Part-II of Schedule-Ill, and assign the same to any other committee other than the Social Justice Committee.

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

(16) A Committee shall conform to any instructions that may from time to time, be given to it by the panchayat. The panchayat may at any time call for any extract from any proceedings of any committee and for any return, statement, account or report in connection with any matter with which any committee has been authorised or directed to deal. Every such requisition, shall without unreasonable delay, be complied with by the committee so called upon.

1. Sub-Section (9) was substituted by Guj. 15 of 2015, s.23(2).

(17) Notwithstanding the assignment of any powers, functions and duties of a panchayat to a committee thereof—

(a) Any person aggrieved by the decision of a committee other than the Social Justice Committee in such classes of cases as may be prescribed, may prefer an appeal to the panchayat, and

(b) any person aggrieved by the decision of the Social Justice Committee (not being a decision in appeal), may prefer an appeal to the State Government,

within a period of sixty days from the date of such decision and the panchayat or, as the case may be, the State Government, may, after giving an opportunity to the appellant to be heard, confirm, modify, or reverse the decision appealed against and pass such order as it may think proper.

Removal of Chairman of Education

146. (1) any member of the Education Committee who intends to move a motion of no confidence against the Chairman of Education Committee, may give a notice thereof in the prescribed form to the Committee.

(2) If the motion is carried by a majority of not less than two third of the total number of the then members of the Committee, the Chairman shall cease to hold office, after a period of three days from the date on which the motion is carried unless he has resigned earlier and thereupon the office held by such Chairman shall be deemed to be vacant.

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

(4) (a) A meeting of the Committee for dealing with a motion of no confidence under this section shall be called within a period of seven days from the date on which a notice of such motion is received by the Committee,

(b) If the Chairman of the committee fails to Call meeting, the secretary of the Committee shall make a report thereof to the competent authority and thereupon the competent authority shall call a meeting of the Committee within a period of seven days from the date of the receipt of the report.

Honorarium, etc. to Chairman, Education Committee.

147. (1) The Chairman of the Education Committee of a District Panchayat shall be entitled—

(a) to an honorarium at such rate as may be prescribed,

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

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

(3) During the leave or absence of the Chairman, the functions of the Chairman shall be performed by such member of the Education Committee as may be elected by that Committee. The member so elected for performing the functions, shall be paid honorarium and allowances at such rate as may be prescribed.

Honorarium,

148. (1) The Chairman of the Social Justice Committee of a District Panchayat shall be

entitled- etc. to Chairman,

(a) to an honorarium at such rate as may be prescribed,

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

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

(3) During the leave or absence of the Chairman, the functions of the Chairman shall be performed by such member of the Committee as may be elected by that Committee. The member so elected for performing such functions shall be paid honorarium and allowance at such rate as may be prescribed.

Travelling Allowance to members of a committee who are not members of district panchayat.

149. The member of any committee of a district panchayat constituted under section 145, who are not members of such panchayats, shall be entitled to travelling allowance while touring for the purpose of attending a meeting of the committee or any business relating to the committee at such rates and subject to such conditions as may be determined by rules made either prospectively or retrospectively.

Procedure in respect of meetings.

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

Questions to be decided by majority of votes.

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

Provided that in such circumstances and subject to such conditions as may be prescribed, a decision on any question before a committee may be taken by circulating the propositions thereof for the votes of members.

Modification or cancellation of resolution.

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

Invitees at meeting of district panchayats and its committees.

153. (1) Notwithstanding anything contained in this Act, it shall be lawful for a district panchayat or any of its committees to invite at its meeting not more than five experts or specialists in the subject matter under consideration at the meeting, out of persons who, in the opinion of such panchayat or, as the case may be, committee—

(a) have a degree in engineering, medicine, commerce or such other subject of any University established by law in India and experience of not less than five years in the field of activity pertaining to the subject, and

(b) are not disqualified to be members of the panchayat under any of the clauses (f), (g) and (h) of section 30.

(2) An invitee at any such meeting of the panchayat or its committee shall have the right to speak or otherwise take part in the proceedings of the meeting but shall not be entitled to vote.

(B) Administrative Powers and Duties

Administrative Powers of Panchayats.

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

Other functions of Panchayats.

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

(2) A district panchayat may also make provision for carving out in the area within the limits of its jurisdiction, any other work or measure which is likely to promote-

(a) the health, safety, comfort or convenience, and

(b) social, economic or cultural well-being of the inhabitants of the areas.

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

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

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

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

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

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

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

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

Powers of District Panchayat to undertake works, etc. on behalf of Government to give technical advice.

156. (1) It shall be lawful for a district panchayat to undertake upon such terms and conditions as may be agreed upon, the construction, maintenance or repair of any work or the management of any institution on behalf of Government, any local authority, any Corporation incorporated under any law for the time being in force and owned or controlled by Government or the Court of Wards.

(2) It shall be lawful for a district panchayat to give, on such terms and conditions as may be agreed upon, technical advice and guidance to a local authority in respect of the construction of any work undertaken by such local authority.

(C) Property and Fund

Property of District Panchayat.

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

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

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

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

Provided that any land or property transferred to a district panchayat under clause(6) shall not, unless otherwise expressly provided in the instrument of transfer, belong by right of ownership to the panchayat but shall vest in it subject to the terms and conditions of the transfer and in the circumstances specified in such terms and conditions, the land or property with all things, if any, attached thereto including all fixtures and structures thereon shall

revest in the State Government and it shall be lawful for the State Government to resume possession thereof.

(2) Notwithstanding that any immovable property vests in a district panchayat, on lease, sale or other transfer thereof shall be valid unless it has been made with the previous sanction of the competent authority:

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

District Fund.

158. (1) There shall be in each district a fund which shall be called a district fund.

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

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

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

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

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

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

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

(g) the net proceeds (after deducting the expenses of assessment and collection) of the cess authorised by section 191.

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

Application of District Fund.

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

Provided that out of the net proceeds of the cess referred to in clause (g) of sub-section (2) of section 158, a portion calculated at the rate of eight paise on every rupee of every sum on which the cess is levied under section 191, shall be applied by a district panchayat for the purpose of primary education in the district.

(2) Any surplus funds in the hands of a panchayat which may not be required for current charges may be invested in such manner as may be prescribed.

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

District Family Welfare Fund.

160. (1) Notwithstanding anything contained in sections 158 and 159, in each district, there shall be established by the district panchayat a fund to be called the District Family Welfare Fund which shall consist of—

(a) all the sums received by way of gifts or contribution from the State Government or the Central Government or any person for the purpose of family welfare programme;

(b) the proceeds of entertainment programme arranged by the panchayat;

(c) the same proceeds of family welfare seals.

(2) The Fund shall be applied by the panchayat for the purpose of family welfare programmes in the District.

(3) Any sum in the fund which may not be required for the current expenditure, may be invested in such manner as may be prescribed.

(D) Officers and Servants

Secretary

161. (1) Subject to the provisions of this Act and the rules made thereunder-

and Officers and Servants of District Panchayat.

(a) there shall be a Secretary for every district panchayat;

(b) a District Development Officer posted under the panchayat, shall be *ex-officio,* Secretary of the Panchayat;

(c) a district panchayat shall have such other officers and servants as may be determined under section 227.

(2) The officers and servants referred to in clause (c) of sub-section (1) shall be appointed by such authority and their conditions of service shall be such as may be prescribed.

(3) The officers and servants appointed under sub-section (2) shall in the discharge of their functions and duties, exercise such powers as may be conferred on them by the panchayat subject to rules, if any, made in this behalf.

Powers and Functions of District Development Officer.

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

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

(b) lay down the duties of all officers and servants of the district panchayat.

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

(a) be entitled to—

(i) attend the meetings of the district panchayat, or any of its committee;

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

(iii) grant leave of absence to such class of officers as may be prescribed by rules;

(iv) call for an explanation from any officer or servant of or holding office under the district panchayat;

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

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

(d) supervise and control, the execution of all activities of the district panchayat;

(e) take necessary measures for the speedy execution of all works and development schemes of the district panchayat;

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

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

(h) draw and disburse money out of the fund;

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

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

(3) (a) Save as provided in clause (b), the District Development Officer may subject to such conditions as he may think fit to impose, delegate any of his power and functions to any officer or servant holding office under the district panchayat, provided such officer or servant is not below such rank as may be prescribed.

(b) Notwithstanding anything contained in sub-section (2), the power to draw and disburse money out of the fund referred to in clause (h) of the said sub-section shall, in so far as such drawing and disbursment of money is in respect of any matter specified in Part II of Schedule III or, dealt with under the Bombay Primary Education Act, 1947, be deemed to be delegated to and be exercised by the Administrative Officer appointed for the District Panchayat under section 21 of the Bom. LXI of 1947.

(4) Subject to the other provisions of this Act, the District Development Officer shall be under the general control of the district panchayat.

(E) Budget Estimates

Budget Estimates of District Panchayat and Re-appropriation of funds.

163. (1) Every district panchayat shall have prepared annually on or before the 15 February of the current year or such date not later than the month of February of the current year as may be approved by the competent authority, in such form and manner as may be prescribed in this behalf, a budget estimate of its income and expenditure for the next year:

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

(2) The district panchayat shall, as soon as may, be after the said date consider the budget estimate so prepared and approve the same on or before the 31st March of the current year with or without modifications as it shall think fit.

(3) Where any district panchayat has failed to comply with the provisions of sub-section (2), it shall be lawful for the State Government to form an opinion that the panchayat is incompetent to perform the duties imposed on it or functions entrusted to it under the provisions of this Act.

(4) The district panchayat may, if necessary, at any time during the year for which a budget estimate has been approved, cause a revised or supplementary budget estimate to be prepared and shall consider and approve the same in the manner as if it were an original annual budget estimate.

(5) Re-appropriation of funds in a budget estimate may be made from time to time subject to the same approval as is required for the budget estimate.

Copy of Budget estimate to be forwarded to competent authority.

164. A copy of every budget estimate and a state approved under section 163 shall be forwarded by the President of the district panchayat without delay to the com budget estimates shall be forwarded not latter than the 31st March.

Except on pressing emergency no sum to be expended unless it has been included in budget estimate.

165. (1) Save in the case of pressing emergency, behalf of any district panchayat unless such, sum is included in some budget estimate approved under section 163 and expenditure.

(2) If on a pressing emergency any sum is expended otherwise than in accordance with sub-section (1) communicated in writting by the President of the district panchayat to the competent authority with an explanation of district panchayat to cover such extra expenditure.

Accounts and Audit.

166. (1) Accounts of the income and expenditure of every district panchayat shall be kept in such form and manner as may be prescribed and shall be balance annually on the 1st day of every year.

Guj. XLIX of 1963.

(2) The Gujarat Local Fund Audit Act, 1963 shall apply to the auditing of the accounts of the district panchayat.

[1][(3) Notwithstanding anything contained in sub-section (2), the state Government shall entrust the Comptroller and Auditor General of India the technical guidance and supervision over the audit of the District panchayat.

Guj. XLIX of 1963.

(4) The Sate Government shall cause the audit report under the Gujarat Local Fund Audit Act, 1963 referred to in sub-section (2) alongwith the report of the Comptroller and Auditor General of India on technical guidance and supervision as referred to in sub-section (3), to be laid before the State Legislature.]

Annual reports.

167. (1) The Secretary of the district panchayat shall prepare the annual report of administration of the panchayat and shall place the accounts and the report for approval

before the panchayat.

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

CHAPTER VI
PROVISION AS TO TRANSFER OF CERTAIN FUNCTIONS UNDER ANY ENACTMENT TO PANCHAYAT.

(A) Transfer of functions relating to recovery of land revenue and cesses under the Land Revenue Code and the law relating to collection of cesses.

Bom. V. of 1879.

Recovery of Land Revenue by panchayats.

168. The State Government shall, notwithstanding anything contained in the Bombay Land Revenue Code, 1879 or any law relating to the collection of any cess, for the time being in force in the State, by notification in the *Official Gazette,* entrust to every village panchayat, any or all of the functions and duties of a village accountant or Patel or other similar functions of any other person, by whatever name called, in relation to the of land revenue (including cesses) and dues reciverable as arrears of land revenue which is levied and assessed by or under the Land Revenue Code, or law relating to the collection of any cess for the time being in force in the State and all other functions and duties of a village accountant under the Code.

Responsibility of the

169. The panchayat so entrusted under section 168 shall be responsible for the recovery and collection of the land revenue (including cesses) and other dues of the village in accordance with the provisions of the Land Revenue Code and the rules, instructions and orders made or issued thereunder and the law relating to the collection of such cesses.

Conferment of powers and duties for collection of land revenue on

170. Where a panchayat has been entrusted with the functions and duties relating to the collection of land revenue (including cesses) and other dues under section 168, the State Government shall by notification in the *official Gazette,* confer on such panchayat, subject to such conditions as may be specified in the notification all or any of the powers of the Collector, for the realisation of land revenue and other due recoverable as arrears of land revenue under the Land Revenue Code and for the collection of cesses under the law relating thereto, and it shall be competent for the panchayat so empowered to exercise all or any of the powers so conferred in this behalf.

Certain class of officers posted under panchayat to be revenue officers and their powers.

171. (1) Notwithstanding anything contained in this Act and the Land Revenue Code, a District Development Officer, a Taluka Development Officer and such revenue officers not below the rank of a Deputy Collector as may be posted under a district panchayat and designated by the State Government in this behalf shall be deemed for the purposes of this Chapter to be revenue officers within the meaning of the Land Revenue Code and for the purposes of this Chapter it shall be lawful for the State Government to define the area within which any such officer shall exercise jurisdiction and to confer on such officer all any of the powers exercisable by the Collector or any other revenue officer under the Land Revenue Code.

1.Sub-sections (3) and(4) were inserted by Guj. 21 of 2011, s.13.

(2) Where in the case of any such officer the area of his jurisdiction has been defined and the powers are so conferred, such officer shall have and exercise the like authority over a village panchayat functioning in such area and exercising the powers conferred on it and discharging the functions entrusted to it under this Chapter as the corresponding revenue officer appointed under the Land Revenue Code has over the village accountant or patel or other similar functionary under the Land Revenue Code.

Right of State Government to collect land revenue

172. Notwithstanding anything contained in the provision hereinbefore the right of the State Government to collect land revenue and any cess, shall remain unaffected, and if in the opinion of the State Government a panchayat exceeds or abuses its powers under this chapter or fails to exercise the same or is incompetent, to perform or makes persistent in the performance of the duties imposed or persistenly disobeys any of the orders of the Collector wide regard to the exercise of any of die said powers, the State Government may, after consultation with the district panchayat and after giving the panchayat an opportunity to render an explanation, by order in the *Official Gazette* withdraw all the powers on the panchayat under this Chapter and direct its revenue officers to recover the land revenue or, as the case may be, the cesses.

Collector to appoint officer on suspension

173. On the withdrawal under section 172 of the powers conferred on a panchayat, the Collector, shall appoint an officer to take charge of the accounts, records and otiier papers and articles in connection with the recovery of land revenue or collection of cesses, in the village.

of powers of panchayat

(B) Delegation of the functions under the Gujarat Co-operative Societies Act, 1961. 1962.

Delegation of powers of Registrar of Co-operative Societies to panchayats.

174. (1) Notwithstanding anything contained in the Gujarat Co-operative Societies Act, 1961 the State Government, having regard to the Panchayat Functions List may subject to such conditions as it may think fit to impose, by an order published in the *Official Gazette,* delegate to a district panchayat and the taluka patnchayats subordinate to it, such powers, functions and duties of the Registrar or any other authority under the said Act may be specified in the order. Guj. X of 1962.

(2) In particular, such order may provide for the delegation of powers relating to-

(a) the registration of co-operative societies;

(b) the approval of amendment to the bye-laws of co-operative societies;

(c) appeals arising out of non-admission of members in a co-operative society;

(d) maintenance of register of co-operative societies;

(e) change in the name or classification of a co-operative society;

(f) permission to co-operative societies to enter into partnership;

(g) the calling of, or extending the period for the calling of annual general meetings of co-operative societies;

(h) the calling of a special general meeting of a co-operative society;

(i) the disposal of surplus assests of co-operative societies in the event of their winding up;

(j) direction for giving possession of books and papers of the co-operative societies to the successor chairman thereof.

(C) Transfer of functions of State Government to Panchayats.

Transfer of functions of State Government to Panchayat.

175. (1) Notwithstanding anything contained in any law for the time being in force, the State Government may, subject to such conditions as it may think fit to impose, transfer by an order published in the *Official Gazette,* to a district panchayat any such powers, functions and duties relating to any matter as are exercised or performed by the State Government or any officer of Government under any enactment which the State Legislature is competent to enact, or otherwise in the executive power of the State, and appear to relate to matters arising witnin a district and to be of an administrative character and shall on such transfer, allot to the district panchayat such fund and personnel as may be necessary to enable the district panchayat to exercise the powers and discharge the functions and duties so transferred.

(2) Without prejudice to the generality of the provisions of sub-section (1) the State Government may transfer to the district panchayats such powers, functions and duties as are exercised or performed by the following departments of the State, namely:-

(1) Agriculture;

(2) Animal husbandry;

(3) Public Health and Medical Relief;

(4) Public Works Department activities in the district;

(5) Social Welfare;

(6) Land Department;

(7) Prohibition Department so far as prohibition propoganda is concerned;

(8) Co-operative Department;

(9) Cottage Industries and Small Scale Industries ;

(10) District Statistical Officer.

(3) On the transfer of any powers, functions and duties under sub-sections (1) and (2) the district panchayat shall, if the State Government so directs and with the previous approval of the State Government, may delegate to any panchayat subordinate to it any of the functions, powers and duties so transferred and allot to such panchayat such fund and

staff as may be necessary to enable the panchayat to exercise the powers and discharge the functions and duties so delegated.

(4) Where any powers, functions and duties conferred by or under any enactment are so transferred or delegated, that enactment shall have effect as if this section had been incorporated in that enactment.

(5) The matters in respect of which the functions and duties are transferred or delegated under this section shall be deemed to be included in the Panchayat Functions List.

Transfer of rights and liabilities in respect of property transferred to Panchayat.

176. In transferring to a district panchayat any powers, functions and duties, relating to any matter, exercised by the State Government or any of its officers, it shall be lawful for the State Government to transfer to the district panchayat any property belonging to the State Government and connected with such matter together with the rights and liabilities (including rights and liabilities arising out of any contract) of the State Government in respect of the property and thereupon the rights and liabilities which accrued, before such transfer or which may accrue thereafter shall be the rights and liabilities of the district panchayat.

Obligation or liability of servants transferred under section 175 not affected.

177. The transfer or allotment of any servant to panchayat under section 175 shall not affect-

(a) any obligation or liability incurred or default committed before such transfer or allotment by such servant while acting or purporting to act in the discharge of his duties as such servant; and

(b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto before such transfer or allotment by such authority as the State Government may by general or special order specify in this behaf.

Withdrawal of powers, functions etc. from distict panchayat.

178. Notwithstanding the transfer of any powers, functions and duties in respect of any matter to a district panchayat under section 175 or under section 157 or 158 of the Gujarat Panchayats Act, 1961, the State Government on a proposal from the district panchayat in that behalf or where it is satisfied that by reason of a change in the nature of the matter, the matter has ceased to be a matter in the Panchayat Functions List and that it is necessary to withdraw from the district panchayat the powers, function or duties in respect of such matter, may, after consultation with the State council for panchayats, by notification in the *Officai Gazette,* withdraw such powers, functions and duties with effect from the date specified in the notification and make such incidental and consequential orders as may be necessary to provide for matters including the taking over of the property, rights and liabilities, if any, vesting in the panchayat under section 176 and of the staff, if any, which may have been transferred to the panchayat under section 175.

CHAPTER VII

PROVISION AS TO DEVOLUTION OF POWERS AND RESPONSIBHILITIES UPON PANCHAYATS WITH RESPECT TO DEVELOPMENT PLANS AND IMPLEMENTATION OF CERTAIN SCHEMES.

Preperation of Development plans by panchayat.

179. (1) Every village panchayat shall prepare every year in such form as may be prescribed a development plan for the village for the next year and submit the same before such date as may be prescribed, to the taluka panchayat to which the village panchayat is subordinate.

(2) Every taluka panchayat shall prepare every year in such form as may be prescribed a development plan for the taluka for the next year having regard to the development plans submitted to it by the village panchayats in the taluka and submit the same before such date as may be prescribed, to the district panchayat to which the taluka panchayat is subordinate.

(3) Every District panchayat shall prepare every year in such form as may be prescribed a development plan for the district for the next year having regard to the development plans submitted to it by the taluka panchayats in the district, and submit the same before such date as may be prescribed, to such authority as the State Government may, by order in writing specify:

Explanation : For the purposes of this section a development plan means a development plan for economic development and social justice in relation to matters with respect to which the executive power vests in the State Government.

Entrustment of schemes to panchayats for

180. (1)(a) Notwithstanding anything contained in any law for the time being in force, the State Government may subject to such conditions as it may think fit to impose entrust by an order published in the *Official Gazette* to a district panchayat implementation of such schemes of economic development and social justice as it thinks fit:

Provided that no scheme shall be so entrusted unless-

(i) it is competent to the State Government to implement the scheme in exercise of its executive power, and

(ii) the scheme appears to the State Government to be pertaining to the district.

(b) Where the State Government entrusts a scheme under clause (a) to a district panchayat, it shall allot to the district panchayat such fund and personnel as may be necessary to enable the district panchayat to implement the scheme.

(2) Without prejudice to the generality of the provisions of sub-se tion (1) the State Government may entrust to a district panchayat schemes for ecnomic development and social justice in relation to the following matters, namely:—

(1) Agriculture, including agricultural extension.

(2) Land Improvement, implementation of land reforms, land consolidation and soil conservation.

(3) Minor irrigation, water management and watershed development.

(4) Animal husbandry dairying and poultry.

(5) Fisheries.

(6) Social forestry and farm forestry.

(7) Minor forest produce.

(8) Small scale industries, including food processing industries.

(9) Khadi, village and cottage industries.

(10) Rural housing.

(11) Drinking water.

(12) Fuel and fodder.

(13) Roads, culverts, bridges, ferries, waterways and other means of communication.

(14) Rural electrification, including distribution of electricity.

(15) Non-conventional energy sources.

(16) Poverty alleviation programme.

(17) Education including primary and secondary schools.

(18) Technical training and vocational education.

(19) Adult and non-formal education.

(20) Libraries.

(21) Cultural activities.

(22) Markets and fairs.

(23) Health and sanitation, including hospitals, primary health centres and dispensaries.

(24) Family welfare.

(25) Women and child development.

(26) Social welfare, including welfare of the handicapped and mentally retarded.

(27) Welfare of the weaker sections, and in particular of the Scheduled Castes and the Scheduled Tribes.

(28) Public distribution system.

(29) Maintenance of community assets.

(3) The district panchayat shall if the State Government so directs, and may with the previous approval of the State Government, entrust to a taluka panchayat subordinate to it any scheme entrusted to it under sub-sections (1) and (2) and allot to such panchayat such fund and personnel as may be necessary to enable the panchayat to implement the scheme so entrusted.

(4) The matters in respect of which the scheme is entrusted to the district panchayat under sub-section (1) or (2) or to a taluka panchayat under sub-section (3) shall be deemed to be included in the relevant Panchayat Functions List.

CHAPTER VIII
CATTLE POUNDS

Cattle Trespass Act to cease to apply.

181. In any local area which is declared to be a village, the provisions of the Cattle Treaspass Act, 1871 or any law corresponding to that Act in force in any part of the State shall cease to apply in relation to such local area: **I of 1871.**

Provided that-

(a) nothing in this section shall affect the liability of any person to any penalty under any law so ceasing to be in force;

(b) any appointment, notification, order, rule made or issued under any such law in respect of any cattle pounds within the limits of such village shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under this Act and continue in force until superseded by any notification, order or rule made under this Act;

(c) any cattle pound in the local area established under any law so ceasing to be in force shall be deemed to be vested in the village panchayat within whose limits it is situate and shall be maintained and managed by the panchayat in accordance with the provisions of this Act.

Power to establish cattle pounds and appoint pound

182. (1) Notwithstanding anything contained in any law for the time being in force, every village panchayat, within the limits of its jurisdiction shall from time to time, appoint such places as it thinks fit to be public pounds, and may appoint to be keepers of such pounds such persons as may be approved by the Taluka Development Officer. The duties of pound keepers shall be such as may be prescribed.

(2) Every pound keeper so appointed shall, in the performance of his duties, be subject to the direction and control of the panchayat by which he is appointed.

Penalty for allowing cattle to stray in street or to trespass upon private or public property.

183. (1) Whoever, within the limits of a village, allows any cattle which are his property or in his charge to stray in any street or to trespass upon any private or public property shall, on conviction, be punished—

(i) for the first offence, with imprisonment for a term which may extend to one month or with fine which may extend to three hundred rupees, or with both;

(ii) for a second or subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both:

Provided that in absence of adequate and special reasons to the contrary to be mentioned in the judgment of the Court,-

(i) for a first offence, such fine shall not be less than one hundred rupees, and

(ii) for a second or subsequent offence, such fine shall not be less than two hundred and fifty rupees.

(2) The Magistrate trying the offence under sub-section (1), may order,—

(a) that the accused shall pay such compensation not exceeding two hundred fifty rupees as the Magistrate considers reasonable, to any person for any damage proved to have been caused to his property or to the produce of land, by the cattle under the control of the accused, trespassing on his land; and also,

(b) that the cattle in respect of which the accused is convicted shall be forfeited to the State Government.

(3) Any compensation awarded under sub-section (2) may be recovered as if it were a fine imposed under this section.

(4) An offence under this section shall be cognizable.

(5) Nothing contained in sub-section (1) shall render any person liable to any punishment provided in that sub-section, if in the opinion of the Court, the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Impounding cattle.

184. (1) It shall be the duty of every Police Officer and a Watch and Ward appointed by the panchayat, and it shall be lawful for any other person, to seize and take to any such public pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property within the limits of the village.

(2) Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, and whoever removes the same after seizure, either from a pound or from any person taking or about to take them to a pound, shall on conviction, be punished with imprisonment for a term not exceeding six months or with fine not exceeding five hundred rupees or with both.

Dilivery of cattle claimed and consequences of failure to pay pound fees and

185. (1) If the owner of cattle which are impounded under section 184 or his agent appears and claims the cattle, the pound keeper shall deliver them to him on payment of the pound fees and expenses chargeable in respect of such cattle under section 187 and on depositing the amount of security, if any, prescribed under section 189.

(2) If the owner or his agent appears but refuses to pay the fees and expenses as required under sub-section (1) on the ground that the seizure was illegal and that the is about to make a complaint under section 188, then upon the deposit of the fees and expenses incurred in respect of the cattle, the cattle shall be delivered to him.

(3) If on any complaint referred to in sub-section (2), the seizure is declared to be lawful or if the owner or his agent fails to make such complaint within a period of four weeks from the date of delivery of the cattle to him and the provisions of section 189 are applicable, the pound-keeper shall require the owner or his agent to make a declaration and to deposit the amount of security as required by that section. If the owner or his agent fails to make such declaration or to deposit such amount, the cattle delivered to him under sub-section (2) shall be seized again for the purposes of sub-section (4).

(4) If the owner or his agent appears and refuses or omits to pay the pound-fees and expenses under sub-section (1) or to deposit the pound-fees and expenses under sub-section (2) or to deposit the amount of security and to make a declaration as required by sub-section (3), the cattel or as many of them as may be necessary shall be sold by public auction by such officer at such place and time and subject to such conditions as are referred to in section 186. The amount of pound-fees leviable and the expenses of feeding and watering together with the expenses of sale, if any, and the amount of security, if any, as prescribed under section 189 shall be deducted from the proceeds of the scale.

Sale of cattle not claimed.

186. (1) If within seven days after any cattle have been impounded, no person appearing to be the owner of such cattle offers to pay the pound fee and expenses chargeable under section 187 such cattle shall be forthwith sold by auction in the prescribed manner and the surplus remaining after deducting the fee and expenses aforesaid from the proceeds of the sale, shall be paid to any person who, within fifteen days after the sale, proves to the satisfaction of such offices as the panchayat authorises in this behalf that he was the owner of such cattle and shall in any other case, from part of the village fund.

(2) No Police Officer, or officer, member or servant of the panchayat including the pound-keeper shall directly or indirectly, purchase any cattle at a sale under sub-section (1).

Pound fees

187. (1) The pound-fees chargeable shall be such as the State Government may from

time to time by notification in the *Official Gazette* specify for each kind of cattle.

and expenses chargeable to be fixed.

(2) The expenses chargeable shall be at such rates for each day during any part of which any cattle is impounded, as shall from time to time be fixed by the panchayat with previous approval of the District Panchayat.

Complaints of illegal seizure or detention.

188. (1) Any person whose cattle have been seized under this Act or having been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure make a complaint to the Magistrate of the first class.

(2) The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. If the Magistrate on examining the complainant or his agent sees reasons to believe the complaint to be well founded, he shall summon the person complained against, and make an inquiry into the case.

(3) If the seizure of detention be adjudged illegal, the Magistrate shall award to the complainant for the loss caused by the seizure or detention reasonable compensation not exceeding one hundred rupees to be paid by the person who made the seizure or detained the cattle, together with all fees paid and expenses incurred by the complainant in procuring the release of the cattle, and, if the cattle have not been released the Magistrate shall besides awarding such compensation order their release, and direct that the fees and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

(4) The compensation, fees and expenses mentioned in this section may be recovered as if they were fines imposed by the Magistrate.

Security in respect of impounded cattle.

189. (1) In any village to which the State Government may, by notification in the *Official Gazette* apply this section, every pound-keeper shall before releasing any impounded cattle, require the owner of the impounded cattle or his agent to make, in the prescribed form a declaration regarding the ownership of such cattle and to deposit by way of security such sum as may be prescribed. Progressively increasing scales may be prescribed in respect of cattle belonging to or kept by the same person according to the number of cattle impounded at a time and the number of times the cattle are impounded and different scales may be prescribed for different villages.

(2) If any cattle belonging to such owner are impounded within a period of six months from the date on which the security is deposited, and if the seizure is not adjuged illegal, the amount of deposit or a part thereof, as may be directed by the State Government by rules made in this behalf, shall stand forfeited to the State Government. If cattle are not impounded as aforesaid, the amount of security deposit shall on an application made by or on behalf of the depositor be refunded to him on the expiry of that period.

Removal of cattle to specified places.

190. (1) If in any local area to which the State Government may, by notification in the *Official Gazette,* apply this section, a Mamlatdar or Mahalkari is satisfied—

(i) that the grazing land set apart for the use of cattle of one or more villages in the taluka, or mahal under his jurisdiction is insufficient for the cattle belonging to the permanent residents of such village or villages;

(ii) that the crops or grass standing on any agricultural land or grazing land so set apart are likely to be damaged by cattle belonging to persons who are not residents of such village or villages and who own more than twenty head of cattle, he may—

(a) in any case referred to in clause (i) direct any such resident owner, by special or general order, to remove or cause to be removed all or any dry or useless cattle belonging to him to such place or places within the State and within such period as may be specified in the order, and

(b) in any case referred to in clause (ii) direct any such non-resident owner, by special or general order, to remove or cause to be removed all or any of this cattle to such place or places within the State and within such period as may be specified in the order.

(2) If the owner of the cattle fails to remove the cattle as directed under sub-section (1), the Mamlatdar or Mahalkari, as the case may be, may direct a Police Officer not below the rank of Head-Constable to remove or cause to be removed such cattle to the place or places specified in the order.

(3) If the Mamlatdar or Mahalkari is satisfied that the order issued by him under sub-section (1) is contravened by any owner or keeper of cattle, he may impose a fine not exceeding five thousand rupees. Any fine so imposed may on failure of such owner or keeper to pay the same within the specified time, be recovered by sale of all or any of the cattle ordered to be removed under sub-section (1).

CHAPTER IX

TAXATION

PART I

Taxation by the State Government

Leavy of fifty paise cess on every rupee of land revenue.

191. (1) The State Government shall levy, on the conditions and in the manner hereinafter discribed, a cess at the rate of fifty paise on every rupee of-

(a) every sum payable to the State Government as ordinary land revenue except sums payable on account of any of the charges mentioned in sub-section (2) and except sums payable on account of any charge which may be notified by the State Government in this behalf;

Bom. V of 1879.

(b) every sum which would have been payable as land revenue by a small holder as defined in the Explanation to section 45 of the Bombay Land Revenue Code, 1879, in respect of the land held by him for the time being for the purpose of agricultue, had land revenue been payable in respect of such land under the said section by such small holder; and

(c) every sum which would have been assessable on any land as land revenue had there been no alienation of the land revenue:

Provided that no cess shall be levied under this section on sums less than twenty five paise:

Provided further that the amount of cess shall, if not a multiple of five paise be increased to the next highest multiple of five paise;

(d) every sum which would have been payable as land revenue in respect of any land leased by the Government as if land revenue is leviable on such land, notwithstanding that no land revenue is leviable on such land under the terms of such lease.

(2) The following sums shall not be taken into account for the purposes of sub-section (1), namely:—

Bom. V of 1879.

(i) penalties and fines, including any charge imposed under section 148 of the Land Revenue Code, as penalty or interest in case of default, but not including any fine levied under section 65 of the said Code on grant of permission to use land for a purpose unconnected with agriculture;

(ii) occasional fixed payments, in commutation of all claims of the State Government in respect of succession to or transfer of inams, payable on each succession or transfer of inams;

(iii) land revenue on service inam land, recovered from inferior village servants for periods of unauthorised absence from service, and all other such charges of assessment on inams and watans for broken period and past years;

(iv) fees for grazing when charged per head of cattle.

(3) (a) If it appears to a district panchayat that for the purposes of its functions under Schedule III an additional provision of funds is necessary, it may by a resolution passed at its meeting apply to the State Government to increase in relation to its district, the rate of

cess levied under sub-section (1) to such extent and for such period as may be specified in the resolution:

Provided that by such increase the rate of cess shall not exceed three hundred paise on every rupee on which such cess is leviable under sub-section (1).

(b) On receipt of an application under clause (a) State Government may, by notification in the *Official Gazette,* increase the rate of the cess as proposed by the district panchayat and thereupon sub-section (1) shall have effect as if for the rate specified therein the rate as so increased has been substituted.

Rules for

192. In the assessment of the said cess on villages alienated as defined in the Bombay Land Revenue Code, 1879:- **Bom. V of 1879.**

(a) if the village has been surveyed and assessed in the manner laid down in the said Code and the rules made thereunder, the cess shall be fixed on the total amount of assessment of the village as fixed under the said Code or the rules made thereunder;

(b) if the village has come under summary settlement under the Exemptions from Land Revenue (No.l) Act, 1863 or the Exemptions from Land Revenue (No. 2) Act, 1863 and clause (a) of this section does not apply, the cess shall be fixed on the total annual assessment as settled for the purpose of summary settlement; and **Bom. II of 1863.** **Bom. VII of 1863.**

(c) in villages to which neither of clause (a) or (b) of this section applies, the cess shall be fixed on the old or kammal rate recorded in the books of the Collector; and if no such rate is recorded or if the rate so recorded is objected to by the holder or proprietor of the alienated village, the cess may be fixed as agreed upon by the Collector in agreement with the district panchayat which shall pass a special resolution to that effect and such holder or proprietor, or, failing agreement, by a rough survey and assessment to be made by the State Government the expense of such rough survey being borne half by the district panchayat and half by the holder or proprietor of such village.

Levy of cess on water rate.

193. The State Government may levy a cess not exceeding twenty paise on every rupee of water rate leviable under the provisions of the Bombay Irrigation Act, 1879. **Bom. VII of 1879.**

Manner of levying cess described in section 191.

194. The cess described in section 191 shall be levied, so far as may be, in the same manner, and under the same provisions of law as the land revenue:

Provided that, in the case of any land in the possession of a tenant if such tenant is liable to pay the land revenue in respect of such land under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, or the Bombay Tenancy and Agricultural (Vidarbh Region and Kutch Area) Act, 1958, such tenant shall be primarily liable for the payment of cess in respect of such land. **Bom. LXVII of 1948.** **Bom. XCIX of 1959.**

Manner of levying cess described in section 193.

195. The cess described in section 193 shall be levied so far as may be, in the same manner, and under the same provision of law, as water rates payable to the State under the Bombay Irrigation Act, 1879. **Bom. VII of 1879.**

Assistance to superior holders.

196. The provision of law relating to the assistance to be given to superior holders and owners of water-courses for the recovery of their dues from their tenants and occupants under them, or from persons authorised to use their water-courses shall be applicable to all superior holders, whether of alienated or unalienated land, and to all owners of water-courses in respect of the recovery of the said cesses from their tenants, occupants or persons authorised to use their water-courses, and shall be applicable also to occupants of land under the Land Revenue Code for the recovery of the said cesses from their tenants or joint occupants.

Collection and credit of local cess on water rates.

197. The local cess leviable on water rate under section 193 in respect of lands shall be paid by the State Government to the taluka panchayat within the jurisdiction of which the lands are situated, after deducting such portion thereof as cost of collection, as the State Government may prescribe by rules.

Collection and credit of local cess of land revenue.

198. The local cess leviable on lands under section 191 shall be paid by the State Government to the district panchayat within the jurisdiction of which lands are situated, after deducting such portion thereof as cost of collection, as the State Government may prescribe by rules.

Suspension and remission

199. The State Government may, on the application of the district panchayat to which the cess is payable, suspend or remit the collection of cess or any portion thereof in any year in any area, subject to the jurisdiction of such district panchayat. **of local cess.**

PART II

Taxation by Village Panchayats.

200. (1) Subject to any general or special order (including an order fixing the minimum and maximum rates of a tax or fee) which the State Government may make in this behalf, it shall be competent to a village panchayat to levy all or any of the following taxes and fee at such rates as may be decided by it and in such manner and subject to such exemptions as may be prescribed, namely:- **Levy of taxes and fees by village panchayats.**

(i) a tax on buildings (whether subject to payment of agricultural assessment or not) and lands (which are not subject to payment of agricultural assessment) within the limits of the village;

[1][(i-a) a tax on mobile towers;]

[2][* * * *]

(iii) a pilgrim tax;

(iv) a tax on fairs, festivals and other entertainments not being a tax on payments for admission to any entertainments;

(v) a tax on vehicles, boats or animals used for riding, draught or burden, kept for use within the village, whether they are actually kept within or outside the village;

(vi) a toll on vehicles and animals used as aforesaid entering the village but not liable to taxation under clause (v) of this sub-section;

(vii) a tax on dogs kept within the village;

(viii) a general sanitary cess for the construction or maintenance of, public latrines and for the removal and disposal of refuse;

(ix) a general water rate which may be imposed in the form of a rate assessed on buildings and lands or in any other form as may be best adapted to the circumstances of any class of cases;

[3][(ix-a) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (President's Act No. 11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;]

(x) anyother prescribed tax (not being a toll on motor vehicles or trailers, save as provided by section 20 of the Bombay Motor Vehicles Tax Act, 1958 [4][* * *]or a tax on payments for admission to any entertainment) which the State Legislature has under me Constitution, powers to impose in the State; **Bom. LVX of 1958.**

(xi) a fee on markets and weekly bazars;

(xii) a fee on cart-stands and tonga-stands;

1. Clause (i-a) was inserted by Guj. 21 of 2011, s.14 (1).

2. Clause (ii) was deleted by Guj. 12 of 2001, s.3.

3. Clause (ix-a) was inserted by Guj. 10 of 2008, s.19, Sch. II, Sr. No. 3 (1) (1).

4. The words "or tax on professions, trades, callings and employment" were deleted, *ibid.,* s.19, Sch-II, Sr. No. 3(1) (1) (b).

(xiii) a special water rate for water supplied by the panchayat through pipes, which may be imposed in any

form including that of charges for such water supplied fixed in such mode or modes as shall be best adapted in the circumstances of any class of cases;

(xiv) a fee for the supply of water from wells and tanks vesting in it, for purposes other than domestic use and for cattle;

(xv) fee for temporary erection, on, or putting up projections over, or temporary occupation of, any public street or place;

(xvi) a special sanitary cess upon private latrines, premises [1][including shops and stalls] or compounds cleaned by the panchayat agency;

(xvii) a drainage tax;

(xviii) a lighting tax;

(xix) a fee for cleansing a cess pool constructed on land whether belonging to a panchayat or not;

(xx) a fee for grazing cattle on grazing lands vesting in a panchayat;

(xxi) in lieu of any two or more separate taxes specified in clauses (i), (viii), (ix) and (xviii), a consolidated tax on buildings or lands or both situated within the limits of the village.

[2][(1A) Notwithstanding anything contained in sub-section (1), it shall be compulsory for a village panchayat to levy taxes and fees as referred to in clauses (i), (viii) and (ix) of said sub-section.]

(2) The duties and obligation of persons liable to any tax or fee under sub-section (1) shall be such as may be prescribed.

(3) Rules made under sub-section (1) may, interalia provide,—

(a) for the assignment and payment of a part of the proceeds of pilgrim tax levied by village panchayat to a district panchayat or taluka panchayat to such extent and in such circumstances and on such conditions as may be prescribed;

(b) for lump sum payment of tax on vehicles or animals by persons liable to pay such tax.

(4) The tax on buildings or lands referred to in clauses (i) and (xxi) of sub-section (1) shall be leviable from the owners or occupiers thereof:

Provided that when an owner of a building or land has left the village or cannot otherwise be found, any person to whom such building or land has been transferred shall be liable for the tax leviable from the owner.

[3][(4A) a tax on mobile towers referred to in clause (i-a) of sub-section (1) shall be levied from the person engaged in providing telecommunication services through such mobile towers.]

(5) The State Government may, by notification in the *Official Gazette,* direct that the tax upon buildings or lands referred to in clause (i) of sub-section (1) shall not be levied, or shall be levied on such reduced sale on all buildings and lands or on any class of buildings or lands situated in an area predominantly populated by members of Scheduled Castes or Scheduled Tribes.

[4][(5A) Notwithstanding anything contained in sub-section (1), whereas tax on professions, trades, callings and employments has been imposed by any panchayat under the provisions of this Act in the area within the limits of a village panchayat, it shall not be lawful for any other panchayat, so long as the tax is being so imposed, to levy such tax within such limits.]

1. These words were inserted by Guj. 15 of 2015, s.24 (i).

2. Sub-section (1A) was inserted, *ibid.,* s.24(ii).

3. Sub-section(4A) was inserted by Guj. 21 of 2011, s.14(2).

4. Sub-section (5A) was inserted by Guj. 10 of 2008, s.19, Sch. II, Sr. No. 3(1)(2).

(6) Any person aggrieved by the assessment, levy or imposition of any tax or fee may appeal to the district panchayat within the prescribed period.

(7) No such appeal shall be entertained unless the amount claimed from the appellant has been deposited by the appellant with the panchayat.

(8) The State Government may suspend the levy or imposition of any tax or fee and may at any time rescind such suspension.

201. (1) Subject to any rules that may be made under this Act, and regard being had to the fact that a factory itself provides in the factory area all or any of the amenities which such panchayat provides, village any factory with the sanction of the State Government to receive a *lump-sum* contribution in lieu of all or any of the taxes levied by the panchayat. ***Lump-sum* contribution by factories in lieu of taxes levied by panchayat.**

(2) Where no such agreement as is referred to in sub-section (1) can be reached, the matter may be referred to the State Government in the manner prescribed and the State Government, may after giving to the panchayat and the factory concerned an opportunity of being heard decide the amount of such contribution. The decision of the State Government shall be binding on the panchayat and the factory concerned.

(3) In the case of any matter referred to the State Government under sub-section (2), the State Government may, subject to such condition as it may think fit to impose having regard to the circumastances of the case, by order in writing direct the panchayat to stay the collection or recovery from the factory of all or any of the taxes until the State Government decides the matter under sub-section (2).

202. (1) It shall be lawful for a village panchayat to lese by public auction or private contract the collecting of any fees levied by it on markets and weekly bazars [1][* * *]: **Framing of fees on markets etc**

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

(2) All sum payable under the terms and conditions of the lease, if not paid, shall be recoverable as arrears of land revenue.

(3) The lessese and every person employed by the lessee to assist him in the collection of the fees [2][* * *] shall be deemed to be appointed by the panchayat to collect the same under this Act and shall exercise all the powers and be subject to all the responsibilities attaching to person appointed to collect such fees [2][* * *] under this Act.

(4) Any rules or orders for the levy, collection and recovery of any such fees [3][* * *] shall have effect subject to the provisions of this section.

203. (1) A village panchayat may by resolution passed by its meeting, apply to levy a cess at the rate not exceeding twenty-five paise, according to its needs and capacity, on every rupee of every sum payable to the State Government as land revenue, and on which a cess is leviable under clauses (a), (b) and (c) of sub-section (1) of section 191 and thereupon the State Government shall (in addition to any cess leviable under section 191) levy and collect such cess in the area within the jurisdiction of such panchayat. **Levy and Collection up to twenty five paise as cess on every rupee of land revenue.**

(2) Where a village panchayat undertakes for the benefit of the community any special work or project so as to complete it within a specified period and for that purpose an additional provision of funds is necessary, the panchayat may by resolution passed at its meeting and with the previous permission of the district panchayat apply, to the State Government to increase the rate of cess levied in accordance with sub-section (1) to such extent and for such period as may be specified in the resolution:

Provided that such increase shall not exceed one hundred paise on every rupee of every sum payable to the State Government as ordinary land revenue.

1. The words "or the collecting of octroi" were deleted by Guj. 12 of 2001, s.4(a).
2. The words " or octroi, as the case may be" occuring at two places, were deleted, *ibid.,* s.4(b).
3. The words "or octroi, as the case may be" were deleted, *ibid.,* s.4(c).

(3) On receipt of an application under sub-section (/) or (2) the State Government shall levy the cess or increase the rate thereof as proposed by the panchayat and sub-section (1) shall have effect accordingly.

(4) The net proceeds (after deducting the expenses of assessment and collection) of any cess levied and collected in accordance with sub-section (l) shall form part of and be paid into the village fund.

(5) The State Government may, at the request of the panchayat to which the cess referred to in sub-section (1) is payable, suspend the collection of the cess or any portion thereof in any year.

Power of

204. (1) If the income of a village panchayat falls below what in the opinion of a taluka

taluka panchayat to increase taxation of panchayat.

panchayat is necessary for the proper discharge of the duties specified in Schedule I, the taluka panchayat may after having given such panchayat an opportunity of being heard, require it to take steps within six months, to increase its income to such extent as the taluka panchayat considers necessary. If the village panchayat fails to take adequate steps to increase it income to the required extent, the taluka panchayat may require it to levy any of the taxes or fees specified in section 200 or increase the rate at which any of the such taxes and fees is levied and it shall be the duty of the panchayat to comply with the requirement:

Provided that the taluka panchayat shall not compel the panchayat to levy any tax or fee or increase the rate thereof beyond the maximum rate prescribed in this behalf.

(2) The Panchayat in respect of which an order under sub-section (1) is made by the taluka panchayat may within the prescribed period prefer an appeal to the district panchayat, which may pass such orders on the appeal as it may think just and proper. The district panchayat may stay the execution of the order until the appeal is decided.

Recovery of cost of watch and ward.

205. If under clause (a) of item 4 of Schedule 1, a village panchayat incurs any expenditure on watch and ward of the village and of the crops therein the cost of such watch and ward shall be levied and recovered by the panchayat from such persons and in such manner (including the levying of a fee) as may be prescribed.

PART III

Taxation by Taluka Panchayat

Taxes and fees which maybe

imposed by taluka panchayat and mode of collection thereof.

206. (1) Subject to any general/special orders which the State Government may make in this behalf, every taluka panchayat may after observing the preliminary procedure required by section 212 impose an education cess and any of taxes and fees which are leviable by a village panchayat under section 200:

Provided that the rate of tax or fee leviable by a taluka panchayat in respect of any matter within the limits of any village shall not exceed 15 per cent, of the rate of the tax or fee actually levied by the village panchayat in respect of the same matter, and where no such tax or fee has been levied by the village panchayat, shall not exceed 15 per cent of the prescribed maximum rate of tax or fee in respect of the same matter:

Provided further that—

(i) no tax imposed as aforesaid other than a special sanitary cess or a water rate, shall without the express consent of the Government or, as the case may be, the district panchayat concerned be leviable in respect of any building or part of any building or any vehicle, animal or other property, belonging to the Government or the district panchayat and used solely for public purposes, and not used or intended to be used for purposes of profit and no toll shall be leviable for passage of troops, the conveyance of Government stores or of any other Government property, the passage of Military or Police Officers on duty, or the passage or conveyance of any person or property in the custody of such officer; and

(ii) no tax on property shall be imposed in respect of any land on which local cess is being collected.

(2)(a) Where in the exercise of the powers under sub-section (1) a taluka panchayat imposes a tax or fee in any area within the jurisdiction of a village panchayat, such tax or fee shall be collected by the village panchayat concerned from those persons who are liable to pay the same under the rules made by the taluka panchayat in accordance with the provisions of section 215 as if it were a tax or fee imposed by the village panchayat concerned under provisions of this Act and shall be paid to the taluka panchayat at such time and in such manner as the taluka panchayat may specify.

(b) [1][(i)] Such percentage not exceeding 50 per cent. of the gross collection of such tax on fee [2][(other than tax levied under section 3 the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976, read with clause (ix-a) of sub-section (1) of section 200)] in any financial year as the State Government may by general or special order determined shall not from part of the taluka fund but shall be assigned to the village panchayat in such manner as the taluka panchayat may determine.

[3][(ii) Total amount of gross collection of tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 read with clause (ix-a) of sub-section (1) of section 200, in any financial year in any area within the jurisdiction of a village panchayat shall not form part of the taluka fund, but shall be assigned to the concerned village panchayat.]

(c) If any panchayat makes any default in the payment of any sum due in respect of a tax or fee within the time sepcified under clause (a), the provisions of section 211 shall *mutatis mutandis* apply to such default and the taluka panchayat shall exercise the same powers as are exercisable by a disrict panchayat under that section.

Increase of stamp duty for a taluka panchayat.

207. (1) A taluka panchayat may, by resolution passed at its meeting, apply to the State Government for increasing the rate of stamp duty leviable under the Bombay Stamp Act, 1958 on instruments of sale, mortgage, lease or any other kind of transfer of immovable property situated within the limits of the taluka, to such extent as not exceed 15 per cent, the rate of duty so leviable and specified in the resolution.

Bom. LX of 1958.

Bom. LX of 1958.

(2) Notwithstanding anyhthing contained in the Bombay Stamp Act, 1958 on receipt of an application under sub-section (1) the State Government shall by notification published in the *Official Gazette,* direct mat the rate of stamp duty on the class of instruments specified in the notification and affecting the immovable property situated within the taluka shall be increased to the extent specified in the notification with effect from the date specified in the notification and thereupon, the rate of stamp duty shall stand increased accordingly.

Bom. LX of 1958.

(3) For the purpose of this section, section 28 of the Bombay Stamp Act, 1958, shall be read as if it specifically required the particulars therein referred to be forth respect of—

(a) property situated in the jurisdiction of any taluka panchayat; and

(b) property not situated in the jurisdiction of any taluka panchayat.

(4) The increase in stamp duty in respect of any class of instruments under this section shall be in addition to any increase made therein in respect of the same class of instruments for a district panchayat under section 209.

1. Clause (b) was renumbered as sub-clause (i) by Guj. 10 of 2008, s. 19, Sch. II, Sr. No. 3(2)(1). 2. These brackets, words, figures and letters were inserted, *ibid.*

3. Sub-Clause (ii) was inserted *ibid.,* s. 19, Sch. II, Sr. No. 3(2)(2).

(5) The State Government shall, every year after due appropriation made by law in this behalf, pay to the taluka panchayat from the Consolidated Fund of the State, a grant-in-aid approximately equal to the extra duty realised under sub-section (1) in respect of properties situated within the jurisdiction of the taluka panchayat.

PART IV

Taxation by District Panchayat

Taxes which may be imposed by a district panchayat.

208. Subject to any general or special orders which the State Government may make in this behalf, every district panchayat may, after observing the preliminary procedure required by section 212 impose any of the taxes and fees which are leviable by a village panchayat under section 200:

Provided that the rate of tax or fee leviable by a district panchayat in respect of any matter within the limits of any village shall not exceed 10 per cent. of the rate of the tax or fee actually levied by the village panchayat in respect of the same matter, and where no such tax or fee has been levied by the village panchayat shall not exceed 10 per cent. of the prescribed maximum rate of tax or fee in respect of the same matter;

Provided further that—

(i) no tax imposed as aforesaid other than a special sanitary cess or a water rate, shall without the express consent of the Government or, as the case may be, the taluka panchayats concerned be leviable in respect of any building or part of any building or any vehicle, animal or other property belonging to the Government or to the taluka panchayat and used

solely for public purposes, and not used or intended to be used for purposes of profit and no toll shall be leviable for passage of troops the conveyance of Government stores or of any other Government property the passage of Military or Police Officers on duty, or the passage or conveyance of any person or property in the custody of such officers; and

(ii) no tax on property shall be imposed in respect of any land on which local cess is being collected.

Increase of stamp duty for a district panchayat.

209. (1) A district panchayat may, by resolution passed at its meeting apply to the State Government, for increasing the rate of stamp duty leviable under the Bombay Stamp Act, 1958 on instruments of sale, mortgage, lease or any other kind of transfer of immovable property situated within the limits of the district, to such extent as not to exceed 20 per of the rate of duty so leviable and specified in the resolution. **Bom. LV of 1958.**

(2) Notwithstanding anything contained in the Bombay Stamp Act, 1958 on receipt of an application under sub-section (1), the State Government shall by notification in the *Official Gazette,* direct that the rate of stamp duty on the class of instruments in the notification and affecting the immovable property situated within the district shall increased to the extent specified in the notification with effect from the date specified in notification and thereupon, the rate of stamp duty shall stand increased accordingly. **Bom. LV of 1958.**

(3) For the purpose of this section, section 28 of the Bombay Stamp Act, 1958, shall be read as if it specifically required the particulars therein referred to be set forth separately in respect of- **Bom. LV of 1958.**

(a) property situated in the jurisdiction of any district panchayat; and

(b) property not situated in the jurisdiction of any district panchayat.

(4) The increase in stamp duty in respect of any class of instruments under this section shall be in addition to any increase made therein in respect of the same class of instruments for a taluka panchayat under section 207.

(5) The State Government shall, every year after the due appropriation made by law in this behalf, pay to the district panchayat from the Consolidated Fund of the State, a grant-in-aid approximately equal to the extra duty realised under sub-section (1) in respect of properties situated within the jurisdiction of the district panchayat.

Tax on professions, etc. levied by district panchayat to be collected by village panchayat.

210. Wherein exercise of the powers given by this Act, a district panchayat imposes any tax or fee then notwithstanding anything in this Act or any other law for the time being in force, in any area within the jurisdiction of a village panchayat-

(a) such tax or fee shall be collected by the village panchayat concerned from those persons who are liable to pay the tax or fee under the rules made by a district panchayat and who reside, or carry on any trade or exercise any profession or follow a calling, within such area, in accordance with the provisions of section 215, as if it were a tax or fee imposed by the village panchayat under the provisions of this Act, and shall be paid to the district panchayat at such time and in such manner as the district panchayat

(b) [1][(i)] such percentage not exceeding fifty per cent. of the gross collection of such tax or fee [2][(other then tax levied under section 3 of the Gujarat state Tax on professions, Trades, callings and Employements Act, 1976, read with clause (ix-a) of sub-section (1) of section 200)] in any financial year, as the State Government may by general or special order determine shall not form part of the district fund, but shall be assigned to the village panchayat, in such manner as the district panchayat may determine.

[3][(ii) total amount of gross collection of tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 read with clause (ix-a) of sub-section (1) of section 200, in any financial year in any area within the jurisdiction of a village panchayat shall not form part of the district fund, but shall be assigned to the concerned village panchayat.]

Default in

211. (1) If any panchayat makes default in the payment of any sum due in respect of a

payment by panchayat.

tax on professions, trades, callings and employments, or any other tax or fee within the time specified by the district panchayat under clause (a) of section 210, the district panchayat may, notwithstanding any law relating to the funds vesting in such panchayat or any other law for the time being in force direct any bank in which any moneys of the panchayat are deposited or the person in charge of the Government treasury or any place of security in which the moneys of the panchayat are deposited to pay such sum from such moneys as may be standing to the credit of the panchayat in such bank or as may be in the hands of such person or as may from time to time be received from or on behalf of the panchayat by way of deposit by such bank or person and such bank or person shall be bound to obey such order.

(2) Every payment made pursuant to an order under sub-section (1) shall be as sufficient discharge to such bank or person from all liability to the panchayat in respect of discharge of any sum so paid by it or him out of the moneys of the panchayat so deposited, with such bank or person.

PART V

Procedure of levying tax or fee by taluka panchayat and district panchayat.

Procedure of taluka and district panchayat preliminary to imposing tax.

212. (1) A taluka panchayat or, as the case may be, a district panchayat shall, before imposing a tax or fee, by resolution passed at a metting of the panchayat-

(a) select a tax or fee which may be imposed; and

(b) approve rules describing the tax or fee selected; and

(c) shall in such resolution and in such rules specify—

(i) the class or classes of persons or of property, or both, which the panchayat desire to make liable, any exemptions which it desires to give (including the cirumstances or principles on which exemptions can be given) and the duties and obligations of persons liable to pay any such tax or fee;

1. Clause (b) was renumbered as sub-clause (i) by Guj. 10 of 2008, s. 19, Sch. II, Sr. No. 3 (3) (1).
2. The brackets, word figures and letters were inserted, *ibid.*
3. Sub-clause (ii) was inserted, *ibid.,* Sr. No. 3(3)(2).

(ii) the amount for which, or the rate at which, it is desired to make such classes liable; and

(iii) all other matters which the State Government may require to be so specified.

(2) When such a resolution has been passed, the panchayat shall publish the rules with a notice in the prescribed form and manner.

(3) Any inhabitant of the taluka or, as the case may be, district objecting to the imposition of the said tax or fee, or to the amount or rate proposed, or to the class of persons or property to be made liable therefore or to any exemptions proposed, may, within one month from the publication of the said notice, send his objections in writing to the taluka panchayat or, district panchayat, as the case may be, and the panchayat shall take all such objections into consideration, or shall authorise a committee of its members to consider and report on them.

(4) The panchayat shall take proposals and all objections recieved thereto and the report of the committee, if any, into consideration at a meetting and sanction the rules with or without modifications.

Procedure for abolishing or varying a tax.

213. (1) The panchayat may, at a special meeting, pass a resolution to propose the abolition of any tax or fee already imposed or a variation in the amount or rate thereof.

(2) Any such proposal shall be dealt with according to the procedure laid down in section 212 for the imposition of a new tax or fee; and the notification of the abolition or variation of a tax or fee under this section in the *Official Gazette,* shall be conclusive proof that such abolition or variation has been made in accordance with the provisions of this Act.

(3) Nothing in this section shall affect the power of a panchayat to propose an increase in rate of cess on land revenue or in the rate of stamp duty under the provisions of sections 203, 207 and 209.

Publication of sanctioned rules with notice.

214. All rules sanctioned under section 212 shall be published in the prescribed manner by the taluka panchayat in the taluka and by district panchayat in the district for which they are made, and the tax as described in the rules so published shall, from the date specified in the notice under that section (such date not being less than one month from the publication of such notice), be imposed accordingly:

Provided that-

(a) a tax leviable by the year—

(i) shall not come into force except on one of the following dates, that is to say, the first day of April, the first day of July, the first day of October or the first day of January, in any year, and

(ii) if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing ;

(b) on or before the day on which a notice is issued, the panchayat shall publish such further detailed rules as may be required, prescribing the mode of levying and recovering the tax therein specified, and the dates on which the tax or the instalments (if any), thereof, shall be payable; and

(c) if the levy of a tax, or of a special portion of tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except as regards any unpaid arrears which have become due during the period.

CHAPTER X

RECOVERY OF TAXES, FEES, CESSES AND OTHER DUES.

Recovery of taxes and other dues.

215. (1) When any tax or fee or any other sum has become due, a panchayat shall with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the amount due from him, specifying the date on or before which the amount shall be paid.

(2) If any person fails to pay any tax or fee or any other sum due from him to a panchayat under this Act or the rules on or before the specified date of payment, he shall pay to the panchayat by way of penalty in addition to the tax, fee or sum, as the case may be, an amount equal to one per cent. of the amount of the tax or fee or sum, as the case may be, for each complete month during the time he continues to make default in the payment of tax, fee or sum, as the case may be.

(3) In the case of a person who is a defaulter under sub-section (2) the panchayat shall cause a writ of demand in the prescribed form to be served on such person.

(4) The presentation of every bill under sub-section (1) and the sevrvice of every writ of demand under sub-section (2) shall be affected by an officer or servant of the panchayat in this behalf—

(a) by giving or tendering the bill or writ to the person to whom it is addressed; or

(b) if such person is not found, by leaving the bill or writ at his last known place of abode, if within the area of jurisdiction of the panchayat, or by giving or tendering the bill or writ to some adult male member or servant of his family; or

(c) if such person does not reside in the area of jurisdiction of the panchayat and his address elsewhere is known to the officer directing the issue of the bill or writ then forwarding the bill or writ to such person by registered post, under cover bearing the said address; or

(d) if note of the means aforesaid be available, then causing the bill or writ to be affixed on some conspicuous part of the building or land, if any, to which the bill or writ relates in the presence of at least two panchas.

(5) If the sum for which a writ of demand has been served is not paid within thirty days from the date of such service, the panchayat may levy such sum by distraint and sale of the movable property of the defaulter in the prescribed manner.

(6) Fees for—

(a) every writ of demand issued under sub-section (2);

(b) every writ of demand made under sub-section (3);

(c) the cost of maintaining any livestock seized under sub-section (5) shall be chargeable at such rates as may be prescribed.

(7) Notwithstanding anything contained in the foregoing sub-sections any tax or fee payable on demand in accordance with the rules shall be recoverable in such manner as may be prescribed.

(8) If a panchayat is unable to recover a tax or fee or other sum (including penalty) due to it as aforesaid, it shall be recoverable as an arrear of land revenue.

(9) If a panchayat fails to recover any tax, fee or any sum due to it, or neglects to take action under sub-sections (2) and (5) of this section, the competent authority may apply to the Collector to recover the same as an arrear of land revenue.

(10) On receipt of such application the Collector shall, after holding such inquiry as he thinks fit, proceed to recover the sum as an arrear of land revenue unless such sum is, under section 217 directed to be written off.

216. [Penalty for evasion of octroi] was deleted by Guj. 12 of 2001, s.5.

District Development Officer's power to direct irrecoverable sums to be

217. The District Development Officer may direct any sum ceritified by a panchayat as recoverable as an arrear of land revenue to be written off, if in his opinion the sum is irrecoverable:

Provided that no sum exceeding five hundred rupees shall be written off except with the previous sanction of the State Government.

CHAPTER XI
FINANCIAL ASSISTANCE TO PANCHAYATS

Provision by the State Government for making grants to panchayats.

218. The State Government shall, having regard to the recommendations, if any, of the Finance Commission, in each year after due appropriation made by the State Legislature by law in this behalf make provision for making grants to the panchayats in accordance with this Chapter.

Extent of grants out of the average of three year's collection of land revenue.

219. (1) For the purposes of section 218, the State Government shall in each year detennine a sum which shall be equal to the average of the land revenue collected or recovered during the three preceding revenue years in the State.

(2) Out of the sum determined under sub-section (1) an amount equal to-

(a) such percentage of the sum as may be prescribed shall be set apart for meeting the expenditure on the salaries of the secretaries of village panchayats and of the village accountants (talatis) in the State and on their training;

(b) five per cent. of the sum shall be paid into the State Equalisation Fund established under section 220:

Provided that in the case of a village panchayat of a Devasthan village the land revenue in respect of which is wholly or partially alienated in favour of the Devasthan, the village panchayat shall be paid in each year out of the State Equalisation Fund a sum on the same basis as applicable to other villages under sub-section (3).

(3) Out of the balance remaining after making the provisions in accordance with sub-section (2)

(i) an amount equal to-

(a) 50 per cent. of the balance shall be distributed among the village panchayats;

(b) 25 per cent. of the balance shall be distributed among the taluka panchayats; and

(c) 10 per cent. of the balance shall be distributed among the district panchayats in proportion to the average collection and recovery of land revenue from the respective village, taluka or, as the case may be, district panchayat in the three revenue years immediately preceding;

(ii) an amount equal to-

(a) 7½ per cent. of the balance shall be paid into the District Equalisation Fund established under section 221.

(b) 7½ per cent. of the balance shall be paid into the District Gram Encouragement Fund established under section 222.

State Equilisation Fund.

220. (1) There shall be established by the State Government a fund to be called the State Equalisation Fund, which shall consist of the payments made into it under clause (b) of sub-section (2) of section 219 and which shall be utilised for making special grants to backward districts so as to minimise the social and economic inequalities between the districts of the State.

(2) The fund established under sub-section (7) shall be non-lapsable.

(3) Special grants out of the said fund to district panchayats shall be made in accordance with the rules made in that behalf.

District Eduilisation Fund.

221. (1) In each district, there shall be established by the district panchayat, a fund to be called the District Equalisation Fund consisting of the payments made into it under sub- clause (a) of clause (ii) of sub-section (3) of section 219 which shall be utilised by the district panchayat for making special grants to the backward panchayats subordinate to it so as to minimise the social and economic inequalities between the panchayats in the district.

(2) The fund established under sub-section (1), shall be non-lapsable and shall be invested in the prescribed manner.

(3) Special grants out of the said fund, shall be made in accordance with the rules made in that behalf.

District Village Encouragement Fund.

222. (1) In each district, there shall be established by the district panchayat a fund to be called the District Village Encouragement Fund which shall consist of the payments made into it under sub-clause (b) of clause (ii) of sub-section (3) of section 219 and which shall be utilised by the district panchayat for making incentive grants to village panchayats to encourage them to raise their income by levying taxes and fees leviable by them under this Act.

(2) The fund established under sub-section (1), shall be non-lapsable and shall be invested in the prescribed manner.

[1[* * * *]

District Development Fund.

223. (1) In each district, there shall be established a fund to be called the District Development Fund which shall consist of the contributions made by the village panchayats under section 115.

(2) The fund shall vest in the district panchayat and shall be invested in the prescribed manner.

(3) The fund shall be utilised for granting loans to village panchayats in accordance with the rules and for payment of interest on contributions made by the said panchayats.

(4) The State Government shall make rules prescribing the purposes for which loans may be granted, the terms and conditions (including the rate of interest and of penal interest) which such loans may be made, the period therefor and all matters incidental to the grant of loans.

Grant of a portion of forest revenue to district panchayats.

224. The State Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to every district panchayat an amount equal to two per cent. of the forest revenue collected in the revenue year immediately preceding within the limits of the district.

Grant from forest revenue to certain village panchayats.

225. Where any village is situate in a forest area and is not assessed under the Land Revenue Code then the State Government shall, in lieu of a grant of land revenue under section 219, pay to the village panchayat of the village, in each year such amount out of the forest revunue of the village collected in the revenue year immediately preceding, as it fix but the amount so fixed shall not be-

(1) less than Rs. 500, and

(2) more than an amount calculated on the basis of the population of the village at

such *Per capita* rate as is equal to the *Per capita* rate arrived at in respect of grants made under section 219.

CHAPTER XII

FINANCE COMMISSION

Finance

226. (1) In this section, the Commission means the Finance Commission constituted by the Governor pursuant to clause (1) of article 243-I of the Constitution;

(2) The Commission shall consist of such number of members not exceeding five including the Chairman as may be determined by the State Government;

(3) The Chairman of the Commission shall be selected from amongst persons who have had experience in public affairs and the other members shall be selected from among persons who-

1. Sub-sections (3) and (4) were deleted by Guj. 19 of 2017, s. 5.

(a) are, or have been, or are qualified to be appointed as judges of a High Court; or

(b) have special knowledge of the finances and accounts of Government and local authorities; or

(c) have had wide experience in financial matters and in administration; or

(d) have special knowledge of economics.

(4) Every member of the Commission shall hold office for such period as may be specified in the order of the Governor appointing him, but shall be eligible for reappointment.

(5) The Commission shall in the performance of their functions have all the powers of the civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely- **V of 1908.**

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the production of any document;

(c) requisitioning any public record from any Court or office;

(d) The commission shall have powers to require any person to furnish information on such points and matters as in the opinion of the Commission may be useful for or relevant to, any matter under the consideration of the Commission.

CHAPTER XIII

PROVISIONS RELATING TO SERVICES

Panchayat service to be regulated by rules.

227. (1) For the purpose of briniging about uniform scales of pay and uniform conditions of service for persons employed in the discharge of functions and duties of panchayats, there shall be constituted a panchayat service in connection with the affairs of panchayats, such service shall be distinct from the State Service.

(2) The panchayat service shall consist of such classes, cadres and posts and the initial strength of officers and servants in each such class and cadre shall be such, as the State Government may, by order from time to time, determine:

Provided that nothing in this sub-section shall prevent a district panchayat from altering, with the previous approval of the State Government, any class, cadre or number of posts so determined by the State Government.

(3) (a) The cadres referred to in sub-section (2) may consist of district cadres, taluka cadres and local cadres.

(b) A servant belonging to a district cadre shall be liable to be posted whether by promotion or transfer to any post in any taluka in the district.

(c) A servant belonging to taluka cadre shall be liable to be posted, whether by promotion or transfer to any post in any village in the same taluka.

(d) A servant belonging to a local cadre shall be liable to be posted whether by promotion or transfer to any post in the same village.

(4) In addition to the posts in the cadres referred to in sub-section (3), a panchayat may have such other posts of such classes as the State Government may by general or special

order determine. Such posts shall be called "deputation posts" and shall be filled in accordance with the provisions of section 231.

(5) Subject to the provisions of this Act, the State Government may make rules regulating the mode of recruitment either by holding examinations or otherwise and conditions of service of persons appointed to the panchayat service and the powers in respect of appointments, transfers and promotions of officers and servants in the panchayat service and disciplinary action against any such officers or servants.

(6) Rules made under sub-section (5) shall in particular contain-

(a) a provision entitling servants of such cadres in the panchayat service to promotion to such cadre in the State service as may be prescribed,

(b) a provision specifying the classes of posts recruitment to which shall be made through the District Panchayat Service Selection Committee and the classes of posts, recruitment to which shall be made by Gujarat Panchayat Service Selection Board, and

(c) a provision regarding the percentage of vacancies to be reserved for the members of Scheduled Castes, Scheduled Tribes and other back ward classes in the panchayat service.

(7) Such rules may provide for inter-district transfers of servants belonging to the panchayat service and the circumstances in which and the conditions subject to which such transfers may be made.

(8) The promotion of a servant in a cadre in the panchayat service to a cadre in the State service in accordance with rules made under clause (a) of sub-section (6) shall not affect—

(a) any obligation or liability incrurred or default committed by such servant during the period of his service in a cadre in the panchayat service while acting or purporting to act in the discharge of his duties as such servant, or

(b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default, and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accordance with the law applicable thereto during the said period of service by such authority as the State Government may by general or special order specify in this behalf.

Expenditure towards pay, allowances, etc. of officers and servants in panchayat service to be met by panchayats.

228. Subject to the rules, which the State Government may make in this behalf, the expenditure towards the pay and allowances of and other benefits available, to an officer or servant of the panchayat service serving for the time being under any panchayat shall be met by that panchayat from its own fund.

Mode of appointment.

229. Subject to any rules made under section 227 appointments to the posts in the panchayat service shall be made—

(i) by direct recruitment,

(ii) by promotion, or

(iii) by transfer of a member of the States service to the panchayat service.

Allocation of officers and servants to panchayat services.

230. (1) The State Government shall, by a general or special order, allocate to the panchayat service—

(i) Such number of officers and servants, out of the staff allotted or transferred to a panchayat under sections 175 and 276 as it may deem fit,

(ii) all officers and servants of the nagar panchayats dissolved under section 261,

(iii) such other officers and servants employed in the State service as may be necessary to enable the panchayats to discharge efficiently their functions and duties under this Act.

(2) The Officers and servants allocated to the panchayat service under sub-section (1), shall be taken over by such panchayats in such cadre, on such tenure, remuneration and

other conditions of service, as the State Government may, by general or special order determine:

Provided that the conditions of service of any such officer or servant shall not be less favourable than those applicable to him immediately before such allocation.

Allocation to panchayat service to be provisional for certain period and re-allocation of office and servants to State services.

231. (1) Notwithstanding anything contained in section 230, the allocation to the panchayat service made under section 230 of officers or servants allotted or transferred to a panchayat under section 175, shall initially be provisional and it shall be lawful for the State Government to review their allocation within a period of four years from such allocation or transfer, and if necessary, to reallocate by an order made in that behalf any of such officers or servants to the State service for any of the following reasons, namely:—

(i) if out of the officers and servants so allocated, any officers or servants are found to be surplus in any category of the panchayat service;

(ii) if in the interest of public service it is considered necessary to recall any such officer or servant;

(iii) if in pursuance of any information called for in this behalf by or on behalf of the State Government at any time within the aforesaid period of four years, any such officer or servant has preferred to revert to the State service and after taking into consideration the exigencies of service in the panchayat organisation, and also of service under the State Government, the State Government thinks fit to recall such officer or servant.

(iv) any other reason prescribed by rules.

(2) Any officer or servant who is not re-allocated under sub-section (1) and continues in the panchayat service immediately before the expiry of the aforesaid period of four years, shall on such expiry, be deemed to be finally allocated to the panchayat service.

(3) The conditions of service of an officer or servant re-allocated to the State service shall not be less favourable than those applicable to him immediately before such re-allocation.

(4) The re-allocation of any officer or servant to the State service under sub-section (1) whether made before or after the commencement of 'the Gujarat Panchayats and the Gujarat New Capital (Periphery) Control (Amendment) Ordinance, 1964', shall not affect- **Guj. Ord.2 of 1964.**

(a) any obligation or liability incurred or default commuted by such officer or servant during the period of his allocation to the panchayats service while acting or purporting to act in the discharge of his duties as such officer or servant, and

(b) any investigation, disciplinary action or remedy in respect of such obligation, liability or default;

and any such investigation, disciplinary action or remedy may be instituted, continued or enforced in accoradnce with the law applicable thereto during the said period of allocation by such authority as the State Government may by general or special order specify in this behalf.

Posting under panchayats of officers and servants in the State service.

232. (1) For the purpose of enabling the panchayats to discharge their functions and duties under this Act, it shall be lawful for the State Government to direct by a general or special order that such number of officers of the Indian Administrative Service and of Class 1 and Class II services of the State and such number of officers or servants allotted or transferred to a panchayat under section 175 but not allocated to the panchayat service under section 230 shall be posted under such panchayat and for such period and subject to such conditions as may be specified in the order and accordingly the officers specified in the order shall be posted under such panchayat.

(2) The pay and allowances of an officer posted in accordance with sub-section (1) shall during the period of posting, be paid by the panchayat from its fund.

(3) Notwithstanding anything contained in sub-section (1), if in the opinion of the State Government, it is necessary so to do in the public interest, it shall be lawful for the

State Government to post by an order in writing any servant of class III services of the State under such panchayat, and for such period and subject to such conditions as may be

specified in the order, and accordingly the servant specified in the order, shall be posted under such panchayat and the provisions of sub-section (2) shall apply to such servant as they apply to an officer posted in accordance with sub-section (1).

(4) The procedure in respect of disciplinary action against any officer or servant posted under a panchayat otherwise than as a member of the panchayat service, the authorities competent to take such action and the powers of such authorities shall be such as may be prescribed.

Loan services of Government officer to

233. Any panchayat may, subject to the rules made in this behalf, obtain the services of any officer of Government on loan.

No compensation payable for transfer of service

XIV of 1947. **234.** Notwithstanding anything contained in the Industrial Disputes Act, 1947, or any other law for the time being in force, the allocation of any officer or servant to the panchayat service under section 230, shall not entitle such officer or servant to any compensation under that Act or law and no claim for any such compensation shall be entertained by any Court, Tribunal, or Authority.

Gujarat Panchayat Service Selection Board, its constitution and functions.

235. (1) There shall be established a Gujarat Panchayat Service Selection Board consisting of five members including the Chairman.

(2) At least one of the members of the Board shall be a person who is a member of the State service or has retired from such service.

(3) Subject to sub-sections (1) and (2), the State Government shall appoint as members of the Board such persons as it may think fit and out of the persons so appointed, appoint one person as the Chairman of the Board.

(4) A member of the Board shall hold office for a term of six years from the date he enters upon his office or until he attains the age of sixty two years, whichever is earlier and shall be eligible for re-appointment to that office for a further term of six years only:

Provided that no person appointed as member shall continue to hold his office as such after he attains the age of sixty two years.

(5) The conditions of service (including pay and allowances) of the members of the Board shall be such as the State Government may, by order determine.

(6) It shall be the duty of the Board to select candidates for recruitment to such posts in the panchayat service, and to advise the panchayat in such matters as may be prescribed by rules.

(7) The Board shall perform such other functions as provided by or under this Act.

District Panchayat Service Selection Committee and District

236. (1) There shall be a District Panchayat Service Selection Committee in each district for selecting candidates for recruitment to such posts of the panchayat service and to advise the panchayats in such matters and to perform such other functions as may be prescribed.

(2) A District Panchayat Service Selection Committee shall consist of-

(a) one member of the Gujarat Panchayat Service Selection Board to be nominated by the Chairman of that Board,

(b) the President of the district panchayat of the district, and

(c) such officer of the panchayat service or State service as the State Government may nominate.

(3)(a) In Addition to the District Panchayat Service Selection Committee, the State Government may appoint in each district a District Primary Education Staff Selection Committee for the recruitment of primary teachers and such other staff in connection with primary education as may be prescribed.

(b) The constitution, powers and duties of such a committee shall be such as may be prescribed.

CHAPTER XIV
CONTROL

Power of Government to prepare State wise projects, etc. not affected.

237. Nothing in this Act shall affect the power of the State Government to prepare for the whole State the Five Year Plan or the project and programmes relating to the construction of roads, water supply, or any other matter or to undertake any project or programme concerning a district or more districts.

Panchayats to form part of State wise Panchayats Organisation and to perform function so as to carry out the

238. The village panchayats, taluka panchayats, and district panchayats, notwithstanding that they are separate bodies corporate having distinct territorial jursdiction and distinct functions to perform-

(1) shall form part of the panchayat organisation set up for the purpose of securing a greater measure of participation by the people of the State in local and governmental functions;

(2) shall perform the functions and duties assigned to them by or under this Act so as to conform to the State Five Year Plans and the National Five Year Plans and to the State policy in general and shall give effect to such general or special directions as the State Government may from time to time by order in writing issue in that behalf;

(3) shall carry their administration faithfully and efficiently.

Panchayat to invite designated officer or person to attend

239. (1) If in respect of any matter which is to be dealt with by a panchayat, the State Government so directs by a general or special order, it shall be the duty of the panchayat to invite such officer or person as may be designated by the State Government as an officer or person possessing technical knowledge and experience pertaining to such matter to attend the meeting of the panchayat or, as the case may be, of its committee whenever such matter is to be dealt with thereat.

(2) Where, upon such invitation, any such officer or person attends any meeting of the panchayat or, as the case may be, of its committee, he shall be entitled to take part in the discussion which may be held in respect of matter at the meeting but shall not be entitled to vote.

(3) Where any such officer or person attends any such meeting he shall be paid such allowances at such rates as may be perscribed.

Power of Government to issue directions.

240. Where the functions and duties assigned to village panchayats, taluka panchayats and district panchayats under the Panchayats Functions List relate to the same subject, then in order that the functions and duties may not overlap or that the responsibility for performing any such function or duty is not shifted by one panchayat to another on accoount of any ambiguity of misunderstanding, the State Government may, from time to time, by an order in writing, issue to all or any of the panchayats such directions, as it may think necessary for avoiding any such overlapping of functions, or shifting of the responsibility and the panchayats shall be bound to exercise their powers, and perform their functions and duties in conformity with such directions.

Necessity of administrative sanction, etc. to work of schemes, grant-in-aid and acquisition of property.

241. (1) Subject to the provisions of sub-section (2), no work or development scheme which a panchayat intends to undertake as part of its functions and duties under this Act shall be commenced unless a detailed estimate of trie cost of such work or development scheme has been approved by the panchayat and the plan thereof is approved by the prescribed authority.

(2) No such work or development scheme shall be commenced and no grant-in-aid shall be made by a panchayat from its fund unless previous sanction has been accorded thereto by such authority as may be prescribed by rules in that behalf.

(3) Subject to such exceptions as may be prescribed no property shall be acquired by a panchayat unless previous sanction has been accorded thereto by such authority as may be prescribed.

Appeals against order of village panchayat.

242. (1) Save as otherwise provided in this Act, an appeal shall lie to the district panchayat against any order or decision of a village panchayat or taluka panchayat affecting any individual or institution.

(2) Such appeal shall be made within a period of thirty days from the date of the order or decision.

(3) The district panchayat may pass such order on the appeal as it may deem just and proper and the order on appeal shall be final.

Appeal Committee to exercise appellate powers

243. (1) Notwithstanding anything contained in section 145, the appellate powers conferred on a district panchayat under [1][sections 104, 200 and 242] shall be exercisable by an Appeal Committee of the district panchayat, which shall consist of the President of the panchayat and four other members of the panchayats as may be chosen by the panchayat from amongst its members.

(2) The President of the panchayat shall be *ex-officio,* Chairman of the Appeal Committee.

(3) The term of the Appeal Committee shall be [2][two and a half years.]

(4) A member chosen on the Appeal committee may resign from membership of the Committee by tendering his resignation to the Chairman.

(5) The State Government shall make rules consistent with this Act to regulate the procedure that the Appeal Committee shall follow in exercising its appellate powers and such rules may provide for-

(a) the sitting of the members of the committee in benches constituted by the President or such other member of the committee as is authorised by him ; and

(b) the mode of settling differences of opinion which may arise between the members of a bench.

(6) The appellate powers as aforesaid shall include power to grant temporary injunction or to issue a direction to stay the execution of the decision or order appealed against until the disposal of the appeal or to make such other interlocutory orders as may appear to be just and convenient and such power may be exercised by the Chairman of the Appeal Committee.

(7) Any decision given by the Appeal Committee in the exercise of the powers conferred on it by this section shall be deemed to be the decision of the district panchayat.

To whom appeal may be addressed, etc.

244. An appeal to be made to a district panchayat shall be in writing and addressed to the District Development Officer. It may be sent to the District Developmment Officer by registered post or presented to him in person. Every such appeal shall be accompanied by the decision or order appealed against or by a certified copy thereof.

Power to call for proceedings

245. (1) The district panchayat shall have power—

(a) to call for any proceeding of any panchayat subordinate to it or an extract therefrom, any book or document in the possession of or under the control of any such subordinate panchayat and any return, statement, account or report which the district panchayat thinks fit to require such panchayat. to furnish, and

(b) to require any such subordinate panchayat to take into consideration—

(i) any objection which appears to the district panchayat to exist to the doing of anything which is about to be done or is being done by such subordinate panchayat, or

1. These words and figures were substituted for the words and figures "sections 104, 200 and 241" by Guj. 15 of 2015, s. 25 (i).

2. These words were substituted for the words "two years", *ibid.,* s. 25(ii).

(ii) any information which the district panchayat is able to furnish and which appears to the district panchayat to necessitate the doing of a certain thing by the subordinate panchayat, and to make a written reply to the district panchayat within a reasonable time stating its reasons for not desisting from doing or for not doing such things.

(2) An officer authorised by the State Government in this behalf by a general or special order shall, in respect of a district panchayat have the same powers as a district panchayat has under sub-section (1) in respect of a panchayat subordinate to it.

Powers of entry.

246. (1) The district panchayat may audiorise its President, Vice-President or Secretary to enter on and inspect, or cause to be entered on and inspected, at all reasonable times any immovable property occupied by any subordinate panchayat or any work in progress under its direction and also to enter or cause to be entered the office of such panchayat and inspect or cause to be inspected any record, register or other document kept therein and such panchayat shall comply with the inspection notes, if any, made by the person making such inspection.

(2) The taluka panchayat, if so empowered by the State Government may authorise its President, Vice-President or Secretary to enter on and inspect, or cause to be entered on and inspected, at all reasonable times any immovable property occupied by any subordinate panchayat or any work in progress under its direction and also to enter or cause to be entered the office of any such panchayat and inspect or cause to be inspected any record, register or other document kept therein and such panchayat shall comply with the inspection notes, if any, made by the person making such inspection.

Powers of Officer of State Government regarding inspection.

247. An officer authorised by the State Government in this behalf by general or special order may enter on and inspect or cause to be entered on and inspected, at all reasonable times any immovable property occupied by any panchayat or any work in progress under its direction and also enter the office of any panchayat and inspect any record, register or other documents kept therein and the panchayat shall comply with the, inspection notes, if any, made by such officer.

Reduction of establishment.

248. (1) If in the opinion of the district panchayat the number of persons maintained by a panchayat subordinate to it as officers or servants, or the remuneration given or proposed to be given by the panchayat to such persons is excessive, the panchayat shall, on being required by the district panchayat, reduce such number or remuneration.

(2) The panchayat may appeal to the State Government or an officer authorised by it in that behalf against any requisition made under sub-section (1), and the decision of the State Government or the officer so authorised shall be final.

Suspension of execution of order.

249. (1) If in the opinion of the Taluka Development Officer the execution of any order or resolution of a panchayat subordinate to the taluka panchayat or the doing of anything which is about to be done, or is being done by or on behalf of such panchayat, is unlawful, he may by order in writing suspend the execution or prohibit the doing thereof.

(2) When the Taluka Development Officer makes an order under sub-section (1), he shall forthwith send to the panchayat affected thereby a copy of the order, with statement of the reasons therefor.

(3) The Taluka Development Officer shall forthwith submit to the District Development Officer a report, of every case occuring under this section and the District Development Officer may revise of modify any order made therein and make in respect thereof any other order which the Taluka Development Officer could have made.

(4) The District Development Officer in respect of a taluka panchayat or a village panchayat shall have the same powers as Taluka Development Officer has in respect of a

village panchayat under sub-sections (1), (2) and(3) Subject to the modification that he shall submit a report under sub-section (3) to the State Government. The State Government may pass such order thereon as it may deem fit.

(5) An officer authorised by the State Government in this behalf by a general or special order, shall in respect of a district panchayat have the same powers as the District Development Officer has in respect of a taluka panchayat under this section.

(6) If in the opinion of the Collector the execution of any order or resolution of any panchayat or the doing or anything which is about to be done or is being done by or on behalf of such panchayat, is causing or is likely to cause injury or annoyance to the public or to lead to a breach of peace, the Collector may by order in writting suspend the execuiton or prohibit the doing thereof and shall forthwith—

(a) send to the panchayat affected thereby a copy of the order, with a statement of me reasons therefor; and

(b) submit to the State Government a report thereof.

Execution of work in case of emergency.

250. (1) In cases of emergency the Taluka Development Officer may provide for the execution of any work or the doing of any act which a panchayat subordinate to a taluka panchayat is empowered to execute or do, and the immediate execution or doing where of is, in his opinion, necessary for the health or safety of the public and may direct that the expense of executing the work or doing the act shall be forthwith paid by the panchayat.

(2) If the expense is not so paid, the Taluka Development Officer may direct the officer in charge of the treasury in which the fund of the panchayat is kept to pay such expense or so much thereof as is possible, from the balance of such fund in his hands and the Officer in charge of the treasury shall comply with such directions.

(3) The Taluka Development Officer shall forthwith report to the District Development Officer every case in which he exercises his powers under sub-section (1).

(4) The District Development Officer in respect of a Taluka panchayat or village panchayat shall have the same powers as Taluka Development Officer has in respect of a village panchayat under sub-sections (1), (2) and (3) subject to the modification that he shall submit a report under sub-section (3) to the State Government.

(5) An Officer authorized by the State Government in this behalf by a general or special order, shall in respect of a district panchayat, have the same powers as the District Development Officer has in respect of a taluka panchayat under this section.

Extension by panchayat of its services, etc. to area outside its limits.

251. (1) If for the purpose of taking immediate steps for protecting life and property in any area affected by an outbreak of fire or epidemic disease or any other natural calamity, the District Development Officer is satisfied that it is necessary to requisition any service, equipment or staff provided or maintained by any panchayat within the area for which it is constituted, such officer may by order in writing direct the panchayat to supply to the area so affected such service equipment and staff for such purpose and for such period as may be specified in the order and the panchayat shall be bound to comply with the direction.

(2) Where any direction is issued to a panchayat under sub-section (1), the panchayat shall, subject to the provisions of sub-section (3), be entitled to the cost of supplying the service equipment and staff in pursuance of the direction.

(3)(a) The sum payable to the panchayat under sub-section (2) by way of cost shall be determined by the officer making requisition under sub-section (1).

(b) if the area to which the service, equipment and staff are so supplied is within the local limits of any municipal corporation, municipality, or any other panchayat, such corporation, municipality, or panchayat as the case may be, shall be liable to pay to the

panchayat to which the order under sub-section (1) is directed. The sum determined under clause (a) and shall pay the same to the panchayat within such period as the officer determining the sum directs and in any other case, the sum determined under clause (a) shall be paid to the panchayat by the State Government.

(4) If any area not comprised within the local limits of a municipal corporation, municipality or panchayat, is affected by an outbreak of fire or epidemic disease or any other natural calamity and a panchayat is satisfied that for protecting life and property in that area, it is necessary to take immediate steps to make available any of its services, equipment and staff for that area, then notwithstanding anything contained in sub-sections (1), (2) or (3), and whether requisition under sub-section (1) has been made or not, it shall be lawful for the panchayat to do so free of cost.

Default in performance of duty.

252. (1) If at any time it appears to the district panchayat that any panchayat subordinate to it has made default in the performance of any duty imposed on it by or under this Act, it may order the duty to be performed within a specified period, and if the duty is

not performed within the period specified, the district panchayat may appoint a person to perform it, and direct that the expense of performance shall be paid by the defaulting panchayat within such period as the district panchayat may fix.

(2) If the expense is not so paid, the district panchayat may direct the person in custody of the fund of the panchayat to pay such expenses, or so much thereof as is possible from the balance of such fund in his hands, and such person shall pay such expense and part thereof accordingly.

(3) If at any time it appears to the State Government or any officer authorised by the State Government in this behalf, that a panchayat has made default in the performance of any duty and that the district panchayat has failed or neglected take action under sub-section (1), the State Government or the officer authorised, as the case may be, may take such action as could have been taken by the district panchayat under sub-sections (1) and (2).

(4) The district panchayat or the officer authorised, as the case may be, shall forthwith report to the State Government every case occuring under this section and the State Government may revise or modify any order made therein, and make in respect thereof, any other order which the district panchayat could have made.

(5) An officer authorised in this behalf by the State Government by a general or special order shall, in respect of district panchayat, have the same powers as the district panchayat has in respect of the panchayat subordinate to it under this section.

Dissolution or supersession of panchayats for default.

253. (1) If, in the opinion of the State Government, a panchayat exceeds or abuses its powers or is incompetent to perform or makes persistent default in the performance of the duties imposed on it or functions entrusted to it under any provision of this Act or by or under any other law for the time being in force, or fails to obey an order made under this Act by the panchayat superior thereto or by the State Government or any officer authorised by it, under this Act or persistently disobeys any of such orders, the State Government may, after consultation with the district panchayat in the case of a panchayat subordinate to it and after giving the panchayat an opportunity of rendering an explanation, by order in the *Official Gazette*-

(i) dissolve such panchayat, or

(ii) supersede such panchayat for the period specified in the order:

Provided that such period shall not be longer than six months or the residual period of duration of such panchayat whichever is less:

Provided further that the State Government may subject to, the preceding proviso from time to time after making such inquiry as it may consider necessary by an order published in the *Official Gazette,* extend the period of supersession of such panchayat until such date as may be specified in the order or by like order curtail the period of supersession.

(2) When a panchayat is dissolved or superseded, all members of the panchayat shall from the date specified in the order, vacate their office as such members.

(3) When the panchayat is dissolved or superseded, it shall be reconstituted, in the manner provided in this Act.

(4) If a panchayat is dissolved or superseded—

(a) all the powers and duties of the panchayat shall during the period of dissolution or supersession, as the case may be, exercised and performed by such person or persons as the State Government may from time to time appoint in that behalf, and

(b) all property vested in the panchayat shall during the period of dissolution or supersession, as the case may be, vest in the State Government; and

(c) on the dissolution, or, as the case may be, on the expiry of the period of supersession, the panchayat shall be reconstituted in the manner provided in this Act, and the persons vacating office shall be eligible for re-election.

Consequences

254. (1) When by a notification under clause (g) of article 243 of the Constitution, the

limits of a village is altered so as to—

of alteration of limits of village.

(a) Include any area therein, or

(b) exclude any area there from,

the State Government may, notwithstanding anything contained in this Act or any other law for the time being in force, by order published in the *Official Gazette,* provide for all or any of the following matters, namely:-

(i) in a case falling under clause (a), the increase in the number of the members of the village panchayat by election of additional members,

(ii) in a case falling under clause (b), the removal of the members of the village panchayat, who in the opinion of the State Government represent the area excluded from the village:

Provided that where the area so excluded had been included in any other village, the members so removed shall be additional members of the panchayat of such village,

(iii) the term of additional members and the manner of filling casual vacancies;

(iv) allocation of any officer or servant of the panchayat affected by the alteration of the limits.

(2) The panchayat, if any, constituted for the village and functioning immediately before the alteration of the limits shall, subject to the addition or exclusion of members under sub-section (1), continue to function until the expiry of its duration under this Act and on such expiry it shall be reconstituted in the manner provided in this Act.

(3) If in altering the limit of any village, the area excluded there from is included in any other village, then-

(a) such portion of the village fund, debts obligations and other property of the village from which the area is so excluded shall be transferred to and shall vest in, the panchayat of the village in which the area is the excluded as the State Government may by order in writing direct;

(b) the rights and liabilities of the panchayat in respect of any contracts, agreements and other matters and things, arising in or relating to the area so excluded shall vest in the panchayat of the village in which the area is so included;

(c) any notice, Tax fee, cess, order, licence, permission, rule or bye-law issued, imposed, granted or made in respect of the area so excluded shall be deemed to have been issued, imposed, granted or made in respect of the panchayat in which the area is so included and shall continue in force until it is superseded under the provisions of the law applicable thereto;

(d) all proceedings relating to the area excluded from the village and pending before the panchayat on the date of such exclusion shall be transferred to and disposed off by the panchayat of the village in which the area is included.

Effect of area being excluded from village.

255. Where by a notification under clause (g) of article 243 of the Constitution, any local area forming part of village is excluded from such village and such area is not included in or declared to be village so much of the village fund and other property vesting in the panchayat of the village of which such area formed part, as the State Government by order in writing direct, shall vest in the State Government to be utilized for the benefit of the area as the State Government may think fit.

Effect of area ceasing to be village

256. On any area ceasing to be a village by virtue of any notification under clause (g) of article 243 of the Constitution,

(a) the panchayat shall be dissolved and all members of the panchayat shall vacate office as from the date of the notifications;

(b) the unexpended balance of the fund of the panchayat and the property (including arrears of rates, taxes and fees) vesting in the panchayat shall vest in the State Government to be utilised for the benefit of the inhabitants of the areas as the State Government thinks fit.

Power of State

257. (1) Where in respect of a panchayat which is to be reconstituted on account of

Government to appoint officer when elections not held for reconstitutions panchayat.

the expiry of its duration, the State Government is satisfied that, it is not possible to hold elections before the expiry of duration for reconsituting the panchayat, on account of any natural calamity, then, notwithstanding anything contained in this Act or rules made there under, the State Government may by notification in the *Official Gazette,* make a declaration to that effect.

[1][* * * *]

(3) On the issue of the notification under sub-section (1), all the powers and duties of the panchayat shall be exercised and performed for the period, during which the notification remains in force by such officer as the State Government may by order in writing specify.

Inquiry by officers of panchayat.

258. (1) The State Government may from time to time cause inquiry to be made by way of its officers in regard to any panchayat or matters concerning it or to any matters with respect to which the sanction, approval, consent or order of the State Government is required by this Act.

(2) The Officer holding such inquiry shall have the powers of a court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the inquiry. **V of 1908.**

(3) The State Government may make orders as to the cost of inquiries under sub-section (1) and as to the parties by whom and the funds out of which they shall be paid and any such order may, on the direction of the State Government or the application of any person named therein, be executed as if it were a decree of a civil court.

State Government may call for proceedings.

259. The State Government may call for and examine the record of proceeding of any panchayat or of any committee thereof or of any officer for the purpose of satisfying itself as to the legality or propreity of any order passed and may revise or modify the order as it shall deem just.

1. Sub-Section (2) was deleted by Guj. 6 of 2001, s.2.

CHAPTER XV

PROVISIONS FOR CONVERSION OF A NAGAR PANCHAYAT INTO A VILLAGE PANCHAYAT AND FOR AMALGA-MATION AND DIVISION OF PANCHAYATS.

260. For the purpose of this Chapter, unless the context otherwise requires— **Interpretation.**

(a) "municipal borough" means a municipal borough within the meaning of the Gujarat Municipalities Act, 1963; **Guj. 34 of 1964.**

(b) "nagar panchayat" means a nagar panchayat constituted for a municipal borough and includes a person or persons authorised to exercise the powers and perform the functions of a municipality under section 263 of the Gujarat Municipalities Act, 1963 (hereinafter referred to as "The Municipal Act"); **Guj. 34 of 1964.**

(c) "panchayat" includes a person or persons appointed to exercise the powers and to perform the functions of a panchayat under section 253.

261. (1) Where any local area is declared to be a village under clause (g) of article 243 of the Constitution and, immediately before such declaration, the local area was co-extensive with the limits of a municipal borough or included an area comprising a municipal borough as well as any other area, then with effect from the date on which such local area is so declared to be a village (in this section referred to as "the said date"), the consequences shall, notwithstanding anything in the Municipal Act, ensue, that is to say— **Effect of conversion of nagar panchayat into village**

(a) the nagar panchayat functioning in such local area or part thereof shall cease to exist;

(b) there shall, notwithstanding anything contained in any law for the time being in force be constituted for the village an interim village panchayat consisting of persons vacating office as members of the nagar panchayat or members of the committee thereof and the President and Vice-President of the nagar panchayat shall respectively, be deemed to be the Sarpanch and Upa-Sarpanch of the interim village panchayat:

Provided that if immediately before the nagar panchayat so ceasing to exist, there be a person or persons appointed under section 263 of the Municipal Act to exercise the powers and perform the duties of the nagar panchayat, there shall be an interim village panchayat for the local area and the person or persons so appointed shall be deemed to be a person or persons appointed under clause (a) of sub-section (4) of section 253 to exercise all the powers and perform all the duties of such interim village panchayat;

(c) the unexpended balance of the nagar fund and property including arrears of rates, taxes and fees belonging to the nagar panchayat, and all rights and powers, which prior to such notification, vested in the nagar panchayat shall, subject to all charges and liabilities affecting the same vest in the interim village panchayat as the village fund until the new panchayat is constituted under the provisions of this Act;

(d) any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, bye-law, or form made, issued, imposed or granted under the Municipal Act immediately before the said date in respect of such local area shall continue to be in force and be deemed to have been made, issued, imposed or granted in respect of the village until it is superseded or modified by any other appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, bye-law or form made, issued, imposed or granted under this Act;

(e) all budget estimates, assessments, assessment lists, valuations of measurements made of authenticated under the Municipal Act immediately before the said date in respect of such local area shall be deemed to have been made or authenticated under this Act;

(f) all debts and obligations incurred and all contracts made by or on behalf of the nagar panchayat immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the interim village panchayat in exercise of the powers conferred on it by or under this Act;

(g) all officers and servants in the employ of the nagar panchayat immediately before the said date shall be officers and servants of the interim village panchayat under this Act and shall, until other provision is made in accordance with the provisions of this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date:

Provided that it shall be competent to the interim village panchayat subject however to the previous sanction of the State Government, to discontinue the services of any officer or servant who, in its opinion, is not necessary or suitable to the requirements of the service of the interim village panchayat, after giving such officer or servant such notice as is required to be given by the terms of his employment and every officer or servant whose services are discontinued shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalided out of service as if the nagar panchayat in the employ of which he was, had not ceased to exist;

(h) all proceedings pending at the said date before the nagar panchayat shall be deemed to be transferred to, and continued by, the interim village panchayat;

(i) all appeals pending at the said date before the nagar panchayat shall, so far as may be practicable, be disposed of as if such local area had been included in the village when they were filed;

(j) all prosecutions instituted by or on behalf of the nagar panchayat and all suits or other legal proceedings institued by or against such nagar panchayat or any officer of such nagar panchayat pending at the said date shall be continued by or against the interim village panchayat as if such local area had been included in the village when such prosecutions, suits or proceedings were instituted;

(k) any law (other than the Municipal Act) of any rule, bye-law, notification or order issued under such law, which was applicable to and in force in the local area immediately

before it was declared as a village under clause (g) of article 243 of the Constitution, shall continue to apply to and to be in force in the local area until it is superseded.

(2) The duration of the interim village panchayat shall be the same as that of the nagar panchayat had it continued to exist or till elections are held for reconstituting the interim village panchayat alongwith other village panchayats whichever is earlier.

(3) All arrears of rates, taxes and fees vesting in the interim village panchayat shall be recoverable under the provisions of this Act as if the rates, taxes and fees were imposed and recoverable under this Act.

(4) In other respects the provisions of this Act shall, *mutatis mutandis,* apply to the interim village panchayat and its members.

(5) If any difficulty arises,-

(i) in the constitution of the interim village panchayat which succeeds it, or (ii) in giving effect to the provisions of this section,

the State Government may by order, as occasion may require, do notwithstanding anything contained in this Act or in the Municipal Act, anything which appears to it to be necessary to remove the difficulty.

1993 : Guj. 18] *Gujarat Panchayats Act, 1993.* *99*

Effect of amalgamation of

262. (1) When two or more villages cease to be villages and the local areas constituting such villages are amalgamated and declared-to be one village (hereinafter in this section referred to as "as amalgamated village") by virtue of a notification under clause (g) of article 243 of the Constitution, with effect from the date on which such notification is issued (hereinafter in this section referred to as "the said date") the following consequences shall ensue, that is to say-

(a) the panchayats of such local areas shall cease to exist and all the members of such panchayats shall vacate office;

(b) all powers and duties of such panchayats shall be exercised and performed by such person or persons (hereinafter referred to as the administrator or administrators") as the State Government appoints in this behalf;

(c) the unexpended balance of the village funds and all the properties including arears of rates, taxes and fees belonging to such panchayats and all rights and powers which prior to the said date, vested in such panchayats shall, Subject to all charges and liabilities affecting the same, vest as the village fund—

(i) in the administrator or administrators until the panchayat for the amalgamated village is constituted and holds its first meeting under sub-section (1) of section 51, and

(ii) thereafter, the amalgamated panchayat;

(d) the unexpended balance of the village funds and all the properties (included arears of rates, taxes and fees) shall until amalgamated panchayat is constituted and holds its first meeting, be utilised for the benefit of the inhabitants of such local areas in such manner as the administrator or administrators may think fit;

(e) any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, bye-law or form made, issued, imposed or granted in respect of such local areas and in force on the said date shall continue in force and be deemed to have been made, issued, imposed or granted in respect of the amalgamated village until it is superseded or, modified by any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule,bye-law or form made, imposed or granted under this Act;

(f) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated by such panchayats immediately before the said date shall be deemed to have been made or authenticated in respect of the amalgamated village under this Act;

(g) all debts and obligations incurred and all contracts made by or on behalf of such panchayats immediately before the said date and subsisting on the said date shall be deemed to have been incurred and made by the amalgamated panchayat in exercise of the powers conferred on it by this Act;

(h) all officers and servants in the employ of such panchayats immediately before the said date shall be officers and servants of the amalgamated panchayat and shall until other provision is made in accordance with this Act, receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on such date:

Provided that it shall be competent to the administrator or administrators or the amalgamated panchayat, subject however, to the previous sanction of the State Government, to discontinue the services of any officer or servant who, in his, their or its opinion, is not necessary or suitable to the requirements of the service of the amalgamated panchayat, after giving such officer or servant such notice as is required to be given by the terms of his

employment and every officer or servant whose services are discontinued, shall be entitled to such leave, pension, provident fund and gratuity, as he would have been entitled to take or receive on being invalided out of service, as if the panchayat in the employ of which he was, had not ceased to exist;

(i) all proceedings pending at the said date before such panchayats shall be deemed to be transferred to, and continued by, the administrator or administrators or the amalgamated panchayat, as the case may be;

(j) all appeals pending before such panchayats at the said date shall so far as may be practicable, be disposed of by the administrator or administrators of the amalgamated panchayat, as the case may be;

(k) all prosecutions instituted by or on behalf of such panchayats and all suits or other legal proceedings instituted by or against such panchayats, or any officer of such panchayats pending at the said date shall be continued by or against the amalgamated panchayat.

[1][(2) Within four months of the said date, a panchayat for amalgamated village shall be constituted in accordance with the provisions of this Act and such constituted panchayat, unless sooner dissolved under this Act, shall continue for five years from the date appointed for its first meeting and no longer.]

Effect of division of village.

263. (1) Where by virtue of a notification issued under clause (g) of article 243 of Constitution any village ceases to be a village is split up into two or more villages with effect from the date on which the village is so split up (hereinafter referred to as "the said date"), the following consequences shall ensue, that is to say—

(a) the panchayat constituted in respect of such local area shall stand dissolved and all the members of the panchayat shall vacate office;

(b) until for the respective new village, a village panchayat is constituted, the State Government shall appoint an administrator or administrators, to exercise the powers and perform the functions of the respective panchayat of the new village;

(c) the unexpended balance of the village fund and all properties, including arrears of rates, taxes and fees belonging to the dissolved panchayat shall subject to all charges and liabilities affecting the same, vest in such proportion and in such manner as the State Government may direct in the respective panchayat of the new village:

Provided that until the respective panchayat for new village is constituted and it holds its first meeting under sub-section (1) of section 51, the unexpended balance of the fund and other properties vesting in the panchayat shall be held by the administrator of new village and shall be utilised by him for the benefit of the inhabitants of the new village in such manner as he may think fit,

(d) any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, bye-law or form made, issued, imposed or granted in respect of the area within the jurisdiction of the dissolved panchayat and in force on the said date shall continue

in force and be deemed to have been made, issued imposed or granted in respect of the new village formed out of the said area until it is superseded or, modified by any appointment, notification, notice, tax, fee, cess, order, scheme, licence, permission, rule, bye-law or form made, issued, imposed or granted under the law applicable thereto;

(e) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated by the dissolved panchayat immediately before the said date shall in so far as they relate to the new village be, deemed to have been made or authenticated in respect of the new village;

1. Sub-section (2) was substituted by Guj. 4 of 2017, s. 2.

(f) all debts and obligation incurred and all contracts made by or on behalf of the dissolved panchayat immediately before the said date and subsisting on the said date shall in, so far as they relate to the village formed in the area within the jurisdiction of the dissolved panchayat be the debts and obligations incurred by and the contracts made by the panchayat of the new village;

(g) all officers and servants in the employ of the dissolved panchayat immediately before the said date shall be allocated to the panchayat of the new village by the State Government in such manner as it may direct and until other provision is made in accordance with this Act, they shall receive salaries and allowances and be subject to the conditions of service to which they were entitled or subject on the said date;

(h) all proceedings (including appeals) pending at the said date before the dissolved panchayat shall be deemed to be transferred to and continued by the panchayat of new village before which they would have been instituted, had the new village been formed when the proceedings were instituted:

Provided that until the panchayat for the new village is constituted, the administrator appointed for the new village may deal with such proceedings and dispose them off;

(i) all prosecutions instituted by or on behalf of and all suits or other legal proceedings instituted by or against the dissolved panchayat or any officer thereof and pending at the said date shall be continued by, or against the panchayat of the new village, by, on behalf of or against which they would have been instituted, had the new village been formed when the prosecutions, suits or legal proceedings were instituted and until such panchayat is constituted, shall be continued by or against the administrator appointed for new village.

[1][(2) Within four months of the said date, a panchayat for the respective new village shall be constituted in accordance with the provisions of this Act and such constituted panchayat, unless sooner dissolved under this Act, shall continue for five years from the date appointed for its first meeting and no longer.]

264. (1) When, on account of the constitution of a new district or taluka under the Land Revenue Code, or for any other reason, the limits of a district, or as the case may be, a taluka are, during the term of office of the members of the district panchayat or, as the case may be, the taluka panchayat, altered so as to— **Consequences of alteration of limits of district or taluka.**

(a) include any area therein, or

(b) excluded any area therefrom,

the State Government may, notwithstanding anything contained in this Act or any other law for the time being in force, by order published in the *Official Gazette,* provide for all or any of the following matters, namely:—

(i) in a case falling under clause (a), the interim increase in the number of members of the district panchayat or, as the case may be, the taluka panchayat, and the appointment of such additional members from amongst the members of panchayat who are elected from the area so included;

(ii) in a case falling under clause (b), the interim reduction in the number of members of the district panchayat, or, as the case may be, the taluka panchayat and the termination of office of the elected members of the district panchayat or, as the case may be, taluka panchayat who are elected as such members from the area so excluded;

1. Sub-section (2) was substituted by Guj. 4 of 2017, s. 3.

(iii) the term for which additional members so appointed shall hold office and the manner of filling casual vacancies of such members;

(iv) allocation of any officer or servant of the panchayat affected by the alteration of limits;

(v) the removal of any difficulty which may arise on account of any change referred to in clause (a) or clause (b).

(2) The district panchayat or the taluka panchayat, if any, functioning immediately before the alteration of the limits shall, subject to the addition or exclusion of member under sub-section (1), continue to function until the expiry of its duration under this Act and on such expiry it shall be reconstituted in the manner provided in this Act.

(3) If in consequence of the alteration of the limits of any district or taluka, the area excluded therefrom is included in any other district or taluka, then—

(a) such portion of the district or taluka fund, and other property of the district or taluka panchayat of the district or taluka from which the area is so excluded shall vest in, and be transferred to the district panchayat, or as the case may be, the taluka panchayat of the district, or as the case may be, the taluka in which such area is included, as the State Government may, by order in writing, direct;

(b) the rights, assests and liabilities of the district or taluka panchayat of the district or taluka from which the area is so excluded in respect of any contracts, agreements and other matters and things, arising in or relating to the area so excluded, shall vest in, and be transferred to, the district or taluka panchayat of the district or taluka in which the area is included;

(c) any notification, notice, tax, fee, cess, rule, bye-law, order, licence or permission issued, imposed, made or granted by the district or taluka panchayat in respect of the area so excluded shall be deemed to have been issued, imposed, made or granted by the district or taluka panchayat of the district or taluka in which the area is so included and shall continue in force until it is superseded in accordance with law;

(d) all proceedings relating to the area excluded from the district or taluka and pending before the panchayat on the date of such exclusion shall be transferred to and disposed of by the district or taluka panchayat of the district or taluka in which the area is included.

CHAPTER XVI

MISCELLANEOUS PROVISION

Joint Committees of two or more local

265. (1) A panchayat may, from time to time, concur with any other panchayat or with any local body or with more than one such local body-

(a) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee;

(b) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

(2) A panchayat may subject to the sanction of the State Government, from time to time, enter into an agreement with any other panchayat, local body or with a combination of

any such bodies, for the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

(3) Where a panchayat has requested the concurrence of any other local body under the provisions of sub-section (1) or (2) in respect of any matter and such other local body has refused to concur, the State Government may pass such orders as it may deem fit requiring the concurrence of such other local body (not being a cantonment authority) in the matter aforesaid, and such other local body shall comply with such orders.

(4) If any difference of opinion arises between local bodies acting under this section, the decision thereon of the State Government, or of such officer as it appoints in this behalf, shall be final:

Provided that where one of the local bodies is a cantonment authority, the decision of the State Government, or of the officer, shall be subject to the concurrence of the Central Government.

Constitution of State Council for panchayats, its functions,

266. (1) There shall be a State Council for panchayats consisting of the following members, namely:-

(A) Chairman :-

(i) Minister in charge of the Department dealing with Panchayats Organization of the State;

(B) Vice-Chairman :-

(ii) The Minister of State dealing with the Panchayats Organization of the State or if there is no such Minister of State, the Deputy Minister dealing with such Organization, or in the absence of both such Ministers, the Parliamentary Secretary dealing with such Organization:

Provided that where there is no person holding any of such offices, the Vice-Chairman shall be elected by the Council from amongst its members;

(C) Members:-

(iii) Presidents of the district panchayats;

(iv) Seven members to be nominated by the State Government from amongst persons taking interest in the development of panchayats. Out of these one shall be a woman and one shall be a person from Scheduled Castes and one shall be a person from amongst the Scheduled Tribes if none of the members falling under clause (iii) is a person belonging to a Scheduled Tribe;

(v) three Officers to be nominated by the State Government;

(vi) three members to be elected by the members of the Gujarat Legislative Assembly from amongst themselves.

(2) Such officer as the State Government may appoint in this behalf shall act as a Secretary to the Council.

(3) The functions of the Council so constituted shall be as under:-

(a) to advise the State Government on all general questions pertaining to panchayats;

(b) to advise the State Government in respect of a scheme for the training of Secretaries and other servants of panchayats;

(c) to review the administration of panchayats and to suggest ways of co¬ordinating the activities of panchayats in the State;

(d) to suggest ways and means to remove the difficulties experienced by the panchayts in the State in their administration;

(e) to make *sue moto* recommendations to the State Government in regard to any matter relating to the administration of the panchayats;

(f) to report to the State Government on such matters as may be referred to it by the State Government for its opinion.

(4) The State Government may by general or special order provide for-

(a) the calling of the meetings of the council and the procedure of meeting;

(b) duties of the Secretary for the Council;

(c) sub-committees of the Council;

(d) the term of office of nominated members of the Council, travelling allowance and daily allowance to the members of the Council and the rate thereof.

(5) The term of office of the member elected by the Members of the Gujarat Legislative Assembly shall expire on the expiry of his term as the member of the Gujarat Legislative Assembly or if he otherwise ceases to be such member.

(6) Any elected or nominated member of the Council may resign from the membership by tendering his resignation in writing to the Chairman and the resignation shall take effect from the date on which it is accepted by the Chairman who shall give intimation of the vacancy—

(a) to the State Government in the case of the resignation of a nominated member, and

(b) to the Secretary to the Gujarat Legislative Assembly in the case of the resignation of a member elected by that Assembly.

Liabilities of members for loss, waste or misapplication.

267. (1) Every member of a panchayat or its Committee shall be personally liable for the loss, waste or misapplication of any money or other property of panchayat to which he has been party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member.

(2) If after giving the member concerned a reasonable opportunity for showing cause to the contrary, an officer authorised by the State Government is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross negligence on his parts the officer so authorised shall by an order in writing, direct such member to pay to the panchayat before a fixed date, the amount required to be reimbursed to it for such loss, waste or misapplication.

(3) If the amount is not so paid, it shall be recovered as an arrear land reveue and credited to the fund of the relevant panchayat.

(4) Any person aggrieved by the decision or action of the officer so authorised may apply to the District Court as provided in sub-section (6) of section 121, within the like time for redress of his grievance and that court may pass any order thereon which it can pass under that sub-section.

Power of authorised officer to recover record and money.

268. (1) Where, the officer authorised in this behalf by the State Government is of the opinion that any person, who in his capacity as a member, officer, servant, or secretary of a panchayat had, in his custody any record, money or other property belonging to the panchayat is after his retirement, removal or suspension from office, as the case may be, not likely to deliver such record or property or pay such money, the officer so authorised may, by a written order, require that the record, property or money so detained be delivered or paid to the panchayat forthwith.

(2) If any such person as aforesaid shall not deliver the record or property or pay the money as directed, the officer so authorised may cause him to be apprehended may send him with a warrant in such form as may be prescribed to be confined in a civil jail till he delivers the record or property or pays the money:

Provided that no such person shall be so detained in confinement for a period longer than one calender month.

(3) It shall be lawful for the officer so authorised-

(a) for recovering any such money to direct that such money be recovered as an arrear of land revenue and on such direction being given, such money shall be recoverable as an arrear of land revenue from such person;

(b) for recovering any such record or property to issue a search warrant and to exercise all such powers with respect thereto as may lawfully be exercised by a Magistrate

2 of 1974. under the provisions of Chapter 7 of the Code of Criminal Procedure, 1973.

(4) No action under sub-section (1), (2) or (3) shall be taken unless reasonable opportunity has been given to the person concerned to show cause why such action should not be taken against him.

Explanation :- In the section the word "member" includes a Sarpanch, Upa-Sarpanch, President and Vice-President of a panchayat.

Liability to pay rent for unauthorised occupation or possession of property of panchayat.

269. (1) Whoever not being duly authorised in that behalf occupies or is in possession of any property vesting in, or under the control of, a panchayat shall without prejudice to any other action which may be taken under this Act, be liable to pay in to the panchayat a sum upto four times the amount of rent which would have been payable to the panchayat for the period of such occupation or possession, had the property been let by the

(2) The sum so payable shall be deternined by the panchayat in the prescribed manner and thereafter the sum shall become due to the panchayat and the provisions of Chapter X shall *mutatis mutandis* apply to the recovery thereof.

Bar of action against panchayat, etc. and previous

270. (l) No action shall be brought against any panchayat or any member, officer, servant or agent of a panchayat or any member of a committee of a panchayat acting under its direction, in respect of anything in good faith done under this Act or under any rule or bye-law made thereunder.

(2) No action shall be brought against any panchayat or any member, officer, servant or agent of such panchayat or any member of a committee of a panchayat acting under its direction for anything done or purporting to have been done by or under this Act, until the expiration of one month next after notice in writing has been left or delivered at the office of the panchayat, and also at the residence of the member officer, servant or agent thereof against whom the action is intended to be brought; the notice shall state the cause of action, the nature of the relief sought; the amount of compensation claimed and the name and place of abode of the person who intends to bring the action.

(3) Every such action shall be commenced within six months after the accrual of the cause of action, and not afterwards.

(4) If any panchayat or person to whom the notice under sub-section (2) is given shall, before an action is brought, tender sufficient amount to the plaintiff, and pay into Court the amount so tendered, the plaintiff shall not recover more than the amount so tendered; the plaintiff shall also pay all costs incurred by the defendent after such tender.

Delegation of powers.

271. (1) The State Government may, by notification in the *Official Gazette,* authorise officer of Government to exercise any of the powers exercisable by the State Government under this Act except the power to make rules.

(2) Subject to the general or special orders which the State Government may issue from time to time-

(i) a district panchayat may delegate to a District Development Officer,

(ii) a taluka panchayat may delegate to a Taluka Development Officer, and

(iii) a competent authority may delegate to any officer subordinate to it, any powers exercisable by it under this Act.

Members, etc. of panchayats, and servants, etc. to be public servants.

272. Every member of a panchayat or of its committee, and every officer and servant maintained by or employed under panchayat, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. **45 of 1860.**

Previous sanction for prosecution against Sarpanch, Chairman, President, etc.

273. When any person who is or had been a Sarpahch, Upa-Sarpanch, President or Vice-President of a panchayat or a Chairman of the Education Committee of district is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of the State government or any officer authorized by the State Government in this behalf.

Government to make rules.

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

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made—

(a) for the whole or any part of the State of Gujarat and for all or any panchayat,

(b) to provide for all matters expressly required or allowed by this Act to be presribed by rules, and

(c) to provide that a contravention of any rule prescribing the duties and obligations of any person liable to pay any tax or fee made under sub-section (2) of section 200 or sub-section (1) of section 212 shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing contravention with fine which may extend to twenty five rupees for every day during which the contravention continues after conviction for the first contravention.

(3) Such rules may also provide for the levy of fees for the inspection or search of any document issued under this Act or of any record maintained under or for the purposes of this Act and for giving copies of or extracts from such document or record and the scale of such fees.

(4) The power to make rules in respect of matters required to be determined by rules under sub-section (4) of section 65 and sub-section (5) of section 79, and sections 125 and 148 may be exercised either prospectively or retrospectively.

[1][(5) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication:

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

Provided further that such previous publication of the rules shall not be necessary where the rules provide for any of the matters specified in Chapter XIII.]

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

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

Bye-laws.

275. (1) A district panchayat may, with the previous sanction of the State Government, make bye-laws for a village panchayat generally for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, the district panchayat may make bye-laws:—

1. Sub-Section (5) was substituted by Guj. 22 of 2015, s.10.

(i) for the purification and protection from pollution of all sources of water used for drinking purposes and the regulation of water supply;

(ii) for the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source, where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in or covering over to such tank, or well, or by any other method which may be considered advisable;

(iii) for the prohibition of the deposit or storage of manure, refuse, or other offensive matter in a manner or in places prejudicial to the public health, comfort or convenience;

(iv) for the regulation of offensive callings or trades;

(v) for the disposal of corpse by burning or burial;

(vi) for the excavation of earth and the filling up of excavations and depressions injurious to the health or offensive to the neighbourhood;

(vii) for the removal of noxious vegetation;

(viii) for the repair and removal of dangerous or runious buildings;

(ix) for the prevention of the erection of buildings without adequate provisions for ventilation or the laying out and location of streets;

(x) for the control of fairs and bazars and the regulation of markets, slaughter houses and cart stands;

(xi) for the inspection and destruction of unfit food and drink exposed for sale;

(xii) for the general regulation of sanitation and conservancy and the disposal of carcasses of dead animals;

(xiii) for the temporary erection on, or projection over, or temporary occupation or, any public street or place;

(xiv) for the regulation of any matter specified in Schedule I by the issue of licences or permits or in any other manner.

(3) Any bye-laws made under this section may provide for the levy of fees in respect of any matter provided for in the bye-law.

(4) Any bye-law made under this section may provide that a contravention thereof shall be punishable—

(a) with a fine which may extend to two hundred rupees;

(b) in the case of a continuing contravention with a fine, which may extend to twenty five rupees per day after conviction for the first contravention during the period within which such contravention continues.

Repeal and savings.

276. (1) In this section unless the context otherwise requires-

(a) "appointed day" means such date as the State Government may, by notification

(b) "an existing panchayat" means a gram panchayat, taluka panchayat or district panchayat existing immediately before the appointed day, and where any such panchayat has been superseded or dissovled includes the person or persons appointed to exercise the powers or to perform the functions of such panchayats;

(c) "the successor panchayat" means a village panchayat, taluka panchayat or district panchayat constituted under this Act for such local area as corresponds to the respective local area of the existing gram panchayat, taluka panchayat or district panchayat.

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(2) With effect on, and from the appointed day the Gujarat Panchayats Act, 1961 shall stand repealed and the following consequences shall ensue, that is to say—

(a) all property, movable and immovable, and all interests of whatsoever and kind therein, which vested in an existing panchayat, immediately before the appointed day, shall be deemed to be transferred to, and shall vest in the successor panchayat, subject to all limitations, conditions and rights or interests of any person, body or authority in force or subsisting immediately before the appointed day;

(b) all rights, liabilities and obligations of an existing panchayat, (including those arising under any agreement or contract) shall be deemed to be the rights, liabilities and obligations of the successor panchayat;

(c) any functions relating to recovery of land revenue and cesses under the Land Revenue Code and law relating, to collection of cesses ; any functions of district school boards; any functions under the Gujarat Co-operative Societies Act, 1961 and any functions of the State Government under any enactment or any other function of the State Government, transferred to an existing panchayat under the repealed Act shall be deemed to have been transferred to the successor panchayat under this Act;

Guj. 10 of 1962.

(d) all sums due to an existing panchayat, whether on account of any tax or otherwise, shall be recoverable by the successor panchayat and for the purposes of such recovery the successor panchayat, shall be competent to take any measure or institute any proceedings which it would have been open to an existing panchayat, or any authority thereof to take or institute before the appointed day;

(e) the unexpended balance in the Gram Fund, Taluka Fund, District Fund or, as the case may be, District Family Welfare Fund constituted under the Repealed Act and all sums due to an existing panchayat and such sums of any other body or bodies as the State Government may direct shall form part of, and be paid into, the respective village fund, taluka fund, district fund or, as the case may be, District Family Welfare Fund of the successor panchayat constituted under this Act;

(f) the unexpended balance in the State Equalisation Fund, District Equalisation Fund, District Gram Encouragement Fund and District Development Fund established under the repealed Act shall form part of and paid into corresponding fund established under this Act;

(g) all contracts made with, and all instruments executed by or on behalf of an existing panchayat shall be deemed to have been made, with, or executed by or on behalf of the successor panchayat, and shall have effect accordingly;

(h) all proceedings and matters pending before the existing panchayat or any authority of an existing panchayat, under the Repealed Act immediately before the appointed day, shall be deemed to have been instituted and to be pending before the successor panchayat or such authority as the successor panchayat may direct;

(i) in all suits and legal proceedings pending on the appointed day in or to which an existing panchayat, is a partly, the successor panchayat, shall be deemed to be substituted thereof;

(j) any appointment, notification, notice, tax, fee, order, scheme, licence, permission, rule, bye-law, regulation or form made, issued, imposed or granted in respect of the local area of an existing panchayat under the Repealed Act and in force immediately before the appointed day, shall, in so far as it is not inconsistent with the provisions of this Act, continue to be in force as if made, issued, imposed or granted in respect of the corresponding local area of the successor panchayat under this Act untill superseded or modified by any appointment, notification, notice, tax, fee, order, scheme, licence, permission, rule, bye-law, regulation or form made, issued, imposed or granted under this Act;

(k) all budget estimates, assessments, assessment lists, valuations or measurements made or authenticated by or in respect of an existing panchayat under the Repealed Act and in force immediately before the appointed day shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been made or authenticated by the successor panchayat;

(l) all officers and servants in the employment of an existing panchayat immediately before the appointed day, shall, subject to the provisions of this Act be deemed to be transferred to the service of the successor panchayat;

(m) any reference in any law or in any instrument to the provision of the Repealed Act, or any authority constituted elected or appointed thereunder shall, unless a different intention appears, be construed as reference to the corresponding provisions of this Act, or as the case may be, to the corresponding authority constituted, elected or appointed under this Act.

Power of State Government

277. (1) For the purpose of bringing the provisions of any law in force in the territory of this state into accord with me provisions of this Act, the State Government may by order published in the *Official Gazette* make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order have effect subject to adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.

(2) Nothing in sub-section (1) shall be deemed—

(a) to empower the State Government to make any adaptation or modification of any law after the expiration of four years from the commencement of this section, or

(b) to prevent the State Legislature or other competent authority from repealing or amending any law adapted or modified by the State Government under this section.

Explanation :—The expression "law in force" in this section, shall include a law passed or made by the State Legislature or other competent authority in State before the commencement of this section and not previously repealed, notwithstanding that it or parts of it may not be then in operation either in all, or any particular areas in the State.

Removal of difficulties.

278. If any difficulty arises in giving effect to the provisions of this Act or any the State Government may, as occasion requires, by order do anything which appears to it to be necessary for the purpose of removing the difficulty.

Application of Act to Scheduled Areas of

[1][**278 A.** This Act shall apply to the Scheduled Areas of the State as referred to in clause (1) of article 244 of the Constitution of India, subject to the modifications specified in Schedule IV.

Amendment of certain Acts in their application to Scheduled Areas of State.

278AA. The enactments specified in Schedule V shall, in their application to the Areas of the State as referred to in clause (1) of article 244 of the Constitution of India, be amended to the extent specified in column 3 of the said Schedule.]

Guj. 6 of 1962.

Transitional Provision.

279. Where the term of a panchayat constituted under the Gujarat panchayats Act, 1961 expires within one year from the commencemen of the Constitution (Seventy-third Amendment) Act, 1992 or a Panchayat contituted under me said Act is dissolved, then until a panchayat is duly constituted under this Act for the first time and its first meeting is held, its powers, functions and duties shall be performed by such person as the State Government may by order in writing, appoint.

1. Sections 278A and 278AA were inserted by Guj. 5 of 1998, s.2.

SCHEDULE I

(see Section 99)

MATTERS IN RESPECT OF WHICH IT IS THE DUTY OF VILLAGE PANCHAYATS TO MAKE PROVISION.

1. In the sphere of sanitation and health—

(a) supply of water for domestic use and for cattle;

(b) construtcion and cleaning of public roads, drains, ponds tanks and wells other than tanks and wells used for irrigation purposes and other public places;

(c) sanitation, conservancy, the prevention and abatement of nuisance;

(d) preservation and improvement of public health, establishing and maintaining public hospitals and dispensaries providing public relief;

(e) regulation by licensing or otherwise of tea, coffee and milk shops;

(f) provision, maintenance and regulation of burning and burial grounds;

(g) ensuring systematic disposal of carcasses, provision of definite place for the purpose and other means for the disposal of unclaimed corpses and carcasses;

(h) construction and maintenance of public latrines;

(i) taking of measures to prevent the outbreak, spread and recurrence of any infections disease;

(j) reclaiming of unheathy localities;

(k) removal of rubbish heaps, jungle growth, prickly pear, the filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows, the prevention of water logging in irrigated areas and other improvements of sanitary conditions;

(l) maternity and child welfare;

(m) the encouragement of human and animal vaccination;

(n) the provision and maintenance of compost pits;

(o) regulating the keeping of cattle and taking necessary steps against stray cattlies and dogs;

(p) regulating, checking and abating of offensive or dangerous trade or practices;

(q) watering public streets and places;

(r) cleaning public streets, places and sewers, and all spaces not being private property, which are open to the enjoyment of the public, whether such places are vested in the panchayat or not; removing the noxious vegetation, and abating all public nuisances; (s) extinguishing fires, and protecting life and property when fires occur;

(t) removing obstruction and projections in public streets or places, and in spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the panchayat or belong to Government;

(u) securing or removing dangerous buildings or places;

(v) constructing, altering and maintaining public streets, culverts, panchayat boundary marks, markets, slaughter-houses, latrines, privies urinals, drains, sewers, drainage works, sewage work, baths, washing places, drinking fountains, tanks, wells, dams and the like;

(w) obtaining a supply of an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply when such supply or additional supply can be obtained at a reasonable cost;

(x) paying the salary and the contingent expenditure on account of such police or guards as may be required by the panchayats for the purposes of this Act or for the protection of any panchayat property;

(y) constructing and maintaining residential quarters for the conservancy staff of the panchayat;

(z) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the Panchayat.

2. In the sphere of public works-

(a) removing of obstructions and projections in public streets or places and in sites, not being private property, which are open to the public whether such sites are vested in the panchayat or belong to Government;

(b) construction, maintenance and repair of public roads, drains, bunds and bridges :

Provided that if the roads, drains, bunds and bridges vest in any other public authority, such works shall not be undertaken without the consent of that authority;

(c) maintenance and regulation of the use of buildings handed over to the panchayat or of Government buildings under the control of the panchayat, grazing lands, forest land including lands assigned under section 28 of the Indian Forest Act, 1927 and tanks and wells (other than tanks and wells of irrigation);

XVI of 1927.

(d) lighting of the village;

(e) control of fairs, bazars, tonga-stand and carts stands;

(f) construction and maintenance or control of slaughter houses;

(g) planting of trees in market places and other public places and their maintenance and preservation;

(h) construction and maintenance of Dharmashalas;

(i) management and control of bathing and washing ghats which are not managed by any authority;

(j) establishment and maintenance of markets;

(k) construction and maintenance of houses for conservancy staff and village functionaries of the panchayat;

(l) provision and maintenance of camping grounds;

(m) establishment, control and management of cattle pounds;

(n) establishment and maintenance of works for the provision of employment particularly in times of scracity;

(o) extension of village sites and the regulation of buildings and housing schemes in accourdance with such principles as may be prescribed;

(p) construction and maintenance of buildings for warehouses, shops, purchasing centres and such others;

(q) construction and maintenance of buildings for common use and of buildings necessary for development activities;

(r) generation, distribution and supply of electrical energy and other matters connected therewith.

3. In the sphere of education and culture-

(a) spread of education;

(b) establishment and maintenance of akhada, parks, clubs and other places of recreation for the welfare of women and youth;

(c) establishment and maintenance of theaters for promotion of art and culture;

(d) establishment and maintenace of libraries and reading rooms;

(e) promotion of social and moral welfare of the village including prohibition, propaganda, removal or untouchahility, amelioration of the condition of the backward classes, the eradication of corruption and the discouragement of gambling and other anti-social activities;

(f) assisting me introduction of compulsory primary education as planned by the State;

(g) provision of school-buildings and of necessary equipment for education; (h) pre-primary education and child-welfare activities;

(i) repairs and maintenance of school buildings;

(j) maintenance of school funds;

(k) offering financial assistance to needy students;

(l) celebration of school functions and festivals;

(m) arranging cultural programmes for the purposes of popular of education; (n) provision for light meals for school children, if possible;

(o) establishment, construction and maintenance of secondary schools.

4. In the sphere of self-defence aid village defence,—

(a) watch and ward of the village and of crops threin and raising volunteer organisations

or organisations of any other kind, encouraging and assisting such organisations;

(b) providing for training facilities to the youth of the gram for the purpose of self-defence and villages defence and assisting such training that may be oraganised by the Government;

(c) preventing of fires, rendering assistance in extinguishing fires and protecting life and property when fire occurs;

5. In the sphere or planning and administration-

(a) the preparation of plans for the development of the village;

(b) assisting the implementation of soil improvement projects of the State Government;

(c) economic survey of the gram accompanied by the provision of employment to the unemployed or under employed residents thereof;

(d) preparation of budget, collection and maintenance of accounts, custody and utilization of funds, assessment and collection of taxes and maintenance of an Account Code;

(e) use of assistance given by the Central or State Government for any purpose of the village;

(f) making independent surveys of the gram or assisting such surveys under taken by the Central or State Government;

(g) recruitment, training and management of staff to be employed by panchayat;

(h) control of cattle-stands, thrashing floors, grazing grounds and community lands;

(i) establishment, maintenance and regulation of fairs, pilgrimages and festivals;

(j) reporting to proper authorities complaints which are not removable by the panchayat;

(k) preparation, maintenance and up-keep of the panchayat records;

(l) registration of births, deaths and marriages in such manner and in such form as may be laid down by the State Government by general or special order in this behalf; (m) numbering of premises.

6. In the sphere of Community Development-

(a) relief of the crippled, destitute and the sick;

(b) assistance to the residents when any natural calamity occurs;

(c) organising, encouraging and assisting co-operative activities in the economic and social fields;

(d) propagation of family planning;

(e) organising voluntary labour for community works and works for the upliftment of the village;

(f) opening fair-price shops.

7. In the sphere of agriculture, preservation of forests and pasture lands-

(a) planned improvement of agriculture;

(b) securing minimum standards of cultivation in the gram with a view to increasing agricultural production;

(c) establishment and management of model agricultural farm;

(d) the establishment and maintenance of granaries;

(e) bringing under cultivation waste and fallow lands vested by the State Government in the panchayat;

(f) ensuring conservation of manurial resources, preparing composts and sale of manure;

(g) production of improved seeds, the establishing of nurseries of improved seeds and promoting the use of improved seeds;

(h) promoting the use of improved agricultural implements and making such implements easily available;

(i) the promotion of co-operative farming;

(j) crop-protection and crop-experiments;

(k) minor irrigation, construction and maintenance of filled channels and distribution of

water;

(l) raising preservation and improvement of village forests, pastures and orchards;

(m) taking steps against harmful animals with a view to protection of crops.

8. In the sphere of Animal Husbandary-

(a) improvement of cattle and cattle-breeding;

(b) the general care of live-stock;

(c) providing and maintaining stud bulls for purposes of cattle breeding;

(d) promotion of dairy farming.

9. In the sphere of village Industries-

(a) surveying and harnessing industrial and employment potential of the gram; (b) promoting hand-spinning, hand-weaving, dying, printing, embroidery, sewing, oil pressing industry, leather-industry, pottery, carpentry, smithy, industries processing agricultural raw materials into finished products, other cottage industries and special arts or craft of the village, if any, and protecting, encouraging and assisting these with a view to improving and develop them;

(c) providing necessary raw materials for cottage industries and arts and crafts; (d) making efforts for the production by the village craftsmen of modern and improved tools for cottage industries and making such tools easily available to them; (e) encouraging and assisting artisans for training in cottage industries and handicraft;

(f) providing for the organisation, management and development of cottge industries on a co-operative basis.

10. In the sphere of collection of land revenue-

(a) collection of land revenue, when so empowered by the State Government under section 168;

(b) maintenance of records relating to land revenue in such manner and in such form as may be prescribed from time to time by or under any law relating to land revenue.

SCHEDULE II

(See section 130)

Part I

MATTERS IN RESPECT OF WHICH IT IS THE DUTY OF A TALUKA PANCHAYAT TO MAKE PROVISION.

1. In the sphere of sanitation and health-

(a) controlling small-pox and other epidemics and expansion and maintenance of health services;

(b) family planning;

(c) providing facilities for pure drinking water;

(d) maintenance and supervision of stores of drugs, dispensaries, pharmacies, maternity homes and primary health centres;

(e) cultivating public opinion on following methods for the preservation of health and sanitation:

(i) nourishment;

(ii) maternity and child welfare;

(iii) control and eradication of contagious diseases;

(f) providing for help and protection to the people against epidemics.

2. In the sphere of communication-

(a) construction and maintenance of village link roads-

(b) providing necessary assistance for construction and maintenance of village approach roads.

3. In the spehere of education and culture—

(a) establishment and maintenance of primary schools;

(b) preparing and implementing the programme of constructing buildings for primary

schools;

(c) assisting educational activities of a village panchayat;

(d) enforcing in the taluka the law relating to compulsory primary education; (e) conducting and encouraging libraries, reading rooms and other cultural activities;

(f) assisting the propagation of pre-primary education.

4. In the sphere of social education—

To cultivate a new outlook among the people to make them self-reliant, industrious and co-operation minded, and especially—

(a) establishing and maintaining information centres, community educational centres and recreation centres;

(b) establishing institutions for rendering social service such as youth clubs, women's clubs and farmer's associations and encouraging any such institutions if already established;

(c) establishing a village defence corps;

(d) encouraging physical and cultural activities;

(e) establishing voluntary health associations;

(j) training gram-sevaks and utilising their services;

(g) training gram-laxmis and gram-sevikas and utilising their services;

(h) promoting childrens' activities.

5. In the sphere of community development—

(a) planning for increased employment and production, as well as for co-ordiration of village institutions;

(b) training in self-help and self-sufficiency among the village community on the principle of mutual co-operation;

(c) utilising the surplus energy, resources and time of the village for benefit of the community;

(d) providing for the implementation of development programmes entrusted to it by the State Government.

6. In the sphere of agricultural and irrigation—

(a) planning for agricultural improvement in the taluka;

(b) use of land and water resources and propagation of improved agricultural methods according to the latest researches;

(c) construction and maintanance of irrigation works in the taluka;

(d) reclamation and conservation of agricultural land in the taluka;

(e) maintenance of seed multiplication farms, assisting registered seed producers and distribution of seeds in the taluka;

(f) raising the production of fruits and vegetables;

(g) conservation of manurial resources, preparing compost manure, organic manure and mixture and to arrange for making them easily available;

(h) promoting the use of improved agricultural implements and arranging to make them easily available;

(i) the protection of crops, fruit-trees and plants against disease;

(j) establishment and management of model agricultural farms;

(k) providing credit and other facilities for irrigation and agricultural development;

(l) increasing the area of land under irrigation by construction and repairs of wells, digging and repairs of private ponds by undertaking minor irrigation works and by supervision of field channels;

(m) increasing the use of sub-soil water by boring wells and giving assistance in regard to such wells;

(n) providing for the timely and equitable distribution and full use of water, available under irrigation schemes.

7. In the sphere of animal husbandry—

(a) improving cattle-breed by introduction of stud bulls, by castration of stray bullocks and establishment and maintaining artificial insemination centres;

(b) introducing 'improved breeds, of cattle, sheep, poultry, etc. giving grants therefor and maintenance of small breeding centres;

(c) controlling and checking infectious diseases;

(d) introducing improved grass and cattle-feeds and providing for their storage;

(e) starting and maintaining first-aid centres and veterinary dispensaries;

(f) providing for milk supply;

(g) solving the problem of stray cattle.

8. In the sphere of village and small-scale industries—

To promote, cottage village and small-scale industries with a view to providing increased employment and raising people's standard of living and especially-

(a) to establish and maintain production and training centres;

(b) to improve the skills of artisans;

(c) to popularise improved implements;

(d) to ensure the implementation of scheme for Cottage, Village and Small- Scale Industries run by the Khadi and Village Industries Board and other All India Associations;

(e) to establish industrial townships at the Taluka level;

(f) to develop wool industry.

9. In the sphere of co-operation—

To promote the idea of Co-operation in different fields of life and to organise and encourage co-operative institutions in the economic and social fields and especially— (a) to establish and promote the development of multipurpose co-operative societies for credit, sale, industry, irrigation and agriculture;

(b) promoting savings through thirft, small savings and insurance schemes.

10. In the sphere of women's welfare—

Implementing of schemes for women's and children's welfare and maintaining women's and children's welfare centres, education centres, craft centres and tailoring centres.

11. In the sphere of social welfare—

(a) provision of hostels for students of backward classes and Scheduled Castes and Schedule Tribes;

(b) implementing schemes of rural housing;

(c) maintaining decrepit beggars;

(d) sponsoring voluntary institutions of social welfare and co-ordinating and assisiting their activities;

(e) propaganda for prohibition and against drug addiction.

12. In the sphere of relief—

Providing immediate relief in cases of floods, fires, epidemics and other natural calamities on a small or large scale.

13. In the sphere of collection of statistics—

Collecting anc co-ordinating statistics as may be required by the village panchayats, taluka panchayats or district panchayats or by the State Government.

14. In the sphere of trusts—

Managing trusts in furtherance of the objects of any programme that may be carried out with the taluka fund.

15. In the sphere of forests—

Promoting the development of village jungles and pastures.

16. In the sphere of rural housing—

Development of village-sites with the co-operation of the village population and planning of rural housing.

17. In the sphere of information—

(a) community radio listening programme;

(b) arranging exhibitions;

(c) publications.

PART II
(See section 130.)
FUNCTIONS AND DUTIES OF A TALUKA PANCHAYAT

It shall be the duty of a taluka panchayat—

(a) to assist in conducting and revising educational surveys and in preparing and implementing Five Year Plan for the development of primary educational and all other educational activities entrusted to it;

(b) to provide adequate accommodation and equipment for primary schools; (c) to open, with the sanction of the district panchayat, new primary schools in places where they are needed;

(d) to determine the exact location of primary schools;

(e) to supervise the working of all primary schools and of such other educational institutions under the control of the district panchayat as that panchayat may decide from time to time;

(f) to exercise such powers over the staff employed in primary schools and other educational institutions under the control of the district panchayats as may be delegated to it from time to time;

(g) to supervise the activities of the village panchayats within the jurisdisction of the taluka panchayats to ensure that each such panchayat pays its contribution to the School Funds, if any, and to bring cases of default to the notice of the Educational Inspector of the district and generally to guide them to maintain and improve the primary school or schools in their charge;

(h) to be responsible for the enforcement of compulsory primary education; and, without prejudice to the generality of the foregoing provisions —

(i) to determine on the recommendation of the competent officer of the district panchayat, the distance measured according to the nearest road between an approved school and the residence of the child for the purposes of the Bombay Primary Education Act, 1947;

Bom. LXI of 1947.

(ii) to grant, on the recommendation of the aforesaid competent officer, exemption from attending an approved school to a child who is receiving instruction otherwise than in an approved school,

(i) to grant sanction to the changes in the dates of birth and the names of pupils attending primary schools;

(j) to construct new buildings for primary schools and to carry out special repairs;

(k) to sanction grants-in-aid to gram panchayats for their standing committee for Education;

(l) to inform, and, if necessary to advise, the district panchayat, generally on all matters connected with primary education and other educational activities undertaken by the district panchayat in the taluka;

(m) to carry on propaganda in the Taluka for the expansion and improvement of education in general and primary education in particular; and

(n) to exercise such other powers and to perform such other duties as may be delegated to it by the district panchayat from time to time;

(o) to hire building for primary schools with sanction of the taluka panchayat on reasonable rent, which shall be certified by the competent authority;

(p) the supervision of individual primary schools;

Bom. LXI of 1947.

(q) to secure the enforcement of the Bombay Primary Education Act, 1947, and the rules or orders made thereunder.

SCHEDULE III

PART I
(See section 154)
MATTERS IN RESPECT OF WHICH IT IS THE DUTY OF DISTRICT PANCHAYAT TO MAKE PROVISION.

1. In the sphere of sanitation and health—

(a) establishment and maintenance of dispensaries;

(b) provision and maintenance of drinking water supply;

(c) taking necessary action or steps for improvement in public health and public amenities;

(d) establishment and maintenance of primary health centres;

(e) assisting family-planning;

(f) supply of milk to children and nursing mothers in families in the low income group;

(g) providing for training to mid-wives;

(h) giving protection against diphtheria, whooping cough and tetanus;

(i) establishment and maintenance of ayurvedic and homeopathic dispensaries; (j) provision of medical relief through ayurvedic and homeopathic centres;

(k) assisting recognised medical relief-centres;

(l) providing for training of nurses.

2. In the sphere of public works—

(a) construction and maintenance of roads;

(b) the planting and rearing of trees on both sides of the roads;

(c) execution of works entrusted to it by the State Government;

(d) supervision, repairs and preservation of building vested in the district panchayat;

(e) construction and maintenance of buildings required for the activities of the district panchayat.

3. In the sphere of education and other cultural activites—

(a) undertaking all educational activites entrusted to it:

(b) planning of education in the district within the frame work of the national policy and the national plan;

(c) survey and evaluation of educational activities;

(d) distribution of Government aid in regard.to primary education between the taluka panchayats;

(e) recognising private educational institutions within its area;

(f) recommending the courses of study;

(g) selection of text-books;

(h) implementation of any programme in regard to secondary education that may be entrusted to it by the State Government;

(i) inspection of primary schools managed by the taluka panchayats and conduct of their examination;

(j) accepting and managing educational funds;

(k) assisting, encouraging and guiding all educational activities in the district;

(l) organising camps, conferences, and gatherings of members of village panchayats, taluka panchayats and district panchayat in the district.

4. In the sphere of administration—

(a) collection of necessary stores and materials;

(b) publication of statistical and other information relating to activites of panchayats;

(c) co-ordination and use of statistics and other information required for the activities of the village panchayats, taluka panchayats and district panchayats;

(d) periodical supervision and evaluation of the projects and programmes entrusted to the different panchayats in the district;

(e) accepting donations in the furtherance of the purposes for which fund might have been raised.

5. In the sphere of community development—

(a) co-ordination and integration of the development schemes of all talukas in the district and preparing a plan therefor for the whole district;

(b) preparation of projects, plans and schemes concerning two or more talukas in the district;

(c) (i) promoting the establishment and development of panchayats;

(ii) inspection, regulation and control of the taluka panchayats in the district;
(iii) performance of all such functions as are assigned to it under any law or as may be assigned by the State Government from time to time;

(d) implementation of any development programme that may be entrusted to it by the State Government;

(e) distribution and co-ordination of work among village panchayats, taluka panchayats and district panchayats.

6. In the sphere of agriculture—

(a) undertaking intensive pioneering schemes relating to paddy, wheat, bajari, juwar, ground-nuts and cotton;

(b) construction and maintenance of building for seeds distribution centres;

(c) implementation of schemes of manure;

(d) promoting the planting of coconut palm;

(e) arranging for the purchase and sale of necessary equipment for the protection of plants;

(f) arranging for the purchase and sale of insecticides;

(g) establishment and maintenance of model agricultural farms;

(h) procuring and distributing improved seeds;

(i) implementing schemes relating to agricultural production and agricultural development;

(j) arranging exhibitions as competitions and other programmes in connection with agricultural development and cattle-breeding.

7. In the sphere of animal husbandry—

(a) establishment and maintaining supply-centres for cattle-breeding;

(b) giving encouragement and assistance to cattle breeding centres run by recognised institutions;

(c) the implementation of schemes of key villages;

(d) the implementing of the schemes of Goshala development;

(e) provision for the rearing of stud calves;

(f) the development of grass-lands;

(g) encouraging and assisting schemes for the storage of grass;

(h) implementing schemes of poultry farming;

(i) the implementation of the schemes of cattle breeding;

(j) establishment and maintaining veterinary hospitals and dispensaries.

8. In the sphere of Village and small scale industries—

(a) examining the possibilities of village industries and small scale Industries in the district, preparation, and execution of plans for their revival, organisation and development;

(b) providing for necessary assistance and encouragement of technical training to village workers in village industries and small scale industries relating to their crafts; (c) establishing maintaining, expending and aiding Secondary, technical and industrial school.

9. In the sphere of Social Welfare—

(a) providing necessary assistance and encouragement to the work of institutions of social service;

(b) conducting necessary social welfare activities in the district;

(c) arranging fairs and festivals other than fairs and festivals arranged by the State Government.

10. In the sphere of relief—

Establishment and management of relief centres in times of natural calamities such as famine and scarcity, floods, fire and earethquake.

11. In the sphere of minor irrigation projects—

(a) provision for irrigation by canals from tanks and bunds;

(b) the implementation of the schemes of tube-wells;

(c) digging new wells and repairing old wells for irrigation;

(d) giving assistance for the purchase of pumping sets and machinery; (e) provision and propagandas for improved Kosi;

(f) providing detonators and boring equipment for wells;

(g) encouraging and assisting irrigation schemes on a co-operating basis.

PART II

(See section 145(1) (iii))

FUNCTIONS AND DUTIES OF EDUCATION COMMITTEE OF A DISTRICT PANCHAYAT

It shall be the duty of the education committee of a district panchayat—

(a) to undertake all educational activities;

(b) to undertake the planning of education in the district within the frame work of the national policy and the national plan;

(c) to survey and evaluate educational activities;

(d) to act as a channel for the State Government in regard to primary education to reach panchayat;

(e) to make suggestions as to courses of study for being determined by the State Government;

(f) to make suggestions as to the selection of text-books by the State Government;

(g) to implement any programme in regard to secondary education entrusted to the district panchayat by the State Government;

(h) to arrange for the inspection of primary schools managed by the taluka panchayat and to conduct their examination;

(i) to supervise the working of all primary schools and of such other educational institutions under the control of the District Panchayat as that panchayat may decide from time to time;

(j) to supervise the activities of village panchayats within the jurisdiction of the District Panchayat to ensure that earn such Panchayat pays its contribution to the school funds, if any, and to bring cases of default to the notice of the Educational Inspector of the District and generally to guide them to maintain and improve primary school or school in their charge;

(k) to accept and manage educational funds;

(l) to assist, encourage and guide all educational activities in the district;

(m) to discharge the following duties if the district panchayat makes provision for secondary and other education—

(i) to conduct secondary schools providing for diversified courses in rural areas where private enterprise is not available and to introduce a number of High School Scholarships for poor and deserving in rural area;

(ii) to conduct hostels for High Schools as well as for pupils in Standard V to VII.

(iii) to provide for part-time education of children who leave school at about the age of 11 and of the children whose age is between 11 and 14 years and who are absolutely illiterate;

(iv) to make arrangement for vocational education in rural areas;

(v) to push the scheme of social education classes; village libraries and pre-primary education;

(vi) to recognise and aid gymnasia and to organise recreational centres and holiday and school camps.

[1][SCHEDULE IV

(See section 278A)

(Modifications subject to which this Act applies to the Scheduled Areas of the State.)

1. In section 2, after clause (19), the following clause shall be inserted, namely:-

"(19A) "Scheduled Areas" means the Scheduled Areas of the State as referred to in clause (1) of article 244 of the Constitution of India;"

2. For section 4, the following section shall be substituted, namely;

Gram Sabha.

"4.(1) There shall be a gram sabha for a village for performing such functions as Gram Sabha are provided by or under this Act.

(2) The gram sabha shall consist of persons whose names are included in the list of voters of electoral divisions of that village.

(3) The gram sabha shall perform the following additional functions, namely:—

(a) The gram sabha shall endeavour to safeguard and preserve the traditions and customs of the inhabitants of the village, their cultural identity, community resources and the customary mode of dispute resolution.

(b) The gram sabha shall—

(i) approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the village panchayat;

(ii) be responsible for the identification or selection of persons as beneficiaries under poverty alleviation and other programmes in the village.".

3. In section 7, to sub-section (1), the following proviso shall be added, namely:—

"Provided that while making a recommendation in respect of a local area in the Scheduled Areas it shall be ensured that the local area shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with the traditions and customs.".

4. In section 9, in sub-section (5), in clause (a), after sub-clause (i), the following sub-clause shall be inserted, namely:—

"(ia) In the case of a village panchayat, the whole local area of which comprises of any of the Scheduled Areas, the number of seats reserved for the Scheduled Tribes under sub-clause (i) shall be increased to such number as is not less than one-half of the total number of seats in the village panchayat.".

5. In section 10, in sub-section (5), in clause (a), after sub-clause (i), the following sub-clause shall be inserted, namely :—

"(ia) In the case of a taluka panchayat, the whole local area of which comprises of any of the Scheduled Areas, the number of seats reserved for the Scheduled Tribes under sub-clause (i) shall be increased to such number as is not less than one-half of the total number of seats in the taluka panchayat".

6. In section 11, in sub-section (5), in clause (a), after sub-clause (i), the following sub-clause shall be inserted, namely:—

"(ia) In the case of a district panchayat, the whole local area of which comprises of any of the Scheduled Areas the number of seats reserved for the Scheduled Tribes under sub-clause (i) shall be increased to such number as is not less than one-half of the total number of seats in the district panchayat".

7. After section 11 the following section shall be inserted, namely:-

1 Schedules IV and V were added by Guj. 5 of 1998, s.3.

Nomination of members of Scheduled Tribes.

"11 A. If for any reason an election does not result in the return of any member of Scheduled Tribes in a taluka panchayat or district panchayat, then the State Government may nominate from amongst members belonging to Scheduled Tribes who are qualified to be elected, such number of members as not to exceed one-tenth of the total members to be elected in that panchayat.".

8. In section 51, in sub-section (2),-

(1) for clause (a), the following shall be substituted, namely:-

"(a) All offices of sarpanch of village panchayats in the State shall be reserved by the State Government for the Scheduled Tribes.

Explanation.- For the purposes of this clause, "village panchayat" means the village panchayat, the whole local area of which comprises of the Scheduled Areas.";

(2) in clause (b),

(a) in sub-clause (i) the word "and" shall be deleted;

(b) sub-clause (ii) shall be deleted.

9. In section 63, in sub-section (2),-

(i) for clause (a), the following shall be substituted, namely:-

"(a) All offices of President of the taluka panchayats in the State shall be reserved by the State Government for the Scheduled Tribes.

Explanation.- For the purposes of this clause, "taluka panchayat" means the taluka panchayat, the whole local area of which comprises of the Scheduled Areas.";

(2) in clause (b),

(a) in sub-clause (i) the word "and" shall be deleted;

(b) sub-clause (ii) shall be deleted.

10. In section 77, in sub-section (2),–

(1) for clause (a), the following shall be substituted, namely:-

"(a) All offices of President of the district panchayats in the State shall be reserved by the State Government for the Scheduled Tribes.

Explanation.- For the purposes of this clause, "district panchayat" means the district panchayat, the whole local area of which comprises of the Scheduled Areas.";

(2) in clause (b),-

(a) in sub-clause (i) the word "and" shall be deleted;

(b) sub-clause (ii) shall be deleted.

11. In section 108, after sub-section (4), the following sub-section shall be added, namely :-

(i) for clause (a), the following shall be substituted, namely:-

"(5) (a) for the purposes of this Act, there shall be vested in the village panchayat minor forest produce found (except found in the areas of National Parks or Sanctuaries) in such area of a forest as is situate in the jurisdiction of that village.

(b) The sale proceeds of the minor forest produce shall be paid into and form part of the village fund.

(c) Nothing in clause (a) shall be construed as vesting in the village panchayat the land in the area of forest referred to in clause (a) and trees and plantations thereon.

Guj. 7 of 1979.

Explanation.- For the purposes of this sub-section the expression "minor forest pro-duce" shall have the same meaning as assigned to it in clause (9) of section 2 of the Gujarat Minor forest Produce Trade Nationalization Act, 1979."

12. In section 112 after sub-section (1), the following sub-section shall be inserted namely:-

"(1A) The village panchayat shall obtain from the gram sabha a certificate of utilization of funds by that panchayat for the plans, programmes and projects referred to in sub-clause (i) of clause (b) of sub-section (3) of section 4,".

13. After section 132, the following section shall be added, namely :-

" 132A. The taluka panchayat shall be consulted,-

"(a) before acquiring under the Land Acquisition Act, 1894 any land, situate in the taluka for any development project;

1 of 1894.

Taluka Panchayat to be consulted

(b) before resettling or rehabilitation persons affected by such project.”. **before acquisition of land**

14. In Schedule I,-

(1) in entry 1, after sub-entry (i) the following sub-entry shall be inserted, namely :-

“(ia) enforcing prohibition and regulating or restricting the sale and consumption of intoxicants;” ;

(2) In entry 7, after sub-entry (k), the following sub-entry shall be inserted, namely :-

“(k-i) Planning and management of water bodies;

(3) after entry 10, the following entry shall be added, namely:-

“(11) In the sphere of social sectors-

the power to exercise control over institutions and functionaries in all social sectors.”

15. In Schedule II, in Part I, in entry 5, after sub-entry (d), the following sub-entry shall be added, namely :-

“(e) control over local plans and resources for such plans including tribal sub-plans.”

SCHEDULE V

Acts amended.

(See section 278AA)

Serial No.	Short Title	Extent of amendment
1	2	3
1.	The Bombay Land Revenue Code, 1879 (Bom. V of 1879)	In section 73AA,— (1) In sub-sections (1) and (2), for the "the Collector", the words "the District panchayat" shall be substituted; (2) in sub-section (3) in clause (a), — (a) for the words "occupancy to another tribes", the words "occupancy to any person" shall be substituted. (b) for the words "the Collector" occurring at two places, the words "the District panchayat" shall be substituted. (3) in sub-section (4), in clause (a),the words, brackets and figures "of sub-section (1) of this section, or" shall be deleted. (4) in the Explanation, before clause (i), the following clause shall be inserted, namely :- "(ia) "District panchayat" means a district panchayat of a district comprising of any Scheduled Areas of the State as referred to in clause (1) of article 244 of the Constitution of India, in which the occupancy of the tribal exists.".
2.	The Bombay Money Lenders Act, 1946, (Bom. XXX of 1946.) Previous sanction of village panchayat	After section 17, the following shall be inserted, namely,-- "17A. No money lender shall lend any money to a member of the Scheduled tribe residing in a Scheduled Areas of the State as referred to in clause (1) of article 244 of the Constitution of India, without previous sanction of the village panchayat of that village.".

Repeal and savings.

4. (1) The Gujarat panchayats (Amendment) Ordinance, 1998 is here by repealed. **Guj. Ord. 3 of 1998.**

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

Government Printing & Stationery, Rajkot