THE KERALA PANCHAYAT Raj Act 1994

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THE KERALA PANCHAYAT RAJ ACT, 1994 (Act 13 of 1994 as amended by Acts 7 of 1995, 7 of 1996, 8 of 1998, 11 of 1999, 13 of 1999,13 of 2000 ,12 of 2001, 9 of 2003, 3 of 2005 & Act 5 of 2005)

An Act to replace the present enactment relating to panchayats and District Councils by a comprehensive enactment.

Preamble - Whereas it is expedient to replace the present enactments relating to Panchayats and district councils by a comprehensive enactment to establish a three-tier Panchayat Raj system in the State in line with the Constitution (Seventy-third Amendment) Act, 1992, for securing a great measure of participation of the people in planned development and in local Governmental affairs, by constituting Village, block and district Panchayats;

And endow such Panchayats with such powers and authority to enable them to function as institutions of self-Government.

And entrusting such panchayats the preparation of plans and implementation of schemes for economic development and social justice including the implementation of schemes in relation to the matters listed in the Eleventh Schedule to the Constitution:

Be it enacted in the Forty-fifth Year of the Republic of India as follow: -

CHAPTER I

PRELIMINARY

1.***Short title, extent and commencement.-*** (-1) This Act may be called the Kerala Panchayat Raj Act, 1994.

(1)It extends to the whole of the State of Kerala except the areas which are within the limits of the Cantonments, Nagar Panchayats, Municipal Councils, Municipal Corporations and the Industrial areas of the State.

(2)It shall come into force at once.

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

(i) 'article' means an article of the Constitutions of India.

(ii) 'Block Panchayat' means a block panchayat constituted at intermediate level under clause (b) of sub-section, section 4;

(iii) 'building' includes a house, out-house, stable latrine, shed, hut and any other structure, whether of masonry, bricks, wood, mud, metal or any other ma

(iv) 'bye-election' means an election other than general election.

(v) 'candidate' means a person who has been or claims to have been duly nominated as a candidate at any election:

(vi) 'casual vacancy' means a vacancy occurring otherwise than by efflux of time:

[1][" (vi) a. 'Committee' means - a standing committee constituted under this Act or any other committee constituted by the panchayat for any specific purpose.

(vii) 'constituency' means the territorial area (by whatever name called) for the purpose of election of a member to a Panchayat at any level:

(viii) 'corrupt practice' means any of the practices specified in section 120:

(ix) 'cost' in relation to an election petition means all costs, changes and expenses of, or incidental to, the trial of, an election petition;

(x) 'district' means a revenue district;

(xi) 'district election officer' means an officer designated or nominated by the State Election Commission under sub-section (1) of section 13;

(xii) 'district Panchayat' means a district panchayat constituted at the district level under clause (e) of sub-section (1) of section 4;

(xiii) 'district panchayat area' means the rural areas within a district to be notified by the Government for the purpose of clause (c) of sub-section (1) of section 4.

(xiv) 'election' means an election to fill a seat in any of the constituencies in a Panchayat at any level;

(xv) 'elector' in relation to a constituency (by whatever name called) means a person whose name is entered in the electoral roll of that constituency, for the time being in force, and who is not subject to any of the disqualifications mentioned in section 17;

(xvi) 'electoral right' means the right of a person to stand or not to stand as or to withdraw or not to withdraw from being, a candidate or to vote at an election;

(xvii) 'general election' means the election held under this Act for the constitution or reconstitution of at panchayat after the expiry of its term

or otherwise; (xviii)'Government' means the government of Kerala;

(xix) 'house' means a building or hut used or fit to be used as a residence or otherwise having separate principal entrance from the common way and includes any shop, workshop or warehouse or any building, used for parking vehicles or as a bus stand.

(xx) 'hut' means any building which is constructed principally of wood, mud, leaves, grass or thatch and includes any temporary structure of whatever size or any small building of whatever materials made, which a village panchayat may declare to be a hut for the purpose of this Act;

(xxi) 'intermediate level' means a level between the village and district levels specified by the Governor under clause (c) of article 246;

[(xxii) 'Local Authority' or Local self-Government institution means, a Panchayat at any level constituted under section 4 of this Act or a Municipality constituted under section 4 of the Kerala Municipality Act, 1994 (20 of 1994].

[1] Inserted by Act 13 of 1999.

(xxiii)'market' means any place set apart for ordinarily or periodically used for the assembling of persons for the sale or purchase of grain, fruits, vegetables, meat, fish or f food or for the

sale, or purchase of live-stock or poultry, or of any agricultural or industrial produce for any raw or manufactured products or any other articles or commodity necessary for the convenience of life provided that a single shop or a group of shops not being more than six in number shall not be deemed a market;

(xxiv)'member' means the member of a Panchayat at any level;

(xxv) 'Panchayat' means a village panchayat, a block panchayat or a district panchayat.

(xxvi)'Panchayat area' means the area within the territorial jurisdiction of a panchayat;

(xxvii)'Political party' means a political party registered under section 29A of the Representation of the People Act, 1951 (Central Act 43 of 1951);

(xxviii) 'polling stations' - means any place appointed for holding election to a Panchayat;

(xxix)'population' means the population assessed at the last census the relevant details of which have been officially published;

(xxx) 'prescribed' means prescribed by the rules made under this Act;

(xxxi)'President' or 'Vice-President' means the President or the Vice-President of a Village panchayat or block panchayat or district panchayat as the case may be; (xxxii)'private market' means any market other than a Public Market;

(xxxiii) 'public market' means any market owned, constructed, repaired or maintained by a village panchayat;

(xxxiv) Public holiday' means any day which is declared as a holiday by the Government;

(xxxv)'public road' means any street, road, square, court, alley, passage, cart-tract, foot-path or riding path, over which the public have right of way, whether a thoroughfare or not, and includes, -

(a) The road-way over any public bridge or causeway;

(b) The footway attached to any such road, public bridge or causeway; and

(c) The drains attached to any such road, public bridge or causeway, and the land whether covered or not by any pavement, verandah or other structure which lies on either side of the road-way upto the boundaries of the adjacent property whether the property to private property or property belonging to the State or Central government;

(xxii) 'qualifying date in relation to the preparation or revision of every electoral roll means the 1st day of January of the year in which it is so prepared or revised; (xxiii)residence' or to 'reside', a person is deemed to have his 'residence' or to 'reside' to any house if he some times uses any portion thereof as a sleeping apartment as of right and a person is not deemed to cease to reside in any such house or portion thereof merely because he is absent from it or has elsewhere another dwelling in which he resides if he is at liberty to return to such house at any time and has not abandoned his intention of returning;

(xxiv) 'returned candidate' means a candidate whose name has been published under section

(xxv) 83;'Schedule Castes and Scheduled Tribes' shall have the same meaning as in the

India;

(xxvi) 'Secretary' means the Secretary of Village Panchayat or a block Panchayat or a District Panchayat as the case may be;

(xxvii) 'State' means the State of Kerala;

(xxviii) 'State Election Commission' means the State Election Commissioner appointed by the Governor under article 243 K;

(xxix) 'Taluk means a revenue Taluk;

(xxx) 'Village' means a Village specified by the Governor under clause (g) of article 243;

(xxxi) 'village Officer' means the 'officer in charge of a revenue village;

(xxxii) 'village panchayat' means a village panchayat constituted for a village or for a group village under clause (a) of sub-section (1) of section 4;

(xxxiii) 'water course' includes any river, stream or channel whether natural or artificial;

(xxxiv) 'year' means the financial year;

(xxxv) words and expression used but not defined in this Act, but defined in the Constitution India shall have the meanings respectively assigned to them in the Constitution of India.

CHAPTER II

GRAMA SABHA

3. ***Grama Sabha.-*** (1) For the purpose of this chapter, each constituency of village panchayat may be specified as a village under clause (g) of article 243.

(2)All persons whose names are included in the electoral rolls relating to a village comprised within the area of a village panchayat shall be deemed to be constituted as Grama Sabha of such village.

(3)[Grama Sabha shall meet at least once in three months at the place fixed by the Village Panchayat and to such meetings, the convenor of the Village Panchayat shall, compulsorily invite the member of the Block Panchayat, the District Panchayat and the Legislative Assembly representing the area of the Grama Sabha.

Provided that the Convenor shall, on a request in writing made by not less than ten per cent of the members of any Grama Sabha, convene a special meeting of the Grama Sabha within fifteen days with the agenda given along with the request.

Provided further that such special meeting shall be convened only once within the period between two general meetings]

(4)The member of a village panchayat representing the constituency comprised in the area of a village shall be the convenor of that Grama Sabha; however due to any reason, physical or otherwise, the convenor is unable to perform his functions as such, the President may appoint a member representing any adjacent constituency as the convenor.

(5)Every meeting of the Grama Sabha shall be presided over by the President of the village panchayat or in his absence the vice-president or in the absence of both of them by the convenor of Grama Sabhas.

(6)The village panchayat shall place before the Grama Sabha a report relating to the developmental programmes relating to the constituency during th that are proposed to

by undertaken during the current year, and the expenditure therefore, the annual statement of accounts and the administration report of the preceding year. If in any circumstances, any decision of the grama sabha could not be implemented, the president shall report the reason therefore, before the Grama Sabha.

(7)The village panchayats, the block panchayats and the district panchayats shall give due consideration to the recommendations and suggestions, if any, of the Grama Sabha.

[x x x x x x][3] [4]

[3] Inserted by Act 13 f 1999

[4] Omitted by Act 13 f 1999

[5][3 A ***Powers, function and rights of the Grama Sabha. -*** (1) Grama Sabha shall, in such manner and subject to such procedure, as may be prescribed, perform the following powers and functions, namely: -

(a)to render assistance in the collection and compilation of details required to formulate development plans of the panchayat;

(b)to formulate the proposals and fixing of priority of schemes and development programmes to be implemented in the area of Village Panchayat;

(c)to prepare and submit to the Village Panchayat a final list of eligible beneficiaries in the order of priority relating to the beneficiary oriented schemes on the basic of the criteria fixed;

(d)to render assistance to implement effectively the development schemes by providing facilities locally required;

(e)to provide and mobilise voluntary service and contribution in cash or in kind necessary for the development plans;

(f)suggesting the location of street lights, street or community water taps, public wells, public sanitation units, irrigation facilities and such other public utility schemes;

(g)to formulate schemes to impart awareness on matters of public interest like cleanliness, environmental protection, pollution control and to give protection against social evils like corruption, illicit and clandestine transactions;

(h)to promote harmony and unity among various groups of people within the area of the Grama Sabha and to organise arts and sports festivals to develop goodwill among the people of that locality;

(i)to monitor and render assistance to the beneficiary communities engaged in the developmental activities within the area of the Village Panchayat.

(j)to verify the eligibility of persons getting various kinds of welfare assistance from the Government such as pensions and subsidies;

(k)to collect information regarding the detailed estimates of works proposed to be implemented in the area of the Grama Sabha;

(l)to make available details regarding the services to the rendered and the activities proposed to be done by the concerned officials in the succeeding three months;

(m)to know the rationale behind every decision taken by the panchayat regarding the area of the Grama Sabha;

(n)to know the follow up action taken on the decisions of the Grama Sabha and the detailed reasons for not implementing any of the decisions;

(o)to co-operate with the employees of the village panchayats in the sanitation processes and rendering voluntary service for the removal of garbage;

(p) to find out the deficiencies in the arrangements for water supply, street lighting etc. within the area of the Grama Sabha and to suggest remedial measures; (q)to assist the activities of parent-teacher associations of the schools within the area of the Grama Sabha;

(r)to assist the public health activities especially prevention of diseases and family welfare, within the area of the Grama Sabha.

[5]Inserted by Act 13 of 1999.

(s) to perform such other functions as may be prescribed from time to time.

(2)The Grama Sabha shall, in its ordinary meeting or in the special meeting convened for the purpose; discuss the report referred to in sub-section (6) of section 3 and it shall have the right to known about the budgetary provisions,

the details of plan outlay, item wise allocation of funds and details of the estimates and cost of materials of works executed or proposed to be executed within the area of the Grama Sabha.

(3)The Audit report of the performance audit report placed for the consideration of the Grama Sabha shall be discussed in the meeting and its views, recommendations and suggestions shall be communicated to the concerned village panchayat.

(4)The quorum of the Grama Sabha shall be ten per cent of the number of voters of its area and the procedure for convening and conducting meetings of the Grama Sabha shall be such as may be prescribed.

Provided that the quorum of the meting of a Grama Sabha which was adjourned earlier for want of quorum shall be fifty when convened again.

(5)The Officers of the Village Panchayats shall attend the meetings of the Grama Sabha as may be required by the President and an officer nominated by the Village Panchayat as the co-ordinator of the Grama Sabha shall assist the convenor in convening and conducting the meetings of the Grama Sabha and in recording its decisions in the Minutes Book and also in taking up follow up action thereon.

(6)The Grama Sabha may appoint, elect or constitute, general or special sub-committees for the detailed discussions on any issues or programmes and for the effective implementation of the schemes and the decisions and in furtherance of its rights and responsibilities.

Provided that such committees shall consist of not less than ten members of whom, not less than half shall be women.

(7)Resolutions may be passed on majority basis, in the meetings of the Grama Sabha in respect of any issue with in its jurisdiction, however, effort should be made to take decision on the basis of general consensus as far as possible.

(8)When beneficiaries are to be selected according to any scheme, project or plan, the criticism for eligibility and order of priority shall be fixed by the panchayat subject o the terms and conditions prescribed in the scheme, project or plan and such criterion shall be published in the manner prescribed and intimated to the Grama Sabha.

(9)The priority list prepared by Grama Panchayat after inviting applications for the selection of beneficiaries and conducting enquiries on the application received, shall be scrutinised at the meeting of the Grama Sabha in which the applicants are also invited and a final list of the deserving beneficiaries, in the order of priority, shall be prepared and sent for the approval of the Grama Panchayats.

Provided that the Village Panchayat shall not change the order of priority in the list sent by the Grama Sabha for approval:

3. B. ***Responsibilities of Grama Sabha. -*** (1) The Grama Sabha shall have the following responsibilities namely: -

(i) dissemination of information regarding developmental and welfare activities;

(ii) participating in and canvassing of programmes of Health and Literacy and such other time bound developmental programmes;

(iii) collecting essential socio-economic data;
(iv) providing feed back on the performance of development programmes;
(v) resort to moral sanction to pay taxes, repayment of loans promote environmental cleanliness an to maintain social harmony;
(vi) mobilise local resources to augment resources of the panchayat;
(vii) supervising development activities as volunteer teams and
(viii) make arrangements for reporting urgently incidence of epidemics, natural calamities, etc.

(2) The Grama Sabha shall make periodical reports to the village panchayats in respect of matters specified in a section 3 A.]

CHAPTER

III

CONSTITUTION OF PANCHAYATS AT DIFFERENT LEVELS

4.***Power of the Government in constitute and specify the name and headquarter of Panchayat.*** - (1) The Government shall, by notification in the Gazette, constitute with effect from such date as may be specified in the notification: -

(a)a village panchayat for each village or for group of villages.

(b)a block panchayat at intermediate level; and

(c)a district panchayat for each district panchayat area and specify the names and headquarters of such panchayats.

(2)The Government may, at the request of the panchayat concerned, or after consultation with the panchayat and after previous publication of the proposal by notification, -

(a)increase the area of any village panchayat by including within such panchayat area any village or group of villages;

(b)diminish the area of any village panchayat by excluding from such panchayat area any village or group of villages;

(c)alter the headquarters of a panchayat at any level; or

(d)alter the name of a panchayat at any level;

Provided that any alteration extending or reducing the area of a village panchayat under clause (a) or clause (b) shall not be brought into force before the expiry of the term of the existing committee of that panchayat.

(3)The Government may after consultation with the panchayat, pass such orders as they deem fit as in the disposal of any part of the property vested in a village panchayat which has ceased to exercise jurisdiction over any village or group of villages and the discharge of the liabilities of the village panchayat relating to such property or arising from such village including all matters concerned there with or incidental thereto.

(4)***Incorporation and administration of panchayats.*** - (1) Every panchayat shall be a body corporate by the name of the panchayat specified in the notification issued under section 4, shall have perpetual succession and a common seal and shall, subject to any restriction or qualification imposed by or under this Act or any other law, be vested with the capacity of suing or being issued in its corporate name; of acquiring, holding and transferring property, movable or immovable, of entering into contracts and of doing all things necessary, proper or expedient for the purpose for which it is constituted.

(5)A district panchayat, a block panchayat and a village panchayat shall exercise such powers, perform such functions and duties and shall have such responsibilities and authorities as are provided by or under this Act or any other law for the time being in force. [6]

6. Strength of Panchayats. - (1) The total number of seats in a village panchayat, a block panchayat and a district panchayat to be

Government in accordance with the scale specified in sub-section (3) with reference to the population of the territorial area of the panchayat concerned.

(2) The Government may after publication of the relevant figures of each census by notification alter the total number of seats in a Panchayat notified under sub-section (1) subject to the scale specified in sub-section (3).

[6][(3) The number of seats to be notified under sub-section (1) or under sub-section (2) shall

not; -

(a)in the case of Village Panchayat, be less than twelve or more than twenty-two; (b)in the case of a Block Panchayat, be less than twelve or more than twenty two; (c)in the case of a District Panchayat, be less than sixteen or more than thirty two;

Provided that the ratio between the Population of the Territorial area of a Panchayat any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.]

(6)The procedure for fixing the strength of a Panchayat shall be such as may be prescribed.

7. Composition of Village Panchayat. - (1) Every Village Panchayat shall consist of elected members equal to the number of seats notified under sub-section (1) of section 6.

(2) All the seats in a Village Panchayat shall be filled by persons chosen by direct election in accordance with the provisions of this Act.

(2)In every Village Panchayat, seats shall be reserved for the Scheduled Castes and Scheduled Tribes.

(3)The number of seats reserved under sub-section (3) shall be determined by the Government and the number of seats so determined shall bear, as early as may be, the same proportion to the total number of seats in that Panchayat as the population of the Scheduled Castes in that Panchayat area or, as the case may be, of the Scheduled Tribes in that Panchayat area bears to the total Population of the Panchayat area, and such seats shall be allotted to the [State Election Commission] or an Officer authorised by it **under sub-section (1B) of section 10 by rotation to different constituencies in that Panchayat area;

Provided that where the Population of the Scheduled Castes or the Scheduled Tribes in a Panchayat area is not sufficient enough to make them eligible for reservation of any seat, one seat shall be reserved in that Panchayat, for the Scheduled Castes or the Scheduled Tribes having higher population.

(4)One-third of the total number of seats reserved under sub-section (4) shall be reserved by the Government for women belonging to the Scheduled castes or the Scheduled Tribes as the case may be: [6 7]

[6]Substituted by Second Amendmeı Act 5f 2005 [7]Substituted by Act 13 of 1999.

^Substituted by Act 3 of 2005

Provided that if the number of seats reserved for Scheduled Castes or, as the case may be, the Scheduled Tribes, under sub-section (4) is one, that seat shall not be reserved for women, belonging to Scheduled Castes or Scheduled Tribes, as the case may be

(5)One-third [including the seats reserved under sub-section (5)] of the total number of seats in a Village Panchayat shall be reserved by the Government for women and such seats shall be allotted by the State Election Commission or the Officer authorised by it ** under sub-section (1B) of section 10 by rotation to different constituencies in the Village Panchayat area.

(6)Nothing contained in sub-sections (3) to (6) shall be deemed so prevent members of the Scheduled Castes or the Scheduled Tribes or the women from standing for election to the non-reserved seats in a Village Panchayat.

(7)A Village Panchayat shall have a President and a Vice President elected by the members of the village Panchayat from among themselves.

8. ***Composition of Block Panchaya.:*** - (1) Every block Panchayat shall consist of: -

(a)elected members equal to the number of seats notified under sub-section (1) of section 6:

(b)the Presidents of the Village Panchayats in the territorial area of the Block Panchayat; and

8[(c).....]

(2)All the seats in a Block Panchayat notified under sub-section (1) of section 6 shall be filled by persons chosen by direct election in accordance with the provisions of this Act.

(3)In every Block Panchayat, stipulated seats shall be reserved for the Scheduled Castes and the Scheduled Tribes.

(4)The number of seats reserved under sub-section (3) shall be determined by the Government and the number of seats so determined shall bear as nearly as may be, the same proposition to the total number of seats in that Block Panchayat i.e., the population of the Scheduled Castes in that Block Panchayat area or, as the case may be, of the Scheduled Tribes in that Block Panchayat area bears to the total population of that Block Panchayat area and such seats shall be allotted by 8 9[the State Election Commission] or the Officer authorised by it **under sub-section (1B) of section 10 by rotation to different constituencies in that block panchayat area.

Provided that where the population of the Scheduled Castes or Scheduled Tribes in block panchayat area is not sufficient enough for reservation of any seat, one seat shall be reserved in that block panchayat, for the Scheduled Castes of the Scheduled Tribes having higher population.

[8]Omitted by Act 7 of [9]1995

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

Provided that the number of seats reserved for Scheduled Castes or as the case may be, the Scheduled Tribes under sub-section (4) is one, that seat need not be reserved for women belonging to Scheduled Castes or as the case may be, Scheduled Tribes.

(6)One-third [including the seats reserved under sub-section (5) of the total number of seats in a block panchayat shall be reserved by the Government for women and such seats shall be allotted by [10] [11][the State Election Commission] or the Officer authorised by it
** under sub-section (1B) of section 10 by rotation to the different constituencies in the block panchayat area.

(7)Nothing contained in sub-section (3) to (6) shall be deemed to prevent members of the Scheduled Castes or the Scheduled Tribes or the women from standing for election to the non-reserved seats in a block panchayat.

(8)A Block Panchayat shall have a President and a Vice President elected by the elected members of the Block Panchayat from among themselves.

9. ***Composition of the District Panchayat.*** - (1) Every district panchayat shall consist of,

(a)elected members equal to the number of seats notified under sub-section (1)of section 6; and

(b)the presidents of the block panchayats in the district;

[11][(c) .....
(d) .....]

(2)All the seats in a district panchayat notified under sub-section (1) of section 6 shall be filled by persons chosen by direct election in accordance with the provisions of this Act.

(3)In every District panchayat, stipulated seats shall be reserved for Scheduled Castes and the Scheduled Tribes.

(4) The number of seats reserved under sub-section (3) shall be determined by the Government and the number of seats so determined shall bear, as nearly as may be, the same proportion to the total number of seats in that District Panchayat as the population of the Scheduled Castes in the District Panchayat area or, as the case may be, of the Scheduled Tribes in that District Panchayat area bears to the total population of that District Panchayat area, and such seats shall be allotted by the [State Election Commission] or the Officer authorised by it ** under sub-section(1B) section 10 by rotation to different constituencies in that District Panchayat area:

Provided that where the population of the Scheduled Castes or Scheduled Tribes in a District Panchayat area is not sufficient enough for the reservation of any seat, one seat

[10]Substituted by Act 13 of 1999

[11]

shall be reserved for Scheduled Castes or Scheduled Tribes in that Panchayat, having higher population.

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

Provided that the number of seats reserved for Scheduled Caste or, as the case may be, the Scheduled Tribes under sub-section (4) is one, that seat need not be reserved for women belonging to Scheduled Castes or, as the case may be, Scheduled Tribes.

(6)One-third including the seats reserved under sub-section (5) of the total number of seats in a District Panchayat shall be reserved by the Government for women and such seats shall be allotted by [the State Election Commission] or the Officer authorised by it **under sub-section(1B) of section 10 by rotation to different constituencies in the District Panchayat area.

(7)Nothing contained in sub-sections (3) to (6) shall be deemed to prevent members of the Scheduled Castes or the Scheduled Tribes or the women from standing for election to the non-reserved seats in a District Panchayat.

(8)A District Panchayat shall have a President and a Vice-President elected by the elected members of the District Panchayat from among themselves.

** Substituted by the Act 3 of 2005

CHAPTER IV

DELIMITATION OF CONSTITUENCIES

10. Division of Panchayats into Constituencies. - (1) [The Government shall by notification in the Gazette, constitute a Delimitation Commission consisting of the State Election Commission as the Chairman and four Officers, not below the rank of Secretary to Government, as member. The said Delimitation Commission shall, as soon as may be after fixing the strength of a Panchayat at any level under section 6 and after determining the number of seats to be reserves for Scheduled Castes, Schedules Tribes and for Women] -

(a)divide every Panchayat into as many constituencies as there are seat and fix the boundaries of such constituencies:

Provided that the population of each constituency shall, as far as practicable, be the same throughout the panchayat area:

Provided further that where the territorial area of a Block Panchayat is divided into constituencies, the boundaries of such constituencies shall not divide any constituency of any Village Panchayat and where the territorial area of a District Panchayat as divided into constituencies the boundaries of such constituencies shall not divide any constituency of any Village Panchayat or of any Block Panchayat, into more than one division.

[(b) ***]

**[(1A) The Officers for the functioning of the Delimitation Commission, procedure for the conduct of meeting including quorum and other related matters shall be such, as may be prescribed.

(1B) The State Election Commission of the Officer authorized by it in this behalf shall, on determination by the Government of the number of seats to be reserved, earmarked the constituency or constituencies to be reserved for Schedules Castes, Schedules

14 Amended by Act 13 of 1999.

15 Ibid.

16 Ibid.

17 Substituted by Act 13 of 1999.

18 Substituted by Act 13 of 1999.

** Substituted by Act 3 of 2005

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(2)The "[Delimitation Commission] shall, -

(a)publish [the proposal of the Delimitation Commission] in respect of the matters mentioned in clause (a) of sub-section (1), with a notice specifying the date on or after which the proposals will be considered [by it] and by inviting objections and suggestions with respect to the proposals before a date specified in the notice, by affixing copies thereof on the notice board of the Office of the panchayat concerned and in such conspicuous places within the Panchayat area concerned;

(b)publish in the Gazette and in any two local newspapers having wide circulation within the panchayat area concerned the act of publication under clause (a);

(c)consider all objections and suggestions that may have been received by the [Delimitation Commission] before the date so specified; and

[(d) delimit the constituencies.

**[(2A) The Officer authorised by the Sate Election Commission in this behalf shall determine, as to which constituency, the constituencies reserved for Scheduled Castes, Schedules Tribes or Women shall be allotted according to rotation, by draw of lots at the time, date and place fixed by the Commission in this behalf, by notification. (2B) After the drew of lots under sub-section (2A), the State Election Commission or the Officer authorised by it shall issue an order determining the constituency reserved for the Scheduled Caste, Scheduled Tribes or Women.]

(3)An order made by the 19[State Election Commission or the Officer authorised by it] [or the Delimitation Commission]shall not be called in question in any Court of Law.

(4) [The Delimitation Commission] shall furnish free of cost three copies each of the proposals published and the final orders issued under sub-section (2) to the Committees at the Panchayat level concerned of all political parties having representation in the Legislative Assembly and copies of such orders shall also be made available for sale, at the price fixed by [the Delimitation Commission], to all the public who require them.

@[10A. X X X X X]

11. ***Power to rectify Printing mistakes, etc.*** **-**21[The State Election Commission authorised by it] [or the Delimitation Commission] may from time to time correct any printing mistake in any order made under section 10 or any error therein arising from an inadvertent slip or omission. 19 20 21

[19] Substituted by Act 13 of
[20] Inserted by Act 13 of
[21] I bid
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CHAPTER V

OFFICERS AND STAFF OF STATE ELECTION COMMISSION

12.***Staff of the State Election Commission.*** - (1) As soon as may be, after a request by the State Election Commission to the Governor under clause (3) of article 243K, the Government shall lend the services of such number of Officers and employees as may be necessary to assist the State election Commission in the discharge of its functions.

(2)The Government may in consultation with the State Election Commission, appoint an officer not below the rank of Additional Secretary to Government as Secretary to the State Election Commission.

(3)The Officers and employees referred to in sub-section (1) and sub-section (2) shall continue to be Government servants for all purposes and their terms and conditions of service shall continue to be the same as applicable to them under the Government.

(4)The State Election Commission shall, in consultation with the Government ***[21] designate or nominate such of the officers of the Government or of the local authority, as officers for the purpose of preparation and revision of electoral rolls and conduct of elections under this Act.

13.***District Election officers.*** - (1) The State Election shall, in consultation with the Government, designate or nominate an officer of the Government or a local authority as district election officer for each district.

Provided that the State Election Commission, may designate or nominate more than one such officer for a district if it is satisfied that the functions of the office cannot be performed satisfactorily by one such officer.

(2)Where more than one district election officer is designated or nominated for a district, the State Election Commission shall in the order designating or nominating them also specify the area in respect of which, each such officer shall exercise jurisdiction.

(3)Subject to the superintendence, direction and control of the State Election Commission, every district election officer shall co-ordinate and supervise all works in the area within his jurisdiction including preparation and revision of the electoral rolls in connection with the conduct of elections for all constituencies within the district.

(4)The district election officer shall also perform such other functions relating to the election as may be entrusted to him by the State Election Commission.

14.***Electoral Registration Officer.*** - (1) The electoral rolls for all the constituencies comprised in a village panchayat shall be prepared and revised, in such manner as may be prescribed, by an electoral registration officer who shall be such Officer of the Government or of a local authority

as the State Election Commission may, in consultation with the Government, designate or nominate in this behalf.

*** omitted by Act 13 of 1999.

(2) An electoral registration officer may, subject to such restrictions as may be prescribed, employ competent teachers of schools including aided schools or Government employees or employees of local authorities for the preparation and revision of the electoral rolls for the constituencies.

15. ***Assistant Electoral Registration Officer.*** - (1) The State Election Commission may designate one or more persons as assistant electoral registration officers to assist any electoral registration officer in the performance of his functions.

Provided that every such person shall be an officer of the Government or of a panchayat.

(2) Every assistant electoral registration officer shall, subject to the control of the electoral registration officer, be competent to perform all or any of the functions of the electoral registration officer.

CHAPTER VI
PREPARATION OF ELECTORAL ROLLS

16. ***Electoral roll for every constituency.*** - (1) For every constituency in a village panchayat there shall be prepared an electoral roll in accordance with the provisions of this act.

(2) The draft electoral roll shall be published in the [22][respective] panchayat office, the village office and [23][.....] at the headquarters of the block and the taluk office, for facilitating the voters to verify the same and the final list shall be published after taking decisions on the objections and the applications.

(3) The electoral rolls for the constituencies of block panchayats and district panchayats shall consist of the electoral rolls for all the constituencies of the village panchayat comprised within the constituencies of the block panchayat or, as the case may be, of the district panchayat and it shall not be necessary to prepare or revise separate electoral rolls for such constituencies.

17.***Disqualifications for registration in an electoral roll.*** - (1) A person shall be disqualified for registration in an electoral roll if he, -

(a) is not a citizen of India; or

(b) is of unsound mind and stands so declared by a competent court; or

(c)is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included.

Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be reinstated in that roll it such disqualification is during the period such roll is in force, removed under any law authorising such removal.

18.***No person to be registered in more than one constituency.*** - No persons shall be entitled to be registered in the electoral roll for more than one constituency.

19.***No person to be registered more than once in any constituency.*** - No person shall be entitled to be registered in the electoral roll, for any constituency more than once.

20.***Conditions of registrations.*** - Subject to the foregoing, provisions of this chapter, every person who: -

(a) is not less than eighteen years of age on the qualifying date; and

(b)is ordinarily resident in a constituency, shall be entitled to be registered in the electoral roll for that constituency.

[22]Substituted by
At 7f 1995 [23]Omitted

21.***Meaning of 'ordinarily resident***- (1) A person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns, or is in possession of, a dwelling house therein.

(2)A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(3)A member of Parliament or of the State Legislature or President or Vice-President of a Panchayat at any level shall not during the term of his office cease to be ordinarily resident in the constituency, in the electoral roll of which he is registered as an elector, at the time of his election as such member, or President or Vice President by reason only of his absence from that constituency in connection with his duties as such member or President or Vice-President, as the case may be.

(4)A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in prison or other legal custody at any place, shall not by reason thereof only be deemed to be ordinarily resident therein.

(5)If in any case a question arises as to whether a person is ordinarily resident at a place at any relevant time, the question shall be determined by the Election Commission with reference to all the facts of the case and to such rules as may be made in this behalf.

22.***Preparation and revision of electoral rolls. -*** (1) The electoral roll for each constituency in a village panchayat shall be prepared in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(2)The said electoral roll -

(a)shall, unless otherwise directed by the State Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date -

(i) before each general election to a panchayat at any level; and

(ii) before each bye-lection to fill a casual vacancy in a seat allotted to the constituency.

(b)shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the State Election Commission:

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said elec be affected.

(3)Notwithstanding anything contained in sub-section (2) the State Election Commission may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit:

Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

23.***Correction of entries in electoral rolls.*** - If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied, after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency, of a panchayat, -

(a)is erroneous of defective in any particular; or

(b)should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency; or (c)should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll, the electoral registration officer shall, subject to such general, or special directions, if any, given by the State Election Commission in this behalf, amend, transpose or delete the entry:

Provided that before taking any action in any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to the ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

24.***Inclusion of names in electoral rolls. -*** (1) Any person whose name is not included in the electoral roll of a constituency may apply to the electoral registration officer for the inclusion of his name in that roll.

(2)The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll of that constituency, direct in writing that his name be included therein:

Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll:

(3)No amendment, transposition or decision of any entry shall be made under section 23 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section after the last date for making nominations for an election in that constituency and before the completion of that election. [25]

25.***Appeals. -*** An appeal shall be within such time and in such manner, as may be prescribed, to the district election officer from any order of the electoral registration officer under section 23 or

26.***Fee for applications and appeals.*** - Every application under section 23 or section 24 and every appeal under section 25 shall be accompanied by the prescribed fee which shall, in no case, be refunded.

27.***Making false declarations.*** - If any person makes in connection with -

(a)the preparation, revision or correction of an electoral roll; or (b)the inclusion or exclusion of any entry in or from an electoral roll,

a statement or declaration in writing which is false and which he either, known 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 two years or with fine which may extend to [24] five thousand rupees or with both.

28. ***Breach of official duty in connection with the preparation etc., of electoral rolls.-***

(1)If any electoral registration officer, assistant electoral registration officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion or exclusion of any entry in or from that roll, is without, reasonable cause, guilty, of any act or omission in breach of such official duty he shall be punishable with fine which shall not be less than one thousand 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 is aforesaid.

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

[24] Added by Act 13 of 1999.

CHAPTER VII

QUALIFICATIONS AND DISQUALIFICATIONS

29.***Qualifications for membership of a Panchayat.-*** A person shall not be qualified for chosen to fill a seat in a panchayat at any level unless: -

(a)his name appears in the electoral roll of any constituency in the Panchayat;

(b)he has completed his twenty-first year of age 25(on the date of filing of nomination);

(c)in the case of a seat reserved for the Scheduled Castes or for the Scheduled Tribes, he is a member of any of those castes or for those tribes, as the case may be;

[*Provided that even if a candidate has omitted any word or words inadvertently when he makes and subscribes signature in such oath or affirmation and in the case he has been subsequently elected as a member and assumed office on oath or affirmation made in the Second Schedule he shall not be considered as disqualified for the mistake happened earlier.]

(d)in the case of a seat reserved for women, such person is a women;

(e)he makes and subscribes before the returning officer or any other person authorised by the State Election Commission an oath of affirmation according to the form set out for the purpose in the first schedule.

(f)he has not been disqualified under any other provisions of this Act.

30. ***Disqualification of officers and employees of Government, local authorities etc.*** (1)Officer or employee in the service of the State or Central Government or of a local authority or a corporation controlled by the State or Central Government or of a local authority or any company in which the State or Central Government or a local authority has [26](not less than fifty one percent share) or of a statutory Board or of any University in the state shall be qualified, for election or for holding office as a member of a panchayat at any level.

27[Explanation- For the purpose of this section, company means a Government company as defined in section 617 of the Companies Act, 1956 (Central Act 1 of 1956) and includes a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969)].

(2)Any Officer or employee referred to in sub-section (1) who has been dismissed for corruption or disloyalty shall be disqualified for a period of five years from the date of such dismissal for election or for holding office as a member of a panchayat at any level. 31.***Disqualification of persons convicted for certain offences.-*** Every person convicted of an offence punishable under Chapter IX-A of the Indian Penal Code, 1860 (Central Act 45 of 1860) or under any other provision of law mentioned in section 8 of the Representation of People Act, 1951 (Central Act 43 of 1951) or under any law or rule relating to the infringement of the secrecy of an election, shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of a member of a panchayat at any level for a period of six years from the date of his conviction.

[2] Added by Act 7 of 1995.
[5] [2] Added by Act 7 of 1995
[6] Inserted by Act 7 of 1995 *
Inserted by Act 9 of 2003

32.***Disqualification on ground of corrupt practices.*** - The case of every person found guilty of a corrupt practice by an order under section 101 shall be submitted as soon as may be after such order takes effect, by such authority as the Government may specify in this behalf, to the Governor or determination of the question as to whether such person shall be disqualified and if so, for what period.

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to him under section 101 takes effect.

(2) Before giving his decision on any question mentioned in sub-section (1) the Governor shall obtain the opinion of the State Election Commission on that question and shall act according to such opinion.

33. ***Disqualification for failure to lodge account of election expenses. - If the State Election Commission is satisfied that a person -***

[28]

(a) has failed to lodge an account of election expense within the prescribed time and manner and has no sufficient reason or justification for such failure; or

(b) The accounts lodged are false;

(c) Has incurred election expenses exceeding the prescribed limit][29]

the State Election Commission shall, by order published in the Gazette, declare him to be disqualified and any such person shall be disqualified for a period of five years from the date of the order.

34.***Disqualification of candidates.*** — (1) A person shall be disqualified for being chosen as and for being a member of a panchayat at any level, if he -

(a)is so disqualified by or under any law, for the time being in force, for the purposes of elections to the Legislative Assembly; or

(b) (i) has been sentenced by a court or Tribunal to imprisonment for a period not less than three months for an offence involving moral turpitude;

(ii)has been found guilty of an offence of corruption by a competent authority under nay law in force;

(iii)has been held personally liable for maladministration by the Ombudsman constituted under section 271 G; or

(c) has been adjudged to be of unsound mind; or

(d) has voluntarily acquired the citizenship of a foreign State; or

(e) has been sentenced by a criminal court for any electoral offence punishable under Section 136 or [.....] section 138 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence or disqualification; or

(f) is an applicant to be adjudicated an insolvent or is an undischarged insolvent; or [28] [29] [30]

[28] Substituted by Act

[29] Substituted by Act

[30] Omitted by Act 7

(g)is interested in a subsisting contract made with, or any work being done for, the Government or the panchayat concerned except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act;

***Explanations.* -** A person shall not, by reason of his having a share or interest in any newspaper in which an advertisement relating to the affair of the Government or the panchayat concerned may be inserted, or by reason of his holding a debenture or being otherwise concerned in any loan raised by or on behalf of the Government or the panchayat, be disqualified under this clause; or

(h)is employed as a paid legal practitioner on behalf of the Government or the panchayat concerned; or

(i)is already a member whose term of office as such will not expire before his fresh election can take effect or has already been elected a member whose term of office has not yet commenced; or

(j)is in arrears of any kind due by him to the Government or the Panchayat concerned (otherwise than in a fiduciary capacity) upto and inclusive of the previous year in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment has expired; or

(k)is dismissed or removed from the service of the Central Government or of the State Government or the Service of any local authority or any other service referred to in sub-section (1) of section 30; and five years have not elapsed from the date of such dismissal or removal; or

[31][(kk) has been disqualified as per the provisions of the Kerala Local Authorities (prohibition of Defection) Act, 1999 and has not completed six years from the date of disqualification.]

(l)is debarred from practising as an advocate or vakil; or

(m)is a deaf-mute; or

(n)is disqualified under any other provision of this Act; or

(o)is included in the black list for any default in connection with any contract or tender with the Government.

[32][(p) has been found liable for loss, waste or misuse of money or other property of the panchayat by the Ombudsman]

(2) If any question arises as to whether a candidate has become subject to any of the disqualifications mentioned in sub-section (1), the question shall be referred for the decision of the State Election Commission and the decision of the State Election Commission on such question shall be final.

35. ***Disqualifications of members. -*** * (1) Subject to the provisions of section 36, or section 102 a member shall cease to hold office as such, if he -

[33]

[(a) is found guilty as described under clause (b) of sub-section (1) of section 34 or is sentenced for such an offence; or]

(b)has been adjudged to be of unsound mind; or

(c)has voluntarily acquired the citizenship of a foreign State; or [31] [32] [33]

[31]Inserted by

Act 32Inserted by Act 33Inserted by Act 13 of 1999.

*Add A

(d)has been sentenced by a criminal court for any electoral offence punishable under section 136 [.....][34]Section 138 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence or disqualification; or

(e)has applied to be adjudicated, or is adjudicated, an insolvent; or

(f)acquires any interest in any subsisting contract made with, or work being done for, the Government or the panchayat concerned except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act:

Explanation. - A person shall not, by reason of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Government or the panchayat concerned may be inserted or by reason of his holding a debenture or being otherwise concerned in any loan raised by or on behalf of the Government or the panchayat, be disqualified under this clause; or

(g)is employed as a paid legal practitioner on behalf of the Government or the panchayat concerned; or

(h)ceases to reside within the area of the panchayat concerned; or

(i) is debarred from practising as an Advocate or Vakil; or

(j)is in arrears any kind due by him (otherwise than in a fiduciary capacity) to the Government or the panchayat concerned upto and inclusive of the previous year in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein has expired; or

[35]

(k) absents himself without the permission of the panchayat concerned from its meetings or the meeting of the standing committee thereof for a period of three consecutive months reckoned from the date of commencement of his term of office or of the last meeting that he attended, or of the restoration to office as member under sub-section (1) of section, 37. as the case may be, or if within the said period, only in less than three meetings of the panchayat or of the Standing Committee as the case

may be, have been held, absents himself from three consecutive meetings held after the said date;]

Provided that no meeting from which a member absented himself shall be counted against him under this clause if, -

(i) due notice of that meeting was not given to him; or than that prescribed for an ordinary meeting; or

(ii) the meeting was held after giving shorter notice than that prescribed for an ordinary meeting; or

(iii) the meeting was held on a requisition of members; or

[36][Provided further that no permission shall be granted by the Panchayat to a member for absenting himself from meetings of the Panchayat or of the Standing Committee for a continuous period of more than six months.]

(l) is disqualified under any provisions of the Constitution or under any law for the time being in force for the purpose of election to the Legislature of the State; or

3 Omitted by Act 7 of 1995
4 Amended by Act 13 of 1999.
3 Ibid

(m)is disqualified under any other provision of this Act.

37(n) has been disqualified under the provision of Kerala Local Authorities (Prohibition of Defection) Act, 1999; or

(o)is liable for the loss, waste or misuse caused to the panchayat;

(p)has failed, twice consecutively to convene the meetings of the Grama Sabha, due once in three months of which he is the convenor; or

(q)has failed to file declaration of his assets within the time limit prescribed under section 159]

*[(2) Notwithstanding anything contained in clause (q) of sub-section (1), a member, who had committed default in filing a statement regarding assets and liabilities within the time limit specified under Section 159 on the date on which the Kerala Panchayat Raj (Amendment) Act, 2007 came into force, shall not be deemed to be disqualified, if he files such statement before the concerned authority within 90 days from the date on which the said Act came into force.]

38 [35A, ***Cessation of membership.*** **—** No. member of a panchayat shall be a member of the Parliament or of the State Legislature at the same time and accordingly he shall cease to hold the office as a member of the Panchayat.

-

(a)where a person elected as a member of the panchayat has been a member of the parliament or of the Legislature before assuming his office and has not resigned the membership thereof or;

(b)where a member of the Panchayat who is elected or nominated as a member of the Parliament or of the State Legislature on assuming such office]

36. ***Determination of subsequent disqualification of a member. -*** (1) Whenever a question arises as to whether a member has become disqualified under section 30 or section 35 excluding clause (n) thereof after having been elected s a member, any member of the panchayat concerned or any other person entitled to vote at the election in which the member was

elected, may file a petition before the State Election Commission, for decision.

[37] Inserted by Act 13 of 1999.

[38] Ibid

[39] Inserted by Act 11 of 2007

[39] [Provided that, the Secretary or the Officer authorised by the Government in this behalf may refer such a question to the State Election Commission for decisions.]

(2)The State Election Commission, after making such enquiry as it consider necessary in the petition referred to in of the reference made there under in subsection

(1)whether so however that the State Election Commission may pass an interim order as to whether a member may continue in office of not till a decision is taken on the petition or the matter involved in the reference.

40(3) A petition [or reference] referred to in sub-section (1) shall be disposed of in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) when trying a suit.

37. ***Restoration of membership.*** **—** (1) Where a person ceases to be a member of panchayat at any level under section 31 or clause (a) of section 35, he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision or the disqualification caused by the sentence is removed; and any person elected to fill the vacancy in the interim shall, on such restoration, vacate office.

(2)Where a person ceases to be member under clause (k) of section 35 the Secretary of the Panchayat concerned shall at once intimate the fact in writing to such person and report the same at the next meeting of the panchayat. If such person applies for restoration to the panchayat on or before the date of the next meeting or within fifteen days of the receipt by him of such intimation, the panchayat may at the meeting next after the receipt of such application restore him to his office of member:

Provided that a member shall not be restored more than twice during his term of office. [39] [40]

[39]Substituted by Act 13 of 1999.

[40]Inserted by Act 13 of 1999.

CHAPTER VIII

NOTIFICATION OF GENERAL ELECTIONS AND ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS.

38.***Notification for general election to panchayats.*** - (1) A general election shall be held for the purpose of constitution or reconstitution of new panchayats before the expiration of the duration of the existing panchayats.

(2) For the said purpose, the Government shall, by one or more notifications published in the Gazette on such date or date as may be recommended by State Election Commission, call upon all the constituencies of the panchayats in the State to elect members in accordance with the provisions of this Act and of the rules and orders made there under.

39.***Delegation of functions of State Election Commission.*** - The functions of the State Election Commission under this Act or the rules made there under, may subject to such general or special directions, if any, given by the State Election Commission in this behalf be performed also by the Secretary to the State Election Commission:

Provided that the commission shall have power to examine any such decision taken by the Secretary either ***suo moto*** or on the basis of any complaint, and take suitable decision thereon.

40.***General duties of district election officers.*** - Subject to the superintendence, direction and control of the State Election Commission the district election officer, shall co-ordinate and supervise all work, in the district in connection with the conduct of all elections to the panchayats in the district.

[41][40 A. ***Election Observers.-*** (1) The State Election Commission may nominate adequate number of higher officials of the Government as observers in consultation with the Government for observing the election of the Panchayat.]

[42][(2) The observer nominated under subsection (1) shall assist the State Election Commission to ensure a fair and equitable election and shall discharge such other function as may be entrusted by the Commission.]

41.***Returning Officers.*** - For every Panchayat for every election to fill a seat or seats in the Panchayat, the State Election Commission, shall, consultation with the Government, designate or nominate [41] [42] [43]one or more returning Officer who shall be an Officer of the government or of a local Self Government Institutions:

Provided that nothing in the section shall prevent the State Election Commission from designating or nominating the same person to be the returning Officer for more than one Panchayats lying adjacent.

[41] Inserted by Act 13

[42] Inserted

by Act 13 43 Substituted by Act

42.***Assistant Returning Officers.*** - (1) The State election Commission may appoint one or more persons as assistant returning officers to assist any returning officer in the performance of this functions.

(2)Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the returning officer:

Provided that no assistant returning officer shall perform any of the functions of the returning officer which relates to the scrutiny of nominations unless the returning officer is unavoidably prevented from performing the said function.

43.***Returning officer to include assistant returning officers performing the functions of the returning officer. —*** References in this Act to the returning officer shall, unless the context otherwise requires, be deemed to include an assistant returning officer performing any function which he is authorised to perform under sub-section (2) of section - 42.

44.***General duty of the returning officer. -*** It shall be the general duty of the returning officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and the rules or orders made there under.

45.***Provision of polling stations. -*** The district election officer shall with the previous approval of the State Election Commission provide sufficient number of polling stations for every panchayat within his jurisdiction, and shall publish in such manner as the State Election Commission may direct a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided.

46.***Appointment of presiding officers for polling stations. -*** (1) The district election officer shall appoint a presiding officer for each polling station and such polling officer or officers as

he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or in relation to the election.

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working or, a candidate in or in relation to the election, to be the polling officer during the absence of the former officer, and inform the district election officer accordingly:

Provided further that nothing in this sub-section shall prevent the district election officer from appointing the same person to be presiding officer for more than one polling station in the same premises.

(2)A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made there under.

(3)If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling

officer as has been previously authorised by the district election officer to perform such functions during any such absence.

(4)References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorised to perform under sub-section (2) or sub-section (3) as the case may be.

47.***General duty of the presiding officer: -*** It shall be the general duty of the presiding officer at a polling station to keep order there at and to see that the poll is fairly taken.

48.***Duties of a polling officer: -*** It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

[44]48A. ***Returning Officer, Presiding Officer etc. be deemed to be on deputation to the Election Commission. -*** The Returning Officer, the Assistant Returning Officer, the Presiding Officer, the Polling Officer, any other Officer and any Police Officer designated for the time being to conduct a general election or bye-lection under the provisions of this Act shall be deemed to be on deputation to the State Election Commission for the period from the date of the notification for such election to the date of declaration of the result of such election and accordingly, such officers shall be subject to the control, supervision and command of the State Election Commission during that period.

[44] Added by Act 13 of 1999.

CHAPTER IX

CONDUCT OF ELECTIONS

49.***Appointment of dates for nominations, etc. —*** As soon as the notification calling upon the constituencies in a panchayat at any level to elect a member or members is issued, the State Election Commission shall, by notification in the Gazette, appoint -

(a)the last date for making nomination which shall be the seventh day after the date of publication of the first mentioned notification or, if that day is public holiday, the next succeeding day which is not a public holiday;

(b)the date for the scrutiny of nominations which shall be the day immediately
following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(c)the last date for the withdrawal of candidatures, which shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d)the date or dates on which a poll shall, if necessary, be taken which or the first of which shall be a date not earlier than the twentieth day after the last date for the withdrawal of candidatures; and

(e)the date before which the election shall be completed.

50.***Public notice of election. -*** On the issue of a notification, under section 49, the returning officer shall give public notice of the intended election in such form and manner, as may be prescribed, inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

51.***Nomination of candidates for election. -*** Any person may be nominated as a candidate for election to fill a seat if he is qualified to be chosen to fill that seat under the provisions of the constitution and this Act;
45[Provided that a person nominated as a candidate to fill a seat in a constituency in a Panchayat shall not be nominated as a candidate for another constituency in the same Panchayat].

52. ***Presentation of nomination paper and requirements for a valid nomination. -***

(1)on or before the date appointed under clause (a) of section 49, each candidate shall, either in person or by his proposer, between the hours of eleven O'clock in the forenoon and three O'clock in the afternoon deliver to the returning officer at the place specified in this behalf in the notice issued under section 50, a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as proposer.

"[(1A) Every candidate submitting nomination under sub-section (1) shall not be deemed to be qualified to be elected to fill that post unless he submits, along with such nomination, the details regarding his educational qualification, criminal cases in which he is involved at the time of submission of nomination, property owned by him and other members of his family, liabilities including arrears due from him to any Public Sector Undertaking or Government or Local Self Government Institutions and whether disqualifies for defection under the Kerala Local Authorities (Prohibition of Defection) Act, 1999 in the form and manner as may be prescribed.]"

(2)In a constituency where the seat is reserved for Scheduled Caste or Scheduled Tribe a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member. [45]

[45] Substituted by Act 7 of 1995.
* Inserted by Act 30 of 2005

(3)Where the candidate is a person who, having held any office referred to in clause (K) of section 34 has been dismissed or removed and period of five years has not elapsed since the dismissal or removal such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the State Election Commission to the effect that he has not been dismissed or removed for corruption, or disloyalty.

(4)On the presentation of a nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls;

Provided that no misnomer on inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the returning officer shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary direct that any such misnomer inaccurate description, or clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.

(5)Where the candidate is an elector of a different constituency a copy of the electoral roll of that constituency or of the relevant part thereof or a certified copy of the relevant entries in such roll shall unless it has been filed along, with the nomination paper, be produced before the returning officer at the time of scrutiny.

(6)Nothing in the section shall prevent any candidate from being nominated by more than one nomination paper:

Provided that not more than three nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer.

53.***Deposits.-*** (1) A candidate shall not be deemed to be duly nominated for election from a constituency of a panchayat at any level unless he deposits or causes to be deposited such sum, as may be prescribed, and different rates may be prescribed or different levels of the panchayats. In the case of candidates belonging to Scheduled Castes or Scheduled Tribes, the amount of deposit shall be fifty per cent, of the amount prescribed for such constituency:

Provided that where a candidate has been nominated by more than one nomination paper, not more than one deposit shall be required of him under this sub-section.

(2) Any sum required to be deposited under sub-section (1) shall not be deemed to have been deposited under that sub section unless at the time of delivery of the nomination paper under sub-section (1) of section 52, the candidate has either deposited or caused to be deposited that sum with the returning officer in cash or enclosed with the nomination

paper a receipt showing that the said sum has been deposited by him or on his behalf in the office of such authority as may be notified by the Government.

54.***Notice of nominations and the time and place for their security.*** - The returning officer shall, on receiving the nomination paper under sub-section (1) of section 52, inform the person or persons delivering the same, of the date, time and place fixed for the scrutiny of nominations sand shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions both of the candidate and of the proposer as contained in the nomination paper.

55.***Scrutiny of nominations. -*** (1) On the date fixed for the scrutiny of nominations under section 49, the candidates, their election agents, one proposer of each candidate and one other person duly authorised in writing by each candidates, but no other person, may attend at such time and place as the returning off returning officer shall give them

all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in section 52.

(2)The returning officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds, namely: -

(a)that on the date fixed for the scrutiny of nominations, the candidate is either not qualified or is disqualified for being chosen to fill the seat under any of the provisions of this Act;

(b)that there has been failure to comply with any of the provisions of section 52 or section 53; or

(c)if he is satisfied that the signature of the candidate or the proposer on the nomination paper is not genuine.

(3)Nothing contained in clause (b) or clause (c) of sub-section (2) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4)The returning officer shall not reject any nomination paper on the ground of any defect, which is not of a substantial nature.

(5)The retuning officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of section 49 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by cause beyond his control;

Provided that in case an objection is raised by the returning officer or is made by any other person the candidate concerned may be allowed time to rebut it not later than the next working day but one following the date fixed for scrutiny, and the returning officer shall record his decision on the date to which the proceedings have been adjourned.

(6)The returning officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(7)For the purpose of this section, a certified copy of an entry in the electoral roll for the time being in force of a constituency shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to a disqualification mentioned in section 17.

(8)Immediately after all the nomination papers have been scrutinised and decisions accepting or rejecting the same have been recorded, the returning officer shall prepare a list of validly nominated candidates and affix it on his notice board.

56.***Withdrawal of candidature.*** **-** (1) Any candidate may withdraw his candidature by a notice in writing which shall contain such particulars as may be prescribed and shall be subscribed by him delivered before three O'clock in the afternoon on the day fixed under clause (c) of Section 49 to the returning officer either by such candidate in person or by his proposer, or election agent who has been authorised in this behalf in writing by such candidate;

Provided that if that day has been notified by the Government as a day to be observed as a holiday in Government offices, the notice of withdrawal shall be considered as having been delivered in due time if it is delivered before three O'clock in the afternoon on the next succeeding day which is not a holiday so notified.

(2)No person who has given a notice of withdrawal of his candidature under sub-section (1)shall be allowed to cancel the notice.

(3)The returning officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-section (1), cause the notice to be affixed in some conspicuous place in his office and in the office of the concerned panchayat.

57.***Publication of list of contesting candidates.*** - (1) Immediately after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of section 56, the returning officer shall prepare and publish in such form and manner as may be prescribed a list of contesting candidates.

(2)The said list shall contain the names in Malayalam alphabetical order and the addresses of the contesting candidates as given in the nomination papers together with such other particulars, as may be prescribed.

58.***Election agents. -*** A candidate at an election may appoint, in the prescribed manner any one person other than himself to be his election agent and when any such

appointment is made notice of the appointment shall be given in the prescribed manner, to the returning officer.

59.***Disqualification for being an election agent.*** - Any person who is for the time being disqualified under this Act for being a member of a panchayat shall be disqualified for being an election agent at any election.

60.***Revocation of the appointment or death of an election agent. -*** (1) Any revocation of the appointment of an election agent, shall be signed by the candidate and shall operate from the date on which it is lodged with the returning officer.

(2) In the event of such a revocation or of the death of an election agent whether that even occurs before or during the election, or after the election but before the account of the candidate's election expenses has been lodged in accordance with the provisions of section 86, the candidate may appoint in the prescribed manner another person to be his election agent and when such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.

61.***Functions of election agents. -*** An election agent may perform such functions in connection with the election as are authorised by or under this Act to be performed by an election agent.

62.***Appointment of polling agents. -*** A contesting candidate or his election agent may appoint, in the prescribed manner, such number of agents, and relief agents, as may be prescribed, to such number of agents, and relief agents, as may be prescribed, to act as polling agents of such candidate at each polling station provided under section 45.

63.***Appointment of Counting Agents. -*** A contesting candidate or his election agent may appoint, in the presc e persons; but not

exceeding such number, as may be prescribed, to be present as his counting agent or agents at the counting of votes, and when any such appointment is made notice of the appointment shall be given in the prescribed manner to the returning Officer.

64. ***Revocation of the appointment of death of a polling agent or a counting agent. - (1)*** Any revocation of the appointment of a polling agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with such officer as may be prescribed and in the event of such a revocation or of the death of a polling agent before the close of the poll, the candidate or his election agent may appoint, in the prescribed manner, another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment, in the prescribed manner, to such officer, as may be prescribed.

(2) Any revocation of the appointment of a counting agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the Returning Officer, and in the event of such a revocation or of the death of a counting agent, before the commencement of the counting of votes, the candidate or his election agent may appoint, in the prescribed manner another counting agent at any time before the counting of votes is commenced and shall forthwith give notice of such appointment, in the prescribed manner, to the Returning Officer.

65.***Functions of polling agents and counting agents.*** - (1) A polling agent may perform such functions in connection with the poll as are authorised by or under this Act to be performed by a polling agent.

(2)A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.

66. ***Attendance of a contesting candidate or his election agent at polling stations and performance by him of the functions of a polling agent or counting agent. - (1) At*** every election where a poll is taken, each contesting candidate at such election and his election agent shall have a right to be present at any polling station provided under section 45 for the taking of the poll.

(2) A contesting candidate or his election agent may himself do any act or thing which any polling agent or the counting agent of such contesting candidate, if appointed, would have been authorised by or under this Act to do, or may assist any polling agent or the counting agent of such contesting candidate in doing any such act or thing.

67.***Non-attendance of polling or counting agents. -*** Where any act or thing is required or authorised by or under this Act to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

68.***Death of candidate before poll.***-If a candidate whose nomination has been found valid on scrutiny under section 55 and who has not withdrawn his candidature under section 56 dies and a report of his death is received before the publication of the list of contesting candidates under section 57, or if a contesting candidate dies and a report of his death is received before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the State Election Commission and also to the Government and all proceedings with reference to the election shall be commenced a new in all respects as if for a new election:

Provided that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:

Provided further that no person who has given a notice of withdrawal of his candidature under sub-section (1) of section 56 before the countermanding of the poll shall be [46][intelligible] for being nominated as a candidate for the election after such countermanding.

69.***Procedure in contested and uncontested elections.*** - (1) if the number of contesting candidates for a constituency is more than one, a poll shall be taken.

46Substituted by Act 7 of 1995.

(2)If there is only one candidate for a constituency, the Returning Officer shall declare him to be duly elected.

(3)If there is no candidate, election proceedings shall be started afresh for filling up the vacancy in all respects as it for a new election.

70.***Fixing time for poll. -*** The State Election Commission shall fix the hours during which the poll will be taken, and the hours so fixed shall be published in such manner, as may be prescribed:

Provided that the total period allotted on any one-day or polling at an election to a constituency shall not be less than eight hours between 7 a.m. and 5 p.m.

71.***Adjournment of poll in emergencies.-(1)*** If at an election the proceedings at any polling station provided under section 45 for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity, or any other sufficient cause, the Presiding Officer or such polling station or the Returning Officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by a presiding officer, he shall forthwith inform the Returning Officer concerned.

(2)Whenever a poll is adjourned under sub-section (1), the Returning Officer shall immediately report the circumstances to the appropriate authority and the State Election Commission, and shall, as soon as may be, with the previous approval of the State Election Commission, appoint the day on which the poll shall commence, and fix the polling station or place at which, and the hours during which the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(3)In every such case as aforesaid, the returning officer shall notify in such manner as the State Election Commission may direct the date, place and hours of polling fixed under sub-section (2).

72. ***Fresh poll in the case of destruction, etc. of ballot boxes. - (1) If at any election -***

(a)any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained, or

(b)any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll, the returning officer shall forthwith report the mater to the State Election Commission.

(2) Thereupon the State Election Commission shall, after taking all material circumstances into account, either -

(a)declare the poll at that polling station or place to be void, appoint a day and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or

(b)if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

(3)The provisions, of this Act and of any rules or orders made hereunder shall apply to every such fresh poll as they apply to the original poll.

73. ***Countermanding of election or adjournment of poll on the ground of booth capturing. - (1) If at any election -***

(a)Booth-capturing has taken place at a polling station or at a place fixed for the poll (hereafter in this section referred to as a place) in such a manner that the result of the poll at that polling station or place cannot be ascertained; or

(b)booth-capturing takes place in any place for counting of votes in such a manner that the result of the counting at that place cannot be ascertained, the returning officer shall forthwith report the matter to the State Election Commission.

(2) The State Election Commission shall, on receipt of a report from the returning officer under sub-section (1) and after taking all material circumstances into account, either -

(a)declare that the poll at that polling station or place be void, appoint a day, and fix the hours, for taking fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit; or

(b)if satisfied that in view of the large number of polling stations or place involved in booth-capturing, the result of the election is likely to be affected, or that booth-capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election in that constituency.

Explanation. - In this section, "booth-capturing" shall have the same meaning as in section 137.

74.***Manner of voting at lection.*** - At every election where a poll is taken votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

75.***Special procedure for preventing personation of electors. —*** With a view to preventing personation of electors provision may be made by rules made under this Act, -

(a) for the marking, with indelible ink, of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him;

(b) for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger.

76.***Right to vote. -*** (1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of a constituency shall be entitled to vote in that constituency.

(2)No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 17.

(3)No person shall vote at a general election in more than one constituency of the same level, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

(4)No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

(5)No person shall vote at any election if he is confined in a prison whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

77.***Counting of votes. -*** At every election where a poll is taken votes shall be counted by, or under the supervision and direction of, the Returning Officer and each contesting candidate, his election agent and his counting agents shall have a right to be present at the time of counting.

78.***Destruction, loss etc. of ballot papers at the time of counting. -*** 1) If at any time before the counting of votes is completed any ballot papers used at a polling station or at a place fixed for the poll are unlawfully taken out of the custody of the returning officer or are accidentally or intentionally destroyed or lost or are damaged or tampered with, to such an extent that, the result of the poll at that polling station or place cannot be ascertained, the returning officer shall forthwith report the matter to the State Election Commission.

(2) Thereupon, the State Election Commission shall, after taking all material circumstances into account, either -

(a)direct that the counting of votes shall be stopped, declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit, or

(b)If satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election, issue such directions to the returning officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.

(3)The provisions of this Act and of any rules or orders made there under shall apply to every such fresh poll as they apply to the original poll.

79.***Equality of votes.*** - If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

80.***Declaration of results.-*** When the counting of the votes has been completed, the returning officer shall, in the absence of any direction by the State Election Commission to the contrary, forthwith declare the result of the election in the manner provided by this Act or the rules made there under.

81.***Report of the result. -*** As soon as may be after the result of an election has been declared, the returning officer shall report the result to the panchayat concerned, to the State Election C vernment, and the

State Election Commission shall cause to be published in the Gazette the declarations containing the names of the elected candidates. The name or names of the elected candidate or candidates shall also be published on the notice board of the panchayat concerned.

82.***Date of election of candidate.*** **-** For the purpose of this Act, the date on which a candidate is declared by the returning officer under the provisions of section 69, or section 80, to be elected to a panchayat shall be the date of election of that candidate.

83.***Publication of results of general elections to the panchayat.*** **-** Where a general election is held for the purpose of constituting or reconstituting a panchayat there shall be notified by the State Election Commission in the Gazette, as soon as may be, after the results of the elections in all the constituencies, other than those in which the poll could not be taken for any reason on the date originally fixed under clause (d) of section 49 or for which the time for completion of the election has been extended under the provisions of section 143, have been declared by the returning officer under the provisions of the section 69 or, as the case may be, section 80, the names of the members elected for those constituencies and upon the publication of such notification the members shall be deemed to be duly elected;

Provided that the publication of such notification shall not be deemed -

(a)to prelude -

(1)the taking of the poll and the completion of the election in any panchayat constituency or constituencies in which the poll could not be taken for any reason on the date originally fixed under clause (e) of section 49; or

(2)the completion of the election in any panchayat constituency or constituencies for which time has been extended under the provisions of section 143;

(b)to affect the duration of the panchayat, if any, functioning immediately before the issue of the said notification.

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83A. ***Cessation of membership.*** - (1) No person, shall be a member in more than one level in a Panchayat and a person who is elected to more than one level in a Panchayat shall, within fifteen days of his being so elected intimate to the State Election Commission, in writing, information regarding the Panchayat in respect of which he wishes to be a member and the panchayat in respect of which he wishes to vacate his membership and on his failure in so intimating, his membership in all the levels of the panchayats to which he has been elected shall be deemed to have ceased.

(2)As soon as the intimation in writing is received from a person under sub-section (1), the State Election Commission shall declare that he has by such intimation vacated his membership in respect of all the panchayats except the panchayat in respect of which he has intimated his wish to be a member.

(3)When a person being a member of a panchayat at one level is also elected as member at another panchayat level, unless he resigns his membership of the panchayat of which he is a member within fifteen days from the date on which he is so elected, his membership in the panchayat to which he is so elected shall cease;

(4)Nothing contained in this section shall be a bar for a President of a Village Panchayat continuing as a member in a Block Panchayat or for a Block Panchayat President continuing as a member in a District Panchayat under clause (b) of sub sub-section (1) of section 8 or as the case may be, under clause (b) of sub-section (1) of section 9.

(5)If any dispute arises in respect of vacating of membership or cessation of membership under this section, it shall be referred to the State Election Commission for decision and the Commission's decision thereon shall be final.

84. ***Bye-elections to fill casual vacancies.*** **-** (1) When a panchayat at any level is dissolved before its duration specified in Article 243E or when the seat of a member elected to a panchayat becomes vacant or is declared vacant or his election to the panchayat is declared void, the State Election Commission shall, subject to the provisions of - sub-section (2) by a notification in the Gazette, call upon the constituencies in such panchayat or the constituency concerned, as the case may be, to elect members or member for the purpose of constituting the panchayat or filling the vacancy, as the case may be, before such date as may be specified in the notifications and the provisions of this Act and of the rules and orders made there under shall apply as far as may be, in relation to such election.

(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the Scheduled Castes or for Scheduled Tribes or for women the notification issued under

[47] Inserted by Act 7 or 1995.

sub-section (1) shall specify that the person to fill that seat shall belong to the Scheduled Castes or to Scheduled Tribes or be a women, as the case may be,

85. ***Account of election expenses and maximum thereof.*** - (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof (both dates inclusive).

Explanation 1. **—** any expenditure incurred or authorised in connection with the election of a candidate by a political party or by any other association or body or persons or by any individual (other than the candidate or his election agent)- shall not be deemed to be expenditure in connection with the election incurred or authorised by the candidate or by his election agent for the purposes of this sub-section.

Explanation 2. **-** For the removal of doubt, it is hereby declared that any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (8) of section 120 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorised by a candidate or by his election agent for the purpose of this sub-section.

(2)The account shall contain such particulars, as may prescribed.

(3)The total of the said expenditure shall not exceed such amount as may be prescribed.

[48]86. ***Lodging of accounts [with the officer authorised by the State Election Commission]. -*** Every contesting candidate at an election shall, within 30 days from the date of election of the returned candidate lodge with the officer authorised by the State Election Commission, an account of his election expenses along with the connected records which shall be a true copy of the account kept by him or by his election agent under Section 85. The said officer shall, as soon as may be, immediately after the expiry of the said period of 30 days, make available to the officer appointed by the Commission, the accounts of election expenses received by him along with a list of candidates who did not lodge the accounts of election expenses prescribed by the Commission.

[48]Substituted by Act 13 of 1999.

CHAPTER X
DISPUTES REGARDING ELECTION

87.***Election petitions.*** - No election shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.

88.***The Court competent to try election petitions.*** - (1) the court having jurisdiction to try an election petition shall be, -

(a)In the case of a village panchayat, the Munsiff's Court having jurisdiction over the place in which the headquarters of the panchayat is located; and

(b)In the case of block panchayat or district panchayat the district court having jurisdiction over the place in which the headquarters of the panchayat concerned is located.

89.***Presentation of petitions.*** - (1) An election petition calling in question any Election may be presented on one or more of the grounds specified in section 102 and section 103, to the appropriate court as specified in section 88, by any candidate at such election or by any elector within 30 days from, but not earlier than, the date on which the returned candidate was declared elected.

Explanation - In this sub-section, 'elector' means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

(2) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.

90.***Parties to the petition.*** - A petitioner shall join as respondents to his petition.

(a)Where the petitioner, in addition to claiming a declaration that the election of the returned candidate is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, the returned candidates; and (b)any other candidate against whom allegations of any corrupt practice are made in the petition.

91.***Contents of petition.*** - (1) An el

(a)shall contain a concise statement of the material facts on which the petitioner relies; (b)shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged have committed such corrupt practice and the date and place of the commission of each such practice; and

(c)shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the verification of pleadings;

Provided that where the petitioner alleges any corrupt practice the petition shall also be accompanied by an affidavit in the prescribed

form in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

92.***Relief that may be claimed by the petitioner.*** - A petitioner may, in addition to claiming a declaration that the election of the returned candidate is void, claim a further declaration that he himself or any other candidate has been duly elected.

93.***Trial of election petition. -*** (1) The Court shall dismiss an election petition which does not comply with the provisions of section 89 or section 90 or section 115.

Explanation. - An order of the court dismissing an election petition under, this subsection shall be deemed to be an order made under clause (a) of section 100.

(2)Where more election petitions than one are presented to the court in respect of the same election, the court may, in its discretion, try them separately or in one or more groups.

(3)Any candidate not already a respondent shall, upon application made by him to the Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the court, be entitled to be joined as a respondent.

Explanation. - For the purposes of this sub-section and section 100 the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the court and answer the claim or claims made in the petition.

(4)The court may upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner, as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(5)Every election petition shall be tried as expediously as possible and shall be disposed of within six months from the date on which the election petition is presented to the Court for trail.

94.***Procedure before the court. -*** (1) Subject tot the provisions of this Act and of any rules made there under, every election petition shall be tried by the court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) to the trial of suits:

Provided that the court shall have the discretion to refuse for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the Party tendering such witness or witnesses is doing so in frivolous ground or with a view to delay the proceedings.

(2)The provisions of the Indian Evidence Act, 1872 (Central Act 1 of 1872), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of any election petition.

95. ***Documentary evidence.*** - Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the trail of an election petition on the ground that it is not duly stamped or registered.

96.***Secrecy of voting not be infringed. -*** No witness or other person shall be required to state for whom he has voted at an election.

97.***Answering of criminating questions and certificate of indemnity. -*** (1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trail of an ground him, that

the answer to such question may criminate or may tend to criminate or that it may expose or may tend to expose him to any penalty or forfeiture:

Provided that -

(a)a witness, who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the court;

(b)an answer given by a witness to a question put by or before the court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under chapter IXA of the Indian Penal Code (Central Act 45 of 1860), or Chapter XI of this Act arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

98.***Expenses of witnesses. -*** the reasonable expenses incurred by any person in attending to give evidence may be allowed by the court to such person and shall, unless the court otherwise directs, be deemed to be part of the costs.

99.***Recrimination when seat claimed. -*** (1) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election:

Provided that the returned candidate or such other party, as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of
commencement of the trial, given notice to the court of his intention to do so and has also given the security and the further security referred to ain section 115 and 116
respectively.

(2) Every notice referred to in sub-section (1) shall be accompanied by the statement and particulars required by section 91 in the case of an election petition and shall be signed and verified in like manner.

100.***Decision of the court. -*** At the conclusion of the trial of an election petition the court shall make an order -

(a)dismissing the lection petition; or

(b)declaring the election of the returned candidate to be void; or

(c)declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

101.***Other orders to be made by the court. -*** At the time of making an order under section 100, the court shall also make an order -

(a)where any charge is made in the petition of any corrupt practice having been committed at the election, recording -

(i)a finding whether any corrupt practice has or has not been proved to have committed at the election, and the nature of that corrupt practice; and

(ii)the names of all persons, if any, who have been proved at the trial to have

been guilty of any corrupt practice and the nature of that any practice; and
(b)fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid:
Provided that a person who is not a party to the petition shall not be named in the order under sub-clause (ii) of clause (a) unless -
(1)he has been given notice to appear before the court and to show cause why he should not be so named; and
(ii) if he appears in pursuance of the notice, he has been given an opportunity of cross examining any witness who has already been examined by the court and has given evidence against him, of calling evidence in his defence and of being heard.

102.***Grounds for declaring election to be void. -*** (1) Subject to the provisions of subsection
(2)if the court is of opinion -
(a)that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under this Act; or
(b)that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or
(c)that any nomination has been improperly rejected; or
**[(ca) that the details furnished by the elected candidates under sub-section (1A) of section 52 were fake; or]

** Inserted by Act 30 of 2005

(d)that the result of the election, in so far as it concerns a returned candidate, has been materially affected -

(i) by the improper acceptance of any nomination, or
(ii) by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent; or
(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void; or
(iv) by any non-compliance with the provisions of this Act or of any rules or orders made there under, the court shall declare that the election of the returned candidate to be void.

(2) if in the opinion of the court a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice but the court is satisfied. -

(a)that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent, of the candidate or his election agent;
(b)that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and
(c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of this agents, then the court may decide that the election of the returned candidate is not void.

Explanation. - In this section the term 'agent' has the same meaning as in section 120.

103.***Grounds for which a candidate other than the returned candidate may be declared to have been elected. -*** If d a petition has, in

addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the court is of opinion -

(a)that in fact the petitioner or such other candidate received a majority of the valid votes; or

(b)that but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have obtained a majority of the valid votes, the court shall after declaring the election of the returned candidate to be void declared the petitioner or such other candidate, as the case may be, to have been duly elected.

104. ***Procedure in case of an equality of votes. -*** If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of one vote would entitle any of those candidates to be declared elected, then-

(a)any decision made by the returning officer under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purpose of the petition; and

(b)in so far as that question is not determined by such a decision the court shall decide between them by lot and proceed as if the one on whom the lot then falls and received an additional vote.

105.***Communication of orders of the court.*** - The court shall, as soon as may be, after the conclusion of the trial of an election petition, intimate the substance of the order to the State Election Commission and the President of the Panchayat concerned and, as soon as may be, thereafter, shall send to the State Election Commission an authenticated copy of the order.

106. ***Transmission of order to the appropriate authority etc., and its publication. — As*** soon as may be after the receipt of any order made by the court under section 100 or section 101, the State Election Commission shall forward copies of the order to the President of the panchayat concerned and, shall cause the order to be published in such manner as the State Election Commission may deem fit.

107.***Effect of orders of the court. -*** (1) An order under section 100 or section 101 shall take effect as soon as it is pronounced by the court.

(2) Where by an order under section 101 the election of a returned candidate is declared to be void, acts and proceedings in which that returned candidate has, before the date thereof participated as a member of a panchayat shall not be invalidated by a reason of that order, nor shall such candidate be subjected to any liability or penalty on the ground of such participation.

108.***Withdrawal of election petitions. -*** (1) An election petition may be withdrawn only by leave of the court, if an application for its withdrawal is made.

(2) Where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the office of the panchayat concerned.

109.***Procedure for withdrawal of election petition. -*** (1) if there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent in writing of all the petitioners.

(2)No application for withdrawal shall be granted if, in the opinion of the court and if the court is satisfied that such application has been induced by any bargain or consideration which ought not to be allowed.

(3)If the application is granted -

(a)the petitioner shall be ordered to pay the costs of the respondents thereto for incurred or such portion thereof as the court may think fit;

(b)the court shall direct that the notice of withdrawal shall be published in the office of the court and also in the office of the panchayat concerned;

(c)a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in the place of the party withdrawing, and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted, and to continue the proceedings upon such terms as the court may deem fit.

110.***Report of withdrawal by the court to the State Election Commission. —*** When an application for withdrawal is granted by the court and no person has been substituted as petitioner under clause (c) of sub-section (3) of section 109, in the place of the party withdrawing, the court shall report the fact to the State Election Commission.

111.***Abatement of election petitions. -*** (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

(2)Where an election petition abates under sub-section (1), notice of the abatement shall be published in the Office of the Court, in the Office of the State Election Commission and in the Office of the panchayat concerned.

(3)Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the court may deem fit.

112.***Abatement or substitution on death of respondent.*** - If before the conclusion of the trial of an election petition, the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondents dies or gives such notice and there is no other respondent who is opposing the petition, the court shall cause notice of such even to be published in the Office of the Court, in the Office of the State Election Commission and in the office of the Panchayat concerned and thereupon any person who might have been a petitioner may, within fourteen days of such publication apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the court may think fit.

113.***Appeals. -*** (1) Any person aggrieved, by an order made by the court under section 100 or section 101, may prefer an appeal, on any question of law or of fact, -

(a)before the District Court on the decision of the Munsiff's Court; and (b)before the High Court on the decision of the District Court;

(3)Every appeal under this section shall be preferred within a period of thirty days from the date of the order of the court under section 100 or section 101:

Provided that the Appellate Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

114.***Procedure in appeal. -*** (1) Subject to the provisions of this Act and of the rules, if any, made there under the District Court or the High Court may dispose of the appeal in accordance with the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the hearing of appeals and the decision of the Court in the appeal shall be final:

Provided that such appeals shall be disposed of, as far as possible within six months from the date of filing of such appeals.

(2) As soon as an appeal is decided, the Appellate Court shall intimate the substance of the decision to the State Election Commission and the President of the Panchayat concerned and as soon as may be, thereafter shall send to the State Election Commission an authenticated copy of the decision; and upon its receipt, the State Election Commission shall -

(a)forward copies thereof to the authorities to which copies of the order of the court were forwarded under section 106; and

(b)cause the decision to be published in such manner as the State Election Commission may deem fit.

115.***Security for costs. -*** (1) At the time of presenting an election petition, the petitioner shall deposit in the court a sum of five hundred rupees as security or enclose with the petition a Government treasury receipt showing that the deposit of the said amount has been made by him in a Government treasury in favour of the Musiff or the District Judge, as the case may be, as security for the costs of the petition.

(2) During the course of the trial of an election petition, the court may at any time call upon the petitioner to give such further security for costs as it may direct and if the petitioner fails to do so inspite of allowing sufficient time, dismiss the petition.

116.***Security for costs from a respondent. -*** No person shall be entitled to be joined as a respondent under sub-section (3) of section 93 unless he has given such security for costs as the court may direct.

117.***Costs. -*** Costs shall be in the discretion of the court, provided that where a petition is dismissed under clause (a) of section 100, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the court shall make an order for costs in favour of the returned candidate.

118. ***Payment of costs out of security deposits and return of such deposits. — (1) If in*** any order as to costs under the provisions of this chapter there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible, out of the security deposit and the further security d ch party under this

chapter on an application made in writing in that behalf within a period of one year from the date of such order to the court by the person in whose favour the costs have been awarded.

(2) If there is any balance left out of any of the said security deposits, after payment under sub-section (1) of the costs referred to in that sub-section, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of one year the whole of the said security deposits may, on an application made in that behalf in writing to the court by the person by whom the deposit have been made, or if such person dies after making such deposits, by the legal representative of such person be returned to the said person or to his legal a representative, as the case may be.

119. ***Execution of orders as to costs.*** - Any order as to costs under the provisions of this chapter may be produced before the principal civil court of original jurisdiction with the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion there of may be recovered by an application made under sub-section (1) of section 115, no application shall lie under this section within a period of one year from the date of such order unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub section owing to the insufficiency of the amount of the security deposits referred to in that sub section.

CHAPTER XI
CORRUPT PRACTICES AND ELECTORAL OFFENCES

120.***Corrupt practices.*** - The following shall be deemed to be corrupt practices for the purposes of this Act -

(1)'Bribery', that is to say, -

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing -

(a)a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election, or
(b)an elector to vote or refrain from voting at an election, or as a reward to -

(i)a person for having so stood, or not stood, or for having withdrawn or not having withdrawn his candidature; or
(ii)an elector for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward -

(a)by a person for standing or not standing as, or for withdrawing or not
withdrawing from being, a candidate; or
(b)by any person whoms ther person for

voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

Explanation. - For the purposes of this clause the term gratification is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of expenses bonafide incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in Section 85.

(2)'Undue influence', that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate, or his agent, or of any other person with the consent of the candidate or his election agent; with the free exercise of any electoral right:

Provided that -

(a)without prejudice to the generality of the provisions of this clause any such person as is referred to therein who -

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be tendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause.

(b)a declaration of public policy or a promise of public action, or the more exercise of a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this clause.

(3)The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to national symbols such as the national flag or the national emblem for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:

Provided that no symbol allotted under nay rules made under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.

(4)The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language by a candidate or his agent or any other person with the consent of a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(5)The publication by a candidate or his agent or by other person, with the consent of a candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6)The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 45:

Provided that the hiring of a vehicle or vessel by an elector or by several electors as their joint cost for the purpose of conveying him or them to and from any such polling station or place fixed for the poll 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 tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

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

(7)The incurring or authorising of expenditure in contravention of section 85.

(8)The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of a panchayat or of Government, and belonging to any of the following classes, namely: -

(a)gazetted officers;
(b)members of police forces;
(c)excise officers;
(d)revenue officers; and
(e)such other class of persons in the service of the Government as may be prescribed;

Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge or this official duty makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his election agent or any other person acting with the consent of the candidate or his election agent, (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidates election.

(9)Booth capturing by a candidate or his agent or other person acting with the consent of the candidate or his election agent.

Explanation 1. - In this section the any expression 'agent includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

Explanation 2. - For the purposes of clause (8), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent of that candidate.

Explanation 3.- For the purposes of clause (8), notwithstanding anything contained in any other law, the publication in the Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Government or of a panchayat shall be conclusive proof -

(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

(ii) where the date of taking effect of such appointment resignation, termination of service, dismissal or removal from service as the case may be, is stated in such publication; also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service, such person ceased to be in such service with effect from the said date.

Explanation 4. — For the purposes of clause (9), 'both capturing' shall have the same meaning as in section 137.

121.***Promoting enmity between classes in connection with election. —*** Any person who in connection with an election, under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten thousand rupees or with both.

122.***Prohibition of public meetings on the day preceding the lection day and on the election day. —*** (1) No person shall convene, hold or attend any public meeting within a constituency during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for an election in that constituency.

(2)Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees.

123.***Disturbances at election meetings. —*** (1) Any person who at a public meeting to which this section applies, acts or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(2)This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member and the date on which such election is held.

(3)If any police officer reasonably suspects any person of committing an offence under sub-section (1) he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

124.***Restrictions on the printing of pamphlet, posters, etc.*** **—** (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and publisher thereof.

(2)No Person shall print, or cause to be printed any election pamphlet or poster -

(a)Unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b)Unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document printed to such officer as may be authorised by the State Election Commission in this behalf.

(3)For the purposes of this section, -

(a)any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression 'printer' shall be construed accordingly; and

(b)'election pamphlet or poster' means any printed pamphlet hand bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to lection agents or workers.

(4)Any person who contravenes any of the provisions of sub section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

125.***Maintenance of Secrecy of voting.*** **—** (1) 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 nay law) communicate to any person any information calculated to violate such secrecy.

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

126. ***Officers, etc. at elections not to act for candidates or to influence voting. — (1) No*** person who is a district election officer or a returning officer or an assistant returning officer or a presiding or polling officer at an election, or an officer or employee performing any duty in connection with an election shall in the context or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2)No such person as aforesaid, and no member of 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 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 be punishable with imprisonment which may extend to three years or with fine or with both. (4)An offence punishable under sub-section (3) shall be cognisable.

127.***Prohibition of canvassing in or near polling stations.*** — (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of two hundred metres of the polling station namely: -

(a)canvassing for votes; or

(b)soliciting the vote of any elector; or

(c)persuading any elector not to vote for any particular candidate; or

(d)persuading any elector not to vote at the election; or

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

(2)any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees.

128.***Penalty for disorderly conduct in or near polling stations.*** — (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 or 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 be punishable with imprisonment which may extend to three months or with five which may extend to five hundred rupees or with both.

(3)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.

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

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

(3)If any person who has been so removed from a polling station re-enters the polling station, without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to one thousand rupees or with both.

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

130.***Penalty for failure to observe procedure for voting.*** **—** If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting, the ballot paper issued to him shall be liable for cancellation.

131.Penalty for illegal hiring or procuring of conveyances at elections - If any person is guilty of any such corrupt practice as is specified in clause (6) of section 120 at or in connection with an election, he shall be punishable with fine which may extend to one thousand rupees.

132. ***List of officers and staff of the Government Departments, local self Government institutions or other authorities [and educational institutions] to be furnished.-(1)***

Every head of office or department [49][and headmasters of aided schools and principals of private affiliated colleges] [including] ['Every head of] educational institutions of the Government and every local self Government institution or other authority shall, on requisition by the State Election Commission or an officer authorised by him furnish to him a list of officers and staff of such office' [or educational institution] within such time as may be specified in the requisition, for performing any duty in connection with an election to a Panchayat.

Explanation. **—** For the purpose of this section and section 145, 'other authority' means any authority by whatever name called, constituted by the Government under any law or established by or under any State enactment for the time being in force.

(2)If any person to whom a requisition under sub-section (1) is made by the State Election Commission or an officer authorised by it fails to furnish the list of officers and staff within such time as may be specified in such requisition, he shall be punishable with fine which may extend to five hundred rupees.

133.***Breaches of official duty in connection with elections.*** **—** (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 be punishable with fine which may extend to five hundred rupees.

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

(3)The persons to whom this section applies are the district election officers, returning officers, assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at

Explanation. **—** 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.

[49] Inserted by Act 7 of 1995.

134.***Requisitioning of premises etc. for election purposes,*** **—** (1) If it appears to the State Election Commission or the District Election Officer that in connection with an election to a panchayat -

(a)any premises are needed to are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or (b)any vehicle or vessel is needed or is 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 the performance of any duties in connection with such election, the State Election commission or as the case may be, the District Election Officer may by order in writing requisition such premises or such vehicle or vessel, as the case may be, and may make such further orders as may appear to him to be necessary or expedient in connection with the requisitioning in respect of matters including reasonable remuneration to be given therefor:

Provided that no vehicle or vessel which is being lawfully, used by 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 State Election Commission or as the case may be, the District Election Officer to be the owner or person in possession of the property.

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

(4)If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(5)In this section -

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

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

(c)'vessel' means any vessel used or capable of being used for the purpose of water transport, whether propelled by mechanical power or otherwise.

135.***Penalty for Government servants or servants of a local self Government institution for acting as election agent, polling agent or counting agent.*** **—** If any person in the service of the Government or of a local self Government institution acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

136.***Removal of ballot papers from polling station to be an offence.*** -(1) Any person who at any election fraudulently takes, a or attempts to take a ballot paper, out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to one 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 women 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 cognisable.

137.***Offence of booth capturing. -*** Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government or a local authority, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.

Explanation. - For the purposes of this section, 'booth capturing' includes among other things, all or any of the following activities, namely: -

(a)seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections.

(b)taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from voting.

(c)threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;

(d)seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes.

(e)doing by any person in the service of the Government or a local authority of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.

138.***Other offences and penalties thereof. —*** (1) A person shall be guilty of an electoral offence, if at any election he -

139. fraudulently defaces or fraudulently destroys any nomination papers; or

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

141. fraudulently defaces y ballot paper or the official mark

on any ballot paper or any declaration of identity or official envelop used in connection with voting by postal ballot; or

142. without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

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

144. without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purpose of the election; or

145. 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.

146. Any person guilty of an electoral offence under this section shall, -

147. if he is a retuning officer or an assistant returning officer or a presiding officer of a constituen

any other officer or employee on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

148. if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

149. 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.

CHAPTE R XII STATE ELECTION COMMISSION

139. ***Powers of the state Election Commission.—*** (1) Where the State Election Commission in deciding any question under sub-section (2) of section 34 or section 36 of this Act considers it necessary or proper to make an inquiry, and the commission is satisfied that on the basis of the affidavits filed and the documents produced in such inquiry by the parties concerned of their own accord, it cannot come to a decision in the matter which is being inquired into the Commission shall have, for the purposes of such inquiry, the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely;-

(a)summoning and enforcing the attendance of any person and examining him on oath; (b)requiring the discovery and production of any document or other material object producible as evidence;

(c)receiving evidence on affidavits;

(d)requisitioning any public record or a copy thereof from any court or office; (e)issuing commissions for the examination of witnesses or documents.

(2)The Commission shall also have the power to require any person including Government officials subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, the subject matter of the inquiry.

(3)The commission shall be deemed to be a civil court and when any such offence, as is described in section 175; section 178, section 179, section 180 or section 228 of the Indian Penal Code (Central Act 45 of 1860), is committed in the view or presence of the Commission, the Commission may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(4)Any proceeding before the Commission shall be deemed to be judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code 1860 (Central Act 45 of 1860)

140.***Statements made by persons to the State Election Commission.*** - No statement made by a person in the course of giving evidence before the State Election Commission shall subject him to, or be used against him in, any Civil or criminal proceeding except a prosecution for giving false evidence by such statement.

Provided that the statement

(a)is made in reply to a question which he is required by the State Election Commission to answer, or

(b)is relevant to the subject matter of the inquiry.

141.***Procedure to be followed by the State Election Commission.*** — The State Election Commission shall have the power to regulate its own procedure, including the fixing of places and times of its sittings and deciding whether to sit in public or in private.

142.***Protection of action taken in good faith.*** — No suit, prosecution or other legal proceeding shall lie against the State Election Commission or any person acting under the direction of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of the foregoing provisions of this chapter or of any order made there under or in respect of the tendering of any opinion by the Commission to the Government or in respect of the publication, by or under the authority of the Commission of any such opinion, paper or proceedings.

CHAPTER XIII
GENERAL PROVISIONS REGARDING ELECTIONS

143.***Extension of time for completion of election.*** - It shall be competent for the State Election Commission for reasons which it considers sufficient, to extend the time for the completion of any election by making necessary amendment in the notification issued by it under section 49.

144.***Return of forfeiture of candidates deposit.*** - (1) The deposit made under section 53 shall either be returned to the person making it or his legal representative or be forfeited to the panchayat concerned in accordance with the provisions of this section.

(2)Except in cases hereafter mentioned in this section, the deposit shall be returned within three months afte is declared.

(3)If the candidate is not shown or his name is shown incorrectly in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit shall be returned to him or to his heir as the case may be, as soon as practicable, after the publication of the list or after his death as the case may be.

(4)Subject to the provisions of sub-section (3), the deposit shall be forfeited if at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one [50][sixth] of the total number of valid votes polled by all the candidates.

145.***Staff of every local Self Government Institution to be made available.*** - Every department of the Government and every local Self Government institution or [51][other authorities and every educational institution including an aided school or private affiliated college] in the State shall when so requested by the State Election Commission or the District Election Officer make available -

(a)to the electoral registration officer, such staff as may be necessary for the performance of any duties in connection with the preparation and revision of electoral roll; or

(b)to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

146. ***Special provision for adoption of Electoral roll of the Assembly Constituency. - (1)*** Notwithstanding anything contained in this Act, the State Election Commission may, - if it deem necessary, prepare the electoral rolls of panchayats without conducting an enumeration by adopting the electoral rolls of the Assembly Constituencies as in force for the purpose of elections under this Act.

[50] Substituted by Act 7f 1995

[51] Inserted by Act

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(2)The Electoral roll of Assembly Constituency as adopted under sub-section (1) shall be divided into separate parts for each constituency of the panchayats and all electors included in the electoral roll for the Assembly Constituency relating thereto shall be incorporated in the electoral roll of the Constituencies of the panchayat concerned.

Explanation. - In this section 'Assembly Constituency means a constituency for the purpose of election to the State Legislative Assembly.

(3)In preparing the electoral rolls under sub-section (1) the State Election Commission shall ***mutatis mutandis*** follow the procedure laid down for the preparation of electoral rolls under this Act and the rules made there under.

147.***Jurisdiction of civil courts barred. -*** No civil court shall have jurisdiction -

(a)to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a constituency; or

(b)to entertain any question on the legality of any action taken by or under the authority of an electoral registration officer or of any decision given by any other person appointed under this Act for the revision of any such roll;

(c)to entertain any question on the legality of any action taken or of any decision given by the returning officer or by any other persons appointed under this Act in connection with an election.

148.***Expensed in connection with elections. -*** Funds to meet all expenses in connection with the elections to the panchayats including those in relation to the preparation of electoral rolls therefore, shall be provided by the Government at the first instance and such expenses shall be got reimbursed to the Government from the panchayats concerned in such manner as may be prescribed:

Provided that if elections are conducted to different levels of the panchayats simultaneously then the total expenses for election to such panchayats shall be recovered only proportionately from the panchayats concerned.

149. ***Term of office of members.-*** (1) the term of office of members of a village panchayat, a block panchayat or a district panchayat shall be five years from the date fixed for convening the first meeting of that panchayat.

(2)Ordinary vacancies in the office of members of panchayat at any level shall be filled at general elections which shall be fixed by the Government to take place on such day or days within three months before the occurrence of the vacancies as they think fit.

(3)A casual vacancy in the office of a member of panchayat at any level shall be filled by the State Election Commission, within six months after the occurrence of the vacancy, through a bye-election.

(4)No bye-election shall be held to fill a vacancy occurring within six months before the ordinary date of retirement by efflux of time.

(5)A member of a Panchayat at any level elected at a bye-election shall enter upon office forthwith, but shall hold office only so long as the member in

whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

150.***Special elections.*** - If at a general election or bye-election no person is elected to fill the vacancy a fresh election shall be held within three months after the general election or bye-election, as the case may be, for such vacancy on such day as the State Election Commission may fix.

151.***Appointment of*** [52] [53]***Special officer or administrative committee or on failure to constitute a Panchayat. -*** (1) A Panchayat at nay level shall be deemed to be constituted only when the majority of the members are duty elected.

[53]

[(2) Where the term of a panchayat has expired and a new panchayat has not been constituted or where panchayat has been dissolved under section 193, the Government may, by notification in the Gazette appoint a Special Officer or an Administrative Committee consisting of not less than three officers of the Government as members for the administration of the panchayat.]

(3) [54] [55] [56] [57][****] Administrative Committee or the special officer shall hold office for such period not exceeding six months as the Government may specify in the notification under sub-section (2).

[55][3 (a) x x]

[56][(4) Where a special officer has been appointed under sub-section (2), all powers functions and duties of the Panchayat concerned, the President, and the various committees of the panchayat, shall be exercised and performed by the special officer and where an Administrative Committee has been appointed, the powers, functions and duties of the panchayat shall be exercise and performed by such committee and the powers, duties and functions of the President and the Vice President shall be exercised and performed by the member of the committee authorised by the Government.

Provided that, the Special Officer or the Administrative Committee appointed shall exercise the powers and perform the functions subject to the general or specific directions issued by the Government.]

(5)The administrative committee or special officers shall be deemed to be a duly constituted panchayat for the purposes of this Act; [provided that the term of office of the special officer or of the administrative committee shall, not withstanding that the term as specified in the notification under sub-section (2) has not expired, be deemed to have expired with effect from the date of reconstitutions of the panchayat.]

[52]Inserted by Act 13

[53]Inserted by Act 13

[54]Omitted by

Act 13

[55]Omitted by Act 13

[56]Inserted by Act 13

[57]Inserted by Act 13

CHAPTER XIV

PROVISION RELATING TO MEMBERS AND PRESIDENT OF PANCHAYATS

[58][152, ***Oath or affirmation by members.*** - (1) After every General election, the Government shall, for convening the first meeting of the panchayat, nominate a person elected as a member of the panchayat and he shall, before convening such meeting, make and subscribe an oath or affirmation in the forms set out for the purpose in the second schedule before the Government officer nominated by the Government for the purpose:

Provided that, as far as possible, the member nominated by the Government shall be the eldest among the members elected to that panchayat.

(2)All other members shall, before assuming office make and subscribe an oath or affirmation in the form set out for the purpose in the second schedule before the member of the panchayat who has been nominated under sub-section (1) on a date specified by the Government and before the date fixed by the State Election Commission for the election of the President under sub-section (5) of section (153]

(3)A member who could not take an oath or affirmation under sub-election (2) or a member elected in a bye-election may take such oath before the president.

(4)No elected member who has not taken an oath or affirmation under sub-section (1) or sub-section (2) or sub-section (3) shall vote or take part in the proceedings of any meeting of the Panchayat in which he is a member nor shall he be included as a member of any committee constituted by that Panchayat.

(5)Government may declare the office of the member as vacated on his own motion, when such a member has not entered upon his office without sufficient cause by taking, oath or affirmation within a maximum period of thirty days from the date he was declared as elected.

153. ***Election of President and Vice-President.*** - (1) In every Panchayat there shall be a President and a Vice-President elected from among the elected members of that Panchayat in accordance with the provisions of this Act [58] [59][and the president shall be full time functionary of the Panchayat]

(2)On the constitution of a panchayat or on its reconstitution under any provision of this Act, there shall be eturning Officer

referred to in sub-section
(6)][60] for the election of its President and Vice-President from among the elected members of that Panchayat.

(3) (a) The offices of President of Village Panchayats, Block panchayats and district panchayats in the State shall be reserved by the Government for the Scheduled Castes and the Scheduled Tribes and the number of the offices of President reserved for Scheduled Castes and Scheduled Tribes in the panchayats at each

[58]Substituted by Act

[59]Sub stitute d by Act

[60]Sub stitute d by Act

level in the state shall bear, as nearly as may be, the same proportion to the total number of offices of President at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State;

(b) (i) One-third each of the total number of offices of President of village panchayats, block panchayats and district panchayats in the State reserved under clause (a); and

(ii) One-third each of the total number of offices of President of village Panchayats, block Panchayats and district Panchayats in the State, not so reserved, shall be reserved by the Government, for women.

[61][(4) (a) The offices of the President reserved under sub-section (3) shall be allotted to every level of Panchayat in the different districts by the State Election Commission by notification in the Gazette.

(b)In the case of Block Panchayats and Village Panchayats the reserved seats for the Scheduled Castes and Scheduled Tribes shall be allotted proportionate to their population in the respective districts.

(c)In the case of Village Panchayat, the reserved seats in each district shall be distributed among the Village Panchayats within the area of the various Block Panchayats in the district.

(d)Before issuing notification for General election, the [61] [62][State Election Commission shall allot by rotation the reserved seats under clause (a), (b) and (c) and the rotation shall start from the Panchayat in which the Scheduled Castes or Scheduled Tribes or women have the larges percentage of population and then passed on to the next panchayat having their largest percentage of population and so on:

Provided that where the Panchayat the office of President of which is to be reserved for women and the Scheduled Castes and Scheduled Tribes is one and the same, in so reserving the Office of President preference shall be given to the Scheduled Castes or Scheduled Tribes and in lieu, the office of the President in the Panchayat net having their largest percentage population of women shall be reserved for women:

Provided further that in Panchayats the office of President of which is reserved for the Scheduled Caste or Scheduled Tribes, those in which the women have the more percentage of population of women shall be reserved for women belonging to them.

Provided also that office of President of any panchayat shall be reserved for the Scheduled Caste or Scheduled Tribes or women belonging to them only if at least one constituency of that Panchayat is reserved for that category.]

[61]Substituted by At 7f 1995

[62]Substituted by At 7f 1995

(5)The meeting for the lection of President and Vice President shall be held on such day within three weeks from the date on which the names of members elected are published by the State Election Commission as may be fixed by the State Election Commission.

(6)For the election of the President and the Vice-President of panchayats the State Election Commission shall designate or nominate an officer of the Government or local authority as the Returning officer.

(7)It shall be the duty of the Returning Officer to do all such acts and things as may be necessary for the effectively conducting the election in the manner prescribed.

[63][7. (a) The election shall be by open ballot and the member voting shall, record in writing his name and signature on the reverse side of the ballot paper.]

(8)A member who has not entered upon his office after making and subscribing an affirmation or oath under section 152 shall not have the right to vote for electing President or Vice-President.

(9)If at an election held under sub-section (2), no President or Vice-President is elected a fresh election shall be held for electing the President or Vice-President, the case may be.

(10)The result of the election of the President and the Vice-President of Panchayats shall be published by the State Election Commission in such manner as may be prescribed.

(11)A President shall be deemed to have vacated his office on the expiry of his term of office as member or on his being sentenced by a criminal court for the imprisonment for any offence involving moral delinquency or on his otherwise ceasing to be a member of that Pan

(12)A Vice-President shall be deemed to have vacated his office -

(a)on the expiry of his term of office as member or on his being sentenced by a criminal court for imprisonment for any offence involving moral delinquency or on his otherwise ceasing to be a member, or

(b)on his election as President.

(13)Before entering upon the offices, an oath or affirmation in the form set out in the Second Schedule shall be made and subscribed by the President of a panchayat at any level before the office authorised by the Government in this behalf and by the VicePresident before the President.

(14)Where a dispute arises as to the validity of an election of President or Vice-President of a Panchayat, any member of that Panchayat may file a petition.

(a) in the case of Village Panchayat before the Munsiff Court having jurisdiction over the area in which its headquarters is situated.

63Substituted by Act 11 of 1999.

(b) in the case of Block Panchayat or District Panchayat, before the District Court having jurisdiction over the area in which its headquarters is situated for decision and such decision shall be final.

[64(14) a) the validity of the election of the President or the Vice-President of a Panchayat shall not be called in question for the reason of any vacancy in the place of the members or who shall elect President or Vice-President for the reason of the absence of any member.]

(15)Every petition 65 66[referred to in sub-section (14)] shall be disposed of in accordance with the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit

(16)Any casual vacancy arising in the office of the President or Vice-President of a Panchayat shall be reported to the State Election Commission in such manner as may be prescribed and the State election Commission shall take steps for the conduct of election of President or Vice-President, as the case may be, in accordance with the provisions of this Act.

(17)Save as otherwise provided in this Act the term of office of the President and Vice-President of a Panchayat at any level shall be co-extensive with the duration of that Panchayat.

154. ***Duty of retiring President, etc. to hand over charge of office.*** - (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 the charge of the respective office, and delver to him the record and property belonging to the Panchayat concerned and in the latter's custody.

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

66[155. ***Resignation of President, Vice-President or members.*** - (1) The President or Vice President or any other member of a Panchayat may resign his office by tendering his resignation in the prescribed form to the Secretary and the resignation shall take effect from the date on which it is received by the Secretary and the Secretary shall immediately report the fact to the Panchayat and the State Election Commission.

(2)The President, the Vice-President or the member who resigns shall either in person or, if such resignation letter has been attested by a Gazetted Officer, by registered post, tender or send as the case may be, his resignation to the Secretary and the Secretary shall give acknowledgement for the receipt of the same.

(3)If any dispute regarding any resignation arises, it shall be referred to the State Election Commission for decision and its decision thereon shall be final:

64Ibid

65Substituted by Act

66Substituted by Act

Provided that no dispute, referred after the expiry of fifteen days from the date on which the resignation takes effect, shall be entertained by the State Election Commission.]

156. ***Function of President and Vice-President.*** - 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 resolution passed by a panchayat shall vest in the President thereof who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this act.

(2)When the office of the president is vacant, the vice-president shall exercise the functions of the president until a new president assumes office.

(3)If the president of the panchayat is continuously absent from jurisdiction for more than fifteen days or is in capacitated, his functions, during such actions of incapacity shall, except in such circumstances as may be prescribed, vest on the vice-president of that panchayat.

67[(3A) Where the offices of the President and the Vice-President are vacant, the Chairman of the standing committee in the order mentioned in sub-section (1) of section 162, shall perform the functions of the President till a new President or Vice-President assumes office and where there is no President or Vice-President or Chairman of standing committee to hold the office of the President, the eldest among the elected members shall perform the functions of the President until the President or Vice President or Chairman of any Standing Committee assumes office.]

(4)Without prejudice to the generality of the for forgoing provisions the President of a Panchayat shall, -

(a)preside over and regulate the meetings of the Panchayat and Grama Sabha of which he is the President;

(b)exercise supervision and control over the acts done and actions taken by all officers and employees of the Panchayat and prepare their confidential reports;

(c)incur contingent expenditure upto such limit as may be fixed by the Government from time to time;

(d)authorise payment and refunds pertaining to the Panchayat;

68[(e) x x x x x x]

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

(g)exercise such other powers and discharge such other functions as may be conferred or imposed upon him by this Act or rules made there under. 67 68

67Substituted by Act 13f 1999

68Omitted by

Act 7 f 1995

(5)The President may, in case of an emergency direct the execution of any work of the doing of any act which requires the sanction of the Panchayat, and the immediate execution or doing of which is, in his opinion, necessary for the safety of the public and may direct that the expenses of executing such work or doing such act shall be paid from the funds of the Panchayat:

Provided that -

(a)he shall not act under this sub-section in contravention of any decision of the Panchayat prohibiting the execution of any particular work or the doing of any particular act;

(b)he shall report the action taken under this sub-section and the reason thereof to the Panchayat at its net meeting and obtain its approval therefore.

69[(6) The President of the Panchayat shall also have the following powers, namely: -

(a)To ensure the attendance of the Secretary and if necessary the attendance of the employees under the control of the Panchayat including the employees of the Government transferred to the Panchayat in the meetings of the Panchayat;

(b)Suspend from service, if necessary, any employee or officer under the control of the Panchayat other than the Secretary and the Government Officers in the Gazetted rank who are transferred to the service of the Panchayat, when disciplinary proceedings are to be taken against them for dereliction of duty or insubordination or for violation of rules or Standing Orders:

Provided that the President shall place the order of suspension in the next meeting of the Panchayat and get it ratified; otherwise the said order will become invalid;

(c)to call for in writing any record or file relating to the administration of the Panchayat from the Secretary or any Officer of the Panchayat and to give necessary directions or pass orders thereon under this Act or the rules made there under or in the light of the Standing Orders:

Provided that no files and records relating to the exercise of statutory powers vested solely with the Secretary or any Officer in respect of the administration of the Panchayat shall be called for;

Note: - The receipt and return of files and records shall be properly acknowledged and recorded.

(d)to refer immediately to Government any resolution passed by the Panchayat, which in his opinion has not passed in accordance with law or is in excess of power conferred by this Act, or any other law or if carried out, is likely to endanger human life, health or public safety.]

69 Substituted by Act 13 of 1999.

157. ***Motion of no confidence.*** - (1) Subject to the provisions of this section, a motion expressing want of confidence in the President or the Vice-President or of a Panchayat may be moved in accordance with the procedure aid down herein.

(2)Written notice in such form as may be prescribed of the intention to move any motion referred to in sub-section (1) signed by such number of elected members of the Panchayat concer t less than 70 71 72[one

third] of the sanctioned strength of elected members of that Panchayat together with a copy of the motion which is proposed to be moved shall be delivered in person by any of the elected members of the Panchayat signing the notice, to the officer as may be authorised by the Government in this behalf.

(3)The officer referred to in sub-section (2) shall convene a meeting of the elected members of the Panchayat for the consideration of the motion, to be held at the office of the Panchayat at a time appointed by him which shall not be later than fifteen working days from the date on which the notice under sub-section (2) is delivered to him.

(4)The officer referred to in sub-section (2) shall send by registered post to the elected members of the Panchayat concerned notice of not less than even clear days of any meeting held under this section and the time appointed therefor. Notice regarding this shall be affixed in the office of the Panchayat.

[72][(5) a meeting convened under the section shall be presided over by, -

(a)the President, if the motion is against the Vice-President;
(b)the Vice-President, if the motion is against the President;
(c)by the Chairman of the Standing Committee in the order of preference mentioned in sub-section (1) of section 162, if the President or the VicePresident is unable to preside over the meeting as provided under clause (a) or clause (b) by reason of his absence from station or otherwise:

Provided that where none under this clause also is able to preside over the meeting, also a member elected by the members of the Panchayat President at the meeting from among themselves shall preside over the meeting.

(5A) the Officer authorised under sub-section (2) shall attend the meeting convened under this section, as an observer]

(6)A meeting convened for the purpose of considering the motion under this section shall not be adjourned except for reasons beyond human control. The quorum required for such meeting shall be one half of the elected members of that Panchayat.

(7)As soon as the meeting convened under this section has commenced the person presiding shall read at the meeting the motion for the consideration of which it has been convened and declared it to be open for debate.

[70]Omitted by Act 13
[71]Substituted by Act
[72]Substituted by Act

(8)No debate on any motion under this section shall be adjourned except for reasons beyond human control.

(9)A debate on any no-confidence motion shall automatically terminate on the expiry of [73][three hours] from the time appointed for the commencement of the meeting if it is not concluded earlier and upon the conclusion of the debate or upon the expiry of such period of [three hours] as the case may be, the motion shall be put to vote.

[(9A) Voting shall be by open ballot and the member who voted shall record in writing his name and signature on the reverse side of ballot paper.]

(10)The person presiding shall not speak on the merit of the motion, and shall be entitled to vote thereon [except the right of a casting vote or second vote]

(11)The copy of the minutes of the meeting together with the copy of the motion and the result of the voting therein shall forthwith, on the termination of the meeting, be forwarded to the Government by the officer referred to in sub-section (2).

[76] [(12) if the motion is carried with the support of the majority of the number of members of the Panchayat notified under sub-section (1) of Section 6, the President or the Vice-President as the case may be, shall cease to hold office thereafter and their offices shall be deemed to be vacant forthwith, and the officer authorised under subsection (2) shall report the vacancy in such offices to the Government and the State Election Commission and the fact shall be published in the notice board of the Panchayat, and on receipt of such a report the Government shall notify in the Gazette the cessation of office by the President or the Vice-President, as the case may be.]

(13)If the motion is not carried by such majority as aforesaid or the meeting cannot be held for want of quorum, under sub-section (6), no notice of any subsequent motion expressing want of confidence in the same President or Vice-President or [73] [74] * [76] [77] [78][x x x] shall be received until after the expiry of six months from the date of meeting, or the date fixed for the motion, as the case may be.

(14)No notice of a motion under this section shall be accepted within six months of the assumption of office by a President or a Vice-President. [**]

158. ***Right of individual members.*** - (1) Every member of a Panchayat shall have the right to move resolution and to interpellate the President or the Chairman of Standing Committee on matters falling within the administrative jurisdiction of the Panchayat in which he is a member subject to such rules as may be made by the Government.

[73]Substituted by Act
[74]Inserted by Act 11
[4]
[76]Ibid
[77]Omitted by Act 13
[78]Omitted by Act 13

79

(2)Every member shall have access during office hours to the records [other than notified documents] of the Panchayat in which he is a member after giving due notice to the President. [80][********]

(3)Every member may call attention of the Panchayat regarding the needs of the people of the Panchayat area on the default made in the work [81][and the scheme] undertaken by the Panchayat or regarding other matters of public importance.

[159. ***Panchayat members, to submit statements regarding assets.*** - (1) A member of the panchayat shall, within three months from the date of assuming his office, file a statement of assets and liabilities of himself a is family, in the form prescribed

before the competent authority authorised in this behalf by the Government by notification in the gazette:

Provided that, a person who is a member of the Panchayat, at the commencement of this Act shall submit such a statement to the competent authority, before the date specified by the Government in this behalf.

(2)Where a member of the Panchayat who filed a statement under sub-section (1) acquires any asset in the name of himself or other members of his family or disposes or creates nay liability thereafter on the assets specified in the statement he shall file a statement in this regard to the competent authority within three months from the date of such acquisition or disposal or creation of liability, as the case may be.

(3)Any member of the Panchayat who makes a statement under sub-section (1) or sub-section (2) which is false and which he knows or believes to be false or does not believe to be true shall be liable to be proceeded against in accordance with law, for filing such false statement.

(4)Where a member of the panchayat fails to file such a statement to the competent authority within the date specified under sub-section (1) and sub-section (2), action may be taken to disqualify him from continuing as member of the panchayat under section 35.

Explanation 1. - For the purpose of this section "family" of a member of the Panchayat means, wife or husband of that member and his parents, married sisters and children who are dependent on him.

Explanation 2. - For the purpose of this section "asset" means all immovable properties and movable properties worth not less than Rupees ten thousand]

160. ***[Honorarium] to members to Panchayats and other perquisites of the President of District Panchayats.*** — (1) There shall be paid ["honorarium"] at such rate as may be prescribed to the President, the Vice-President and other elected members of Panchayat.

7 Inserted by Act 13 of 1999.
9 Omitted by Act 13 of 1999.
79 81 Substituted by Act 13 of 1999.
82 Substituted by Act 13 of 1999.
83 I bid.

(2)The President of a district Panchayat shall be entitled without payment of rent, to the use of a house at the Headquarters of the District Panchayat throughout his term of office and for a period of fifteen days immediately thereafter or in lieu thereof to a house rent allowance as may be prescribed.

(3)The District Panchayat shall provide suitable conveyance for the use of the President of the District Panchayat throughout his term of office and for a period of fifteen days immediately thereafter.

(4)The President and the Vice President of a Panchayat at any level shall be entitled, while touring on public business, to travelling and daily allowances at such rates as 84[prescribed].

(5)Every member of a Panchayat other than the President of a district panchayat shall be entitled to receive travelling and daily allowance at such dates as 85[prescribed] for attending the meetings of the Panchayat or of any committee thereof.

8 Ibid.
4 Ibid

CHAPTER XV
MEETINGS, POWERS, FUNCTIONS, DUTIES AND PROPERTY OF PANCHAYATS

161. ***Meetings of Panchayats.-*** (1) The meetings of a Panchayat at any level shall be held at such intervals, as may be prescribed:

Provided that the interval between two meetings shall not exceed one month.

[86][(1 a) If a notice in writing is given to the President by not less than one third of the members or members notified by Governments under sub-section (1) of section 6, specifying the purpose for which the meeting is to be convened, he shall convene, a special meeting of the panchayat for considering that matter]

(2)Every meeting of a Panchayat shall be presided over by its President or, in his absence, but its Vice-President or, in the absence of both, by a member chosen by the members present at the meeting to preside over the occasion.

(3)The person presiding shall preserve order at the meeting and decide all points of order arising at or in connection with meetings. There shall be no discussion on any point of order and the decision of the person presiding on any point of order shall be final.

(4)Save as provided in this Act, the time and place of a meeting of a Panchayat, the quorum of such meeting, the procedure of calling such meeting and the procedure at such meeting shall be such as may be prescribed.

(5)The rules referred to in sub-section (4) may provide for preventing any member or President or any member or Chairman of a committee from voting on, or taking part in the discussion, of any matter in which apart from its general application to the public he has any direct or indirect pecuniary interest, whether by himself or through some other- person, or from being present or presiding at any meeting of the Panchayat or of the committee during the discussion of any such matter.

(6)All questions before a meeting of a Panchayat shall be decided by a majority of votes of the members present and unless otherwise provided in this Act, the person presiding the meeting shall have a casting vote in all cases of equality of votes.

(7)No resolution of a Panchayat shall be modified, varied or cancelled by that Panchayat within a period of three months from the date of passing thereof, except by a resolution supported by two-thirds of the whole numbers of member of such Panchayat.

[(8) Any member, who was present at a meting of the panchayat shall have the right to give the secretary a note of dissent regarding a resolution passed by the Panchayat if has voted against such resolution, within forty-eight hours of the conclusion of the meeting. [86] [87]

[86]Inserted by Act 13

[87]Substituted by

Act f
1999

13f 1999

(9) The secretary shall forward copy of the minutes of every meeting of the Panchayat and the copy of the note of dissent if any, received under sub-section (8) to the Government or to the officer authorised by Government in this behalf, within ten days after the date of the meeting.]

[88162. ***Standing Committees.*** - (1) In every Panchayats standing committees as stated below shall be constituted namely: -

(a) In a Village Panchayat (1) Standing committee for Finance
(b) (2) Standing Committee for Development
(3) Standing Committee for Welfare.
(c) In a block Panchayat (1) Standing Committee for Finance
(2) (2) Standing Committee for Development
(3) Standing Committee for Welfare
In a District Panchayat (1) Standing Committee for Finance
(2) Standing Committee for Development
(3) Standing Committee for public works.
(4) Standing Committee for Health and Education
(5) Standing Committee for Welfare

Every standing committee shall consist of such number of members, including its chairman as decided by the Panchayat, so that all other elected members except the President and Vice-President shall be elected as a member in any of the standing committee and the number of members elected to each standing committee shall, as far as possible, be equal.

(3) The number of members of each standing committee as decided by the Panchayat under sub-section (2) shall not be changed within the term of that Panchayat.

(4) In every standing committee there shall be members elected by the elected members of the Panchayat from among themselves under the proportional representation system by single transferable vote and a member shall not be a member of more than one standing committee at a time.

(5) The Chairman of every standing committee, except the standing committee for finance, shall, be elected by the members of the respective standing committee from among themselves.

(6) The Vice-President shall be an ex-officio member and chairman of the standing committee for finance and the President shall be an ex-officio member of all standing committees without the right to vote.

(7) A member other than an ex-officio member of a standing committee and the chairman of a standing committee other than the standing committee for finance may resign the membership or chairmanship of a standing committee as the case may be by tendering

88Substituted by Act 13 of 1999.

resignation to the Secretary in the prescribed form and the resignation shall take effect from the date on which it was received by the Secretary and the Secretary shall inform the fact immediately to the President and the panchayat.

(8)The person who resigns the membership of chairmanship of the standing committee shall give in person or send through registered post his resignation where such resignation letter is attested by a gazetted officer, as the case may be his resignation to the Secretary and the Secretary shall acknowledge receipt of the same.

(9)Except as otherwise provided in this Act, the term of the Chairman of a Standing Committee or its member shall co-exists with the terms of that Panchayat.

(10)An election to fill up casual vacancy of the member of standing committee shall be conducted within thirty days of the occurrence of that vacancy:

Provided that where the vacancy in a standing committee could not be filled up due to the vacancy of a member of panchayat, the vacancy of standing committee shall be filled up within thirty days from the date of filling up of the vacancy of the member of panchayat.

(11)If a casual vacancy of the Chairman of a standing committee other than the standing committee for finance arises one of its members shall be elected as its chairman in the next meeting of the standing committee.

(12)A motion of non-confidence on the chairman of the standing committee other than the standing committee for finance may be moved subject to the prescribed provisions and procedures and if such a motion is passed with the support of not less than the majority of the members of the standing committee the chairman of that standing committee shall cease to hold office and he shall be deemed to have vacated the office of the chairman of the standing committee immediately.

162.A. ***Subjects to be dealt with by the standing committees.*** - (1) The following subjects shall be dealt with by the standing committees of the panchayat, namely: -

(a)in a village panchayat, -

(i) The standing committee for finance shall deal with the subjects of finance, tax, accounts, audit, budget, general administration, appeal relating to tax and subjects not allotted to other standing committees;

(ii)The standing committee for development shall deal with the subjects of development planning, socio-economic planning, spatial planning, agriculture, soil conservation, social forestry, animal husbandry, diary development, minor irrigation, fisheries, small-scale industry, public works, housing, regulation of building construction, electricity, etc;

(iii)The standing committee for welfare shall deal with the subjects of development of scheduled caste-scheduled tribe, development of women and children, social welfare, social security, slum improvements, poverty alleviation, public distribution system, Public Health, Sanitation, Education, Art and Culture and entertainment, water supply, sewerage and environment;

(iv)In the Block

(v)The Standing Committee for finance shall deal with the subjects, like finance, accounts, audit, budget, gen Panchayat

(vi)Standing Committee for development shall deal with the subjects like development planning, socio and economic planning, agriculture, animal husbandry, minor irrigation, fisheries, small-scale industry, public works, housing, electricity and maintenance of watershed;

(vii) Standing Committee for Welfare shall deal with the subjects like Development of Scheduled Caste - Schedule Tribe, Development of Women and Children, Social Welfare, Public Health, Education, Art, Culture and Entertainment and Environment;

(viii) In the District Panchayat, -

(ix)Standing Committee for finance shall deal with the subjects like finance, accounts, audit, budget, general administration and subjects not allowed to other standing committee;

(x)The standing committee for development shall deal with the subjects like development planning, socio-economic planning, agriculture, soil conservation, animal husbandry, minor irrigation, fisheries and small scale industry, etc.

(xi)The standing committee for public works shall deal with the subjects like public works, housing, spatial planning and environment;

(xii) the standing committee for Health and Education shall deal with subjects like public health and education;

(xiii) The standing committee for welfare shall deal with subjects like social welfare, development of women and children and development of scheduled caste-scheduled tribe.

(xiv) The standing committees of the panchayat may perform such other powers and functions of the panchayat as may be entrusted to it by the panchayat in addition to the powers and duties conferred on it by rules made in this behalf.

(xv) Every resolution passed by the standing committee shall be placed before the panchayat in its next meeting and the panchayat shall have power to modify such resolution if considered necessary.

(xvi) Where any of the standing committees cannot function effectively by reason of the resignation of the majority of its members or for any other reason, powers and functions of such standing committee shall be vested in the steering committee constituted under section 162 B till its re-constitution.

(1)The ex-officio Secretaries referred to in sub-section (11) of section 179 shall attend the meetings of the respective standing committee and render necessary assistance to the committee in the discharge of its functions.

162 B. ***Steering Committee.*** - (1) There, shall be a steering committee in every panchayat consisting of its President, Vice-President and the Chairman of standing committees and the President shall be the chairman of the said committee.

(2)The steering committee shall co-ordinate and monitor the functions of the standing committees and shall perform such other powers and functions as may be entrusted to it by the panchayat.

[89][163. ***Constitution of Functional Committees. -*** (1) Every panchayat may subject to such rules as may be made in this behalf, constitute functional committees for different subjects like agriculture, sanitation, communication, public health and education consisting of members of panchayat and others who are interested in public welfare and who are nominated by the panchayat.

Provided that members nominated by the panchayat shall not have any right to vote]

(2)The powers and functions of the Functional Committees shall be such as may be prescribed in this behalf.

164.Sub-Committees and Ward Committees. - (1) Every Panchayat may constitute subcommittees to assist the Standing Committee or Functional Committees for the execution of any work, scheme, project or plan, which may consist of members of the Panchayat and others interested in public welfare who may be nominated by the Panchayat.

[90][Provided that the nominated members shall have no right to vote].

[91][(1a) If not less than fifty persons enrolled in the voters list relating to a constituency of village panchayat belongs to Scheduled Tribe, they shall be deemed to be a SubCommittee of the Grama Sabha comprised in the territorial area of that Constituency and that sub-committee shall have the same powers and rights as that of the grama sabha regarding the development of Scheduled Tribe.]

(2)The village panchayat may constitute Ward Committee for each constituency with the member of the constituency concerned and other local inhabitants who may be nominated by the village panchayat to study and report on the needs of the constituency.

(3)The composition, term, procedure, nature of functions of the committees constituted under sub-section (1) and sub-section (2) shall be as laid down in the bye-laws of the panchayats concerned. [89] [90] [91]

[89]Substituted by Act

[90]Sub stitute d by Act

[91]Sub stitute d by Act

[92][165. ***Constitution of joint Committee.*** -(1) A panchayat may, along with one or more local self government Institutions constitute a Joint Committee for any purpose for which they are jointly responsible, if the panchayat so decided or the Government so requires.]

(2)The constitution, powers and procedure of a joint committee and a method of settling differences of opinion arising in the committee shall be such as may be prescribed.

166. Powers, duties and functions of village panchayat. - (1) [**] It shall be the duty of the village panchayat to meet the requirements of the village panchayat area in respect of the matters enumerated in the Third Schedule:

[94][Provided that it shall be the duty of the village panchayat to render services to the inhabitants of the village panchayat area in respect of the matters enumerated as mandatory functions in the Third Schedule].

(2)Subject to the other provisions of this Act and the guidelines and assistance financial, technical or otherwise, of the Government, the village panchayat shall have exclusive power to administer the matters enumerated in the Third Schedule [95][and to prepare and implement schemes relating there to for economic development and social justice]

(3)Village Panchayat shall also have powers to enhance employment facilities and to undertake developmental activities and to start manpower banks, under the leadership of the village panchayats.

[96]***Explanation. -*** Man Power Bank means a bank having the known details of skilled and unskilled persons who are willing to render service on requirement and the village panchayat shall maintain a register for the purpose and it shall contain other details as prescribed.]

(4)The Government, the district panchayat and the block panchayat shall subject to availability of resources provide necessary financial, technical and other assistance to the village panchayats to enable them to discharge their functions.

(5)All grants-in-aid sanctioned by the Government in respect of the matters enumerated in the Third Schedule shall be distributed through the village panchayat concerned.

(6)The Government shall, as soon as may be, after the commencement of this Act, transfer all institutions, schemes, buildings and other properties, assets and liabilities connected with the matters referred to in the Third Schedule to the Village Panchayat

[97]

[and every institution so transferred shall be in the name of the said village panchayat and shall be known accordingly]

[92] Ibid.
9 Omitted by Act 13 of 1999.
3 Aided by Act 13 of 1999.
9 Ibid
4 Added by Act 13 of 1999.
9 Ibid

[98](7) the village Panchayat shall administer the institutions and schemes transferred to it, subject to the guidelines and technical assistance of the Government and in accordance with the state and national policies.

(8) The village panchayat shall not have any power to sell, transfer, alienate or pledge the properties transferred to it.]

167.***Transfer to villagepanchayats of functions, institutions or works.*** - (1) Subject to such rules, as may be prescribed the Government, the district panchayat or the block panchayat may transfer to the village panchayat the management and maintenance of any institution or the execution or maintenance of any work or the exercise of any power or the discharge of any duty within the village panchayat area whether provided in this Act or not.

(2)The Government may, in addition to the powers and functions herein before, mentioned as exercisable by the village Panchayat authorise by general or special order, subject to such rules and conditions as may be prescribed, a village panchayat to exercise any power or discharge any function such as collection of land revenue, maintenance of survey and village records, collection of village statistics, supervision and control over Government primary schools, medical, public health, child welfare and maternity institutions as may be specified by the Government from time to time, and execution of community development work including improvement of agriculture, animal husbandry, communication and village industries, soil conservation, protection of environment, conservation of forest, wild life protection, protection of orphans, protection of the aged, cultural activities and informal education.

(3)Subject to such rules as may be prescribed a person or body of persons may transfer to the village panchayat, with its consent and subject to such conditions as may be agreed upon, the management and maintenance of any institution, within the panchayat area.

(4)It shall be lawful for the Government, the district panchayat or the block panchayat to contribute to the village panchayat fund such amount as may in their opinion be necessary for meeting the expenditure in connection with the management and maintenance of any institution or the execution or maintenance of any work or the exercise of any power or the discharge of any duty which the Government, the district panchayat or the block panchayat may, from time to time, make over to the village panchayat under sub-sections (1) and (2).

168. ***Maintenance of common dispensaries, child welfare centres, etc.-***Subject to the provisions of this Act and the rules made there under, a village panchayat or two or more village panchayats together may establish and maintain common dispensaries, child welfare centres and institutions of such other kind as may be specified by the Government.

"[169. Vesting of Public roads in village panchayats. - (1) Notwithstanding anything contained in the Kerala Land Conservancy Act 1957 (8 of 1958), or in any other law for [98] [99]

[98]I bid
[99]Substituted by Act
13f 1999

the time being in force, all public, roads other than those classified by the government s National Highway, State Highway or major district roads, bridges, culverts, ditches, dykes, fences on or beside the same protective devices and all adjacent land, not being private property appertaining thereto, within the panchayat area, i.e.-

(a)in the District Panchayats - All district roads other than major district road within the area of more than one block panchayat;

(b)in the Block Panchayats - District roads and village roads other than major district roads within the area of more than one village panchayat comprised in a Block Panchayat;

(c) in the village Panchayats - other village roads, paths and lanes within the Village Panchayat area.

Together with all pavements, stones and other materials and other things installed therein, all drains culverts made along side or under such roads and all works, materials and things appertaining thereto may be deemed as transferred to and vested absolutely in the panchayat area.

(2)Subject to the provisions of this Act, all rights and liabilities of the Government in relation to the public roads and other properties, materials and things vested in the Panchayat under sub-section (1) or sub-section (4) shall, from the date of such vesting, be the rights and liabilities of the Panchayat.]

(3)Notwithstanding anything contained in sub-section (1) or sub-sections (2) the Government may at any time by notification in the Gazette, exclude from the operation of this Act any such public road, sewer, drain, drainage work, tunnel or culvert and may also modify or cancel such notification and thereupon they shall revest in Government.

Provided that, before issuing such a notification the Government shall consult the village panchayat concerned and give due regard to the objections, if any.

(4)The government may, by notification in the Gazette, order the transfer to and vesting in, a village panchayat, of a public roads in the

village panchayat and thereupon such road or roads shall notwithstanding anything contained in sub-section (1), but subject to the other provisions of this Act, stand transferred to and vest in, such village panchayat.

(5)It shall not be lawful for any persons to occupy any land which is transferred to and vested in a [100][ ] panchayat under sub-section (1) or sub-section (4), whether a poramboke or not, without prior permission from the [101][ ] panchayat concerned.

Explanation. - For the removal of doubts its is clear by declared that in the erection of any wall, fence or building or the putting up of any over hanging structure of projection

[100] Omitted by Act 13 f 1999

[101] Omitted by Act 13 f 1999

(whether on a temporary or permanent basis) on or any land aforesaid shall be deemed to be occupation such land.

[170. ***Panchayat to maintain the roads properly.*** - (1) It shall be the duty of the panchayat to maintain property the roads vested in it and to prevent encroachment on it.

(2)The village panchayat shall keep all public roads and important public paths in its area free from garbage, sewage and other waste materials and shall protect such roads and public paths from encroachment.

(3)The village panchayat may in such manner as it may deem fit, dispose of all garbage, sewage and other waste materials collected by it while cleaning public roads, public paths and drains]

171.***Vesting of community property or income in village panchayats. -*** any property or income which by custom belongs to or has been administered for the benefits of the villagers in common, or the holders in common of village land generally or of lands of a particularly description or of lands under a particular source of petty irrigation shall vest in the village panchayat to be administered by it for the benefit of the villagers or holders aforesaid.

172. ***Powers, duties and functio*** ***(1)*** ***[ ] It shall be the duty***

of the block panchayat to meet the requirements of the block panchayat area in respect of the matters enumerated in the Fourth Schedule.

(2)Subject to the other provisions of this Act and the direction of the Government the block panchayat shall have exclusive power to administer the matters enumerated in the Fourth Schedule [102] [103] [104][and to prepare and implement the schemes on the subject specified therein for the economic development and Social justice]

(3)The Government and the district panchayat shall, subject o availability of resources, provide necessary financial, technical and other assistance to the block panchayats to enable them to discharge their functions.

(4)All grants-in-aid sanctioned by the Government in respect of the matters enumerated in the Fourth Schedule shall be distributed through the block panchayat concerned.

(5)The Government shall, as soon as may be, after the commencement of this Act, transfer to the block panchayats all the institutions, projects, buildings, and other properties and assets and liabilities connected with the matters referred to in the Fourth Schedule [105][and every institution so transferred shall be on the name of that block panchayat and shall be known accordingly.

[102]Substituted by Act

[103] Omitted by Act 13

[104] Added by Act 13

[105] Added by Act 13

(6)The Block Panchayat shall administer the institutions and schemes transferred to it, subject to the guidelines and technical assistance of the Government and in accordance with the State and National Policies.

(7)The Block Panchayat shall have no power to sell, transfer alienate or pledge the properties transferred to it.]

173. ***Power, duties and functions of district panchayats.*** **-** (1) [106] [107][****]. It shall be the duty of the district panchayats to meet the requirements of the district panchayat area in respect of the matters enumerated in the Fifth Schedule.

107

[(2) subject to the other provisions of this Act and the directions of the Government, the District Panchayat shall have exclusive power to administer the matters enumerated to the Fifth Schedule and to prepare and implement the schemes in the subjects specified therein, for economic development and social justice.]

(2)Subject to the other provisions of this Act and the directions of the Government, the district panchayat shall have exclusive power to administer the matters enumerated in the Fifth Schedule.

(3)the Government shall, subject to availability of resources provide necessary financial, technical and other assistance to the district panchayat to enable them to discharge their functions.

(4)All grants-in-aid sanctioned by the Government in respect of the matters enumerated in the Fifth Schedule shall be distributed through the district panchayat concerned.

(5)The Government shall, as soon as may be, after the commencement of this Act, transfer to the district panchayats all the institutions, projects and buildings and other properties and assets and liabilities connected with the matters referred to in the Fifth Schedule. 108 109 110(and every Institutions so transferred shall be in the name of that district panchayat and shall be known accordingly)

109[(6) the district Panchayat shall administer the institutions and schemes, transferred to it, subject to the guidelines and technical assistance of the Government and in accordance with the State and National policies.

(7)The district Panchayat shall have no power to sell, transfer, alienate or pledge the properties transferred to it.]

110[173. ***A Managing Committee for Public health Institution. -*** There shall be constituted a Managing Committee, in the manner prescribed, consisting of not more than fifteen members including the Chairman, for every public health institutions transferred to the panchayat from Government].

106Omitted by Act 13

107Substituted by Act

108Added by Act 13 of

109Inserted by Act 13

110Inserted by Act 13

174. Delegation of powers and functions of Government to Panchayat - (1) The
Government may, by notification in the Gazette, from time to time delegate to the Panchayat at any level, any of the powers and functions of the Government as may be specified in the notification in respect of any matter which is not provided in this Act subject to such restrictions and conditions as may be specified therein.

(2) Where the Government delegates a function under sub-section (1) to panchayat at any level, it shall allot to that panchayat such fund and personnel as may be necessary to enable the Panchayat to discharge the functions so delegated.

[111][175. ***Preparation of development plans by panchayats.-*** (1) The panchayat at every level shall prepare every year a development plan for the next year in respect of the functions vested in it, for the respective panchayat area in the form and manner prescribed and it shall be submitted to the District Planning Committee before the date prescribed.

(2)The village Panchayat shall prepare the development plan having regard to the plan proposals submitted to it by the Grama Sabhas.

(3)Where the District Planning committee directs to make changes in the draft development plan on the ground that sector-wise priority and criteria for subsidy specified by the Government had not been followed or sufficient funds for scheduled- caste, scheduled tribe development schemes have not been provided in the draft development plan for that the scheme was prepared not in accordance with the provisions of the Act or rules; the panchayat shall be bound to make such changes.

(4) The panchayat shall in addition to the annual and five year plans; prepare a perspective plan foreseeing a period of fifteen years, with special focus on spatial planning for infrastructure development and considering the resources and the need for further development and such plan shall be sent to the concerned District Planning Committee.]

(5)The final decision in respect of such development schemes shall be taken long before the beginning of a financial year.

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[(6). A copy of the development plan prepared by the Village Panchayat shall be forwarded to the block panchayat within which the area of the Village Panchayat is situated and a copy of the development plan prepared by the Block Panchayat shall be forwarded to the district panchayat within which the Block Panchayat is situated.]

176. ***Entrustment of schemes to panchayats for implementation.*** -(1) Notwithstanding anything contained in any law for the time being in force, the Government may subject to the conditions as they may think fit to impose entrust, by an order published in the Gazette, to a panchayat at any level the implementation of such schemes of economic [111] [112]

[111]Substituted by Act 13f

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112Ins
erted
by
Act
13 f
1999

development and social justice including the schemes related to the matters enumerated in the eleventh schedule to the constitution as they think fit.

(2)Where the Government entrust a scheme under sub-section (1) to a Panchayat at any level it shall allot to that panchayat such fund and staff as may be necessary to enable the panchayat to implement the scheme.

[176A. Control of the Panchayats over the Electrical undertakings. —

The administration by the panchayat over any Electrical undertaking intended for the generation, transmission, supply and consumption of electricity shall be subject to such restriction as prescribed which are not contrary to the Indian Electricity Act, 1910 (Central Act 9 of 1910) of the Electricity Supply Act, 1948 (Central Act 54 of 1948) or to the directions issued by the Kerala State Electricity Board from time to time and the conditions of the licence issued by the panchayat thereunder.

176.B. ***Provision for lighting public streets. -*** (1) A village panchayat shall cause all public streets in its area to be lighted and for that purpose shall provide such lamps and works as may be necessary.

(2)For the purpose of sub-section (1) Kerala State Electricity Board shall provide necessary electric energy and other technical assistance to the village panchayat at the rate fixed by the Government and on such other terms as prescribed.

(3)Notwithstanding anything contained in sub-section (1) the Government may in consultation with the village panchayat arrange a lighting system on any public streets through an agency approved by the Government.

(4)Notwithstanding anything contained in this section, a village panchayat or any other local self Government Institutions may jointly arrange and maintain a street lighting system.]

177.***Power to accept donations and trusts.—*** A panchayat may accept donations or trusts relating exclusively to the furtherance of any purpose to which its funds may be applied and shall apply the same solely for such purpose.

178.***Acquisition of immovable property required by the panchayat. -*** Any immovable property which is required by a panchayat for a public purpose connected with the discharge of the functions imposed on it under this Act, or the rules or bye-laws made there under, or any other law, may be acquired under the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894) and on payment of compensation awarded under that Act in respect of such property and of any other charges incurred in acquiring it, the said property shall stand transferred to and vest in the Panchayat:

Provided that nothing contained in this section shall be deemed to prevent any panchayat from acquiring immovable property either through private purchase or any free surrender

CHAPTER XVI
OFFICERS AND EMPLOYEES OF PANCHAYATS

179. ***Appointment of Secretaries. -*** (1) For every panchayat there shall be appointed a [113][* * * *] secretary who shall be a Government Servant.

(2)The panchayat shall pay the secretary such salary and allowances as may from time to time, be fixed by the Government and shall also make such contributions towards his leave allowance, pension and provident fund as may be required by the condition of his service under the Government to be made by him or on his behalf.

(3)Subject to he provisions of this Act the Government shall by rules made under the Kerala Public Services Act, 1968 (19 of 1968), regulate the classification, method of recruitment, conditions of service, pay and allowances, and discipline and conduct of the Secretaries appointed under sub-section (1) and such rules may also provide for the constitution of separate service or cadre either for the whole state or for each district including the Secretary along with such other Government Servants as are considered necessary by the Government.

(4)The Government of any authority authorised by Government may, at any time, transfer secretary from a panchayat and shall do so if such transfer in recommended by a resolution of the panchayat passed at a special meeting called for the purpose and supported by a simple majority of votes of the allowed strength of the panchayat.

[114][Provided that before considering such a resolution by the panchayat, the Secretary shall be given an opportunity to make a representation before the Panchayat or the President and shall be heard by them if necessary.]

(5)A Panchayat shall be competent to impose minor penalties on its secretary subject to such rules as may be made in this behalf.

(6)An appeal against an order of the panchayat imposing any minor penalty shall be to an authority entrusted by Government in this behalf (hereinafter referred to as the authority).

(7)An appeal under sub-section (6) shall be in such form and shall be presented within such time and in such manner, as may be prescribed.

(8)On receipt of an appeal under sub-section (6), the authority shall after giving the appellant an opportunity of being heard, confirm, cancel or modify the order appealed against or pass such other order as it deems fit. [113] [114]

[113] Omitted by Act 13 of 1999

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(9)The Government may either ***suo moto*** or on application call for the record of any order passed by the authority under sub-section (8), and review any such order and pass such order with respect there to as they think fit;

Provided that no application for review shall be entertained after the expiration of thirty days from the date on which the order sought to be reviewed was received by the applicant;

Provided further that the Government shall not pass any order affecting any party unless such party has had an opportunity of making a representation.

Provided also that no ***suo moto*** revision shall be made by the Government more than one year after the date of the order to be reviewed.

Explanation. **—** Minor Penalty under this section and sections 180, 181 have the same meaning as given in the Kerala Civil Services (classification, Control and Appeal) Rules, 1960.

115[(10) Where disciplinary Proceedings have to be initiated against the Secretary; the President shall have the power to make an enquiry and where a major penalty is to be imposed, to initiate further action under the rules applicable to the Secretary with the approval of the panchayat and to report it to the Government or to the authority competent to appoint the Secretary and the Government or such authority, immediately after the receipt of such a report, shall take appropriate action and intimate the final decision thereon to the President.

(11) The Government may, by a general or special order appoint any officer of the Government transferred to the service of the panchayat as ex-officio secretary of the Panchayat and the persons so appointed shall have all the powers and functions of the secretary on the subjects dealt with by them.]

180. ***Officers and employees of Panchayat.*** - (1) The officers and employees of the Panchayat, other than contingent employees shall be Government Servants.

(2)The control of the officers of the Panchayat shall be with the Panchayat.

(3)The Panchayat shall pay the officers and employees such salary and allowances as may from time to time be fixed by the Government and shall also make such contributions towards their leave allowance, pension and provident fund, as may be required by the conditions of their service under the Government, to be made by them or on their behalf.

(4)Subject to the provisions of this Act the government shall, by rules made under the Kerala Public Services Act, 1968 (19 of 1968), regulate the classification, methods or recruitment, conditions of service, pay and allowances and discipline and conduct of the officers and the employees, and such rules may provide for the constitution of any class of officers or servants

of Panchayats into a separate service either or the whole State or for each district.

115Inserted by Act 13 of 1999.

(5)Two or more Panchayats of the same level may, subject to such rules as may be prescribed, and shall, if so required by any authority empowered in this behalf, by rules appoint the same officer or employees to exercise or discharge any powers or duties of a similar nature for both or all of them.

(6)Notwithstanding anything contained in the Madras Public Health Act, 1939 and the Travancore-Cochin Public Health Act, 1955 the provisions of this section shall apply to the Public Health establishments of [116] [117][* * * *] panchayats.

(7)Notwithstanding anything contained in this Act, and subject to such rules as may be prescribed, the Government may with the concurrence of the Panchayats concerned, -

(a)appoint such engineering and other staff necessary for the purposes of any Panchayat and recover from it the salary and allowances paid to the members of such staff and such contributions towards their leave allowances, pension and Provident Fund as may be required by the conditions of their service under the Government, and

(b)appoint a common engineering or other staff for the purpose of two or more Panchayat at a level and recover from each of the panchayats concerned such proportion of the salary and allowances paid to the members of such staff and such contribution towards their leave allowance, pension and Provident Fund, as may be required by the conditions of their service under the government;

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[Provided that the Government may, if situation so demands pool the engineering staff and technical staff of the Government Departments and made their services available to one or more panchayats by allotment or by transfer as in the case of staff from other departments:

Provided further that if there is death of staff for allotment from Government Departments, the Panchayat in the exigencies of service may, arrange for the services of the engineers from outside the Government service for specific work, subject to such terms and conditions as may be specified by the Government in this behalf.]

(8)Subject to such rules as may be made the power to grant leave to the officers and employees of the Panchayat shall vest in the Secretary.

(9)A Panchayat shall be competent to impose minor penalties on any officer or employee of that Panchayat, subject to such rules as may be made in this behalf.

(10)An appeal against may order of the Panchayat imposing any minor penalty shall be to the authority entrusted by the Government in this behalf (hereinafter referred to as the“authority”).

(11)An appeal under sub-section (10) shall be in such form and shall be presented within such time and in such manner, as may be prescribed.

[116] Omitted

by Act 13 f 1999

117 Inserted by Act 13 f 1999

(12)One receipt of an appeal under sub-section (10) the 'authority' shall after giving the appellant an opportunity of being heard, confirm, cancel or modify the order appealed against or pass such other order as it deems fit.

(13)The Government may either ***suo moto*** or on application call for the records of any order passed under sub-section (12) and review any such order and pass such order with respect there to as they think fit:

Provided that no application for review shall be entertained after the expiration of thirty days from the date on which the order sought to be reviewed was received by the applicant;

Provided further that Government shall not pass any order affecting any party unless such party has had an opportunity of making a representation:

Provided also that no ***suo moto*** revision shall be made by the Government more than one year after the date of the order to be reviewed.

[(14) Where disciplinary proceedings are to be initiated against any officer or employee of the Panchayat, the President may make an enquiry against that officer or employee and where a major penalty is to be imposed, he shall have the power to report it for further action to the authority competent, to appoint him in service of the panchayat with the approval of the panchayat and such authority, shall, immediately on receipt of the report, take appropriate action and intimate the decision taken thereon to the President.]

181. ***Power of the Government to lend the service of their officers and employees to Panchayat. -*** (1) Subject to such terms and conditions as may be prescribed the Government shall lend the services of Government officers and employees to the Panchayats as may be necessary for the implementation of any scheme, project or plan assigned or delegated to the Panchayat under this Act. The full control and supervision of the institution and employees transferred to the Panchayat under this Act shall rest with the Panchayats concerned. The Government shall give fully the existing ***State Plan*** contribution and the annual budget contribution in respect of the subjects transferred to the Panchayats to the Panchayat concerned.

(2)When disciplinary proceedings have to be initiated against an officer or an employee mentioned in sub-section (1) the President of the Panchayat concerned shall be entitled to make an enquiry and report against such officer or employee to the Government.

(3)Notwithstanding anything contained in sub-section (2) a panchayat shall be competent to impose minor penalties on any officer or employee referred to in sub-section (1), subject to such rules as may be made in this behalf.

118[(4) The government Officers and employees transferred to the panchayat under subsection (1) shall, in addition to their normal function, perform other related functions delegated to them by the panchayat, as if they are officers and employees of that panchayat.

118Added by Act 13 of 1999.

(5)The Officers and employees transferred to the panchayat under sub-section (1) shall be responsible to execute the works including the implementation of any scheme, projects or plans of the Government which are not assigned on delegated to the panchayat under this Act or any other law.

(6)The Government shall pay the salary, allowances and other benefits in the officers and employees transferred to the panchayat from the Government, till the Government decides that the concerned panchayat is able to meet such expenses.]

182. ***[Powers and functions of the Secretary.*** - Subject to the provisions of this Act and the rules grade there under, Secretary the as executive officer of the panchayat shall, -]

(i)Attend the meetings of the Panchayat and of the Standing Committee and may take part in the discussions purely in an advisory capacity, but shall have no right to move any resolution or to vote:

119[Provided that the Secretary shall record his views on any matter that may come up for the consideration of the panchayat and each item of the agenda shall be placed before the Panchayat with the specific remarks of the Secretary:

Provided further that if the Secretary considers that any resolution passed by the panchayat shall be referred to the Government under clause (iii), he shall record such remarks in writing]

(ii)attend any meeting of a committee of the Panchayat if required to do so by the person presiding thereon;

(iii)carry in the effect the resolutions of the Panchayat:

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[Provided that where the Secretary is of opinion that any resolution passed by the Panchayat has not been legally passed is in excess of the powers conferred by this Act or any other Act or is likely, to endanger human life, health or public safety, if implemented, he shall request in writing in the panchayat, to review the resolution and express his views at the time of its review by the panchayat and if the panchayat upholds its previous decision, the matter shall be referred to the Government after intimation to the President and if no decision of the Government is received within fifteen days, the said resolution shall be implemented and information there of shall be given to the Government;]

(iv)control the officers and employees working under the Panchayat, subject to the general superintendence and the control of the President;

(v) discharge all the duties and exercise all the powers specifically imposed or conferred on the Secretary by or under this Act. 119 120

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[(vi) meet the expenses delegated by the President;

(vii) give amounts either by cheque or cash for all kinds of expenditure authorised by the Panchayat;

(viii) be responsible for the safe custody of the Panchayat fund;

(ix) maintain and keep the accounts of receipts and expenditure of the Panchayat; and

(x) Keep the record of the meeting and proceedings of the Panchayat; and

(xi) have power to initiate disciplinary action against the employees of the Panchayat

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(xii) place before the standing committee for finance the monthly accounts of the panchayat before the tenth of the succeeding month or at the first meeting of the succeeding month;

(xiii) prepare the annual accounts and B.C.B. Statement of the preceding financial year and place before the panchayat before the thirtieth or June of the succeeding financial year;

(xiv) furnish the returns, accounts statements and other details when called for by the Government or any audit authority;

(xv) inspect or cause to be inspected the accounts of the institutions under the control of the panchayat;

(xvi) keep the records of the Panchayat, the Standing Committees, the Executive Committees, such other Committees and the Grama Sabhas;

(xvii) Co-ordinate the preparation of the annual plans and five year plans within the time specified by the Government so as to enable the District Planning Committee to approve the same;

(xviii) disburse the plan funds to the officers concerned and to render utilisation certificate to the Government as ordered by it.]

183. Exercise of functions of Secretary by other officers in certain cases. - The Government, or any authority, authorised by Government may, by general or special order, authorise any officer working in the Panchayat to exercise all or any of the functions of the Secretary in his absence.

184.Delegation of functions of Secretary. - The Secretary, may with the permission of the President, delegate by order in writing any of his functions to any officer of the Panchayat, subject, to such restrictions and control, as he may, specify. [121] [122]

[1] Inserted by Act 7 of 1995

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185. ***Channel of Correspondence.*** - (1) The President shall have full access to all records of the Panchayat.

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[(2) All official correspondence from the Secretary to the Government and to any other authority not below the rank of district level authority of the Government and vice versa, shall be through the President.

Provided that, all correspondence to the Government or to other authorities shall have the approval of the President or be signed by himself except in cases where the President has empowered the Secretary, by general or special order, in this behalf;

Provided further that, the Secretary may have direct correspondence with the Government in respect of a resolution, passed by the Panchayat in contravention of any of the provisions of this Act or the rules made there under and for furnishing any information, statement or record, called for by the Government]

(3)All correspondence by the Secretary through the President addressing the Government or as the case may be the other authority and vice versa shall be delivered by the Presidents without delay.

[185 A. Relationship between the elected authorities and officers. - ***(1) The*** Government shall prescribe a code of conduct in respect of the relationship between the elected authorities and employees of the Panchayat for the purpose of protection of the rights of the officers and employees under the control of the panchayat to render advice on matters dealt with by them and professional freedom and statutory rights.

(2)The views expressed by the officials shall be included in the minutes of discussion.

(3)Mutual respect shall be shown between the elected authorities, the officers and employees of the panchayat, totally avoiding rude language, gesture and actions.

(4)Any complaint on the violation of the code of conduct by the elected authorities shall be considered by the Ombudsman constituted under section 271 G for the local self Government Institutions and the report thereon shall be forwarded to the Government for appropriate action.

(5)Oral instructions given to the officers by the elected authorities shall be confirmed in writing before they are implemented.

185 ***B. Exercise of statutory functions by the officers. -*** Where any officer of the panchayat is conferred with any statutory powers and functions to be exercised independently and solel nchayat President,

Chairman of the Standing Committee or any member shall not interfere or influence in the exercise of such powers and functions by that officer.] [123] [124]

[123] Inserted by Act 13 of 1999

[124] Inserted by Act 13 of 1999

CHAPTER XVII
FINANCE COMMISSION AND ITS POWERS

186. ***Finance Commission.*** -(1) In this section, "commission" means the Finance Commission constituted by the Governor pursuant to clause (1) of article 243-1 of the Constitution.

(2)The Commission shall consist of such number of members not exceeding three including the chairman as may be determined by the Government:

Provided that members of the commission may be appointed on part time basis.

(3)Persons who are to be appointed as member of the Commission shall be -

(a)One shall be a person having special knowledge and experience in financial matters and economics; and

(b)The other two shall be persons having experience in public administration or local administration or having special knowledge in financial matters and accounts of the Government and local bodies.

(4)Every member of the commission shall hold office for such period may be specified in the order of the Governor appointing him, but shall eligible for re-appointment.

(5) The chairman or a member of n his office by writing under his

hand and addressed to the Governor, but shall continue in office until his registration is accepted by the Governor.

(6)A casual vacancy caused by the resignation of a member or chairman under subsection (5) or for any other reason, may be filled by fresh appointment and a member or chairman so appointed shall hold office for the remaining period for which the member or chairman in whose place he was appointed would have held office.

(7)The Commission shall meet at such time and place and shall observe such procedure in regard to the transaction of business at it meeting as may be determined by the Commission.

(8)The commission shall in the performance of its functions have all the powers of the civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit it respect of the following matters, namely: -

(a)summoning and enforcing the attendance of witness;

(b)requiring the production of any document;

(c)requisitioning any public record from any office.

(9)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.

(10)Commission shall review the financial position of the Panchayats and submit recommendations to Governor regarding,

(a)(i) the sharing among the Government and Panchayats of the net-income of the taxes, duties, cess and fees which are being levied by the Government and which may be shared with the Panchayats as per the constitution and dividing among the Panchayats at all levels, their shares in such incomes;

(11)fixing the taxes, duties, cess and fees which may be ear marked for the Panchayats and may be expended by them;

(iii) the criteria regulating the financial aid etc. for the Panchayats from the State Consolidated Fund;

(b)steps necessary for improving the financial position of the Panchayats; and

(c)any other matters which is being left to the commission by the Governor taking into account of the interest of the financial security of the Panchayats.

(11)Governor shall cause to be laid before the Assembly each recommendation submitted by the Commission under sub-section (10) along with explanatory memorandum regarding the steps taken on it.

(12)Officers having knowledge and experience in financial matters shall be appointed as staff of the Commission in order to assist the Commission.

CHAPTER XVIII
[125]FUNCTION OF THE GOVERNMENT]

[126][187. ***Administrative set up of Panchayat*** - The administrative set up of panchayat in the State shall consist of Village Panchayats, Block Panchayats, District Panchayats and Grama Sabhas.]

188. ***Power to inspect records etc. of Panchayats.*** - (1) The Government or any officer empowered by the Government in which behalf, may, -

(a)call for any record, register or other document in the possession, or under the control of any panchayat:

[127] [Provided that, the document, register, or records furnished by the panchayat shall be returned in original to the panchayat, within ninety days of its receipt by the Government, and attested copy of the same shall be retained by the Government if necessary.]

(b)require any Panchayat to furnish any return, plan, estimate, statement of accounts;

(c)require any Panchayat to furnish any information or report on any matter connected with such panchayat;

(d)require any Panchayat to obtain their previous sanction before giving up a claim or closing down any institution which is a source of income; and

[128] (e)record in writing for the consideration of [any Panchayat] any observation in regard to the proceedings or duties of the Panchayat; and

(f) have power to inspect any office or any records or other documents of the Panchayats or movable properties kept therein or any work or institution or property under the control of the Panchayat;

(2)Every Panchayat, President, Secretary and Other Officer shall be bound to give [129] facilities for exercising duties under [* *] sub-section (1).

[130][(3) The Government may, in the manner prescribed arrange periodical performance audit in respect of the administration of the panchayat.]

[131][188A. ***Technical supervision and inspection.*** - The heads of Departments concerned and other technical officers nominated by them may inspect the works and development schemes implemented by any officer of that department under the control of any panchayat and also inspect relevant records pertaining to such works and development schemes, in the manner specified by the Government.

189. ***General power of Government to issue guidelines and to conduct enquiry. - (1)*** Notwithstanding anything contained in this Act, the Government shall have the power to issue general guidelines to the panchayats in accordance with the National and State Policies in matters such as finance, maintenance of accounts, officer management, formulation of schemes, selection of sites and beneficiaries, proper functioning of Grama Sabha, welfare programmes and environmental regulations and panchayats shall comply with such directions.

12 Substituted by Act 13 of 1999.
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12 Added by Act 13 of 1999.
6 Substituted by Act 7 of 1995.
12 Omitted by Act 13 of 1999.
7 Added by Act 13 of 1999.
12 Added by Act 13 of 1999.

(2)If there is any default in the implementation of schemes or maintenance of accounts or complaint is received in the matter, Government may arrange for enquiry into the matter and the panchayat shall co-operate with such enquiry.

(3)After such enquiry, Government may take such action as is necessary and permissible under this Act.]

190. ***Power or take action for default by a Panchayat President, or Secretary. - (1) If, at*** any time, it appears to the Government that a panchayat, or its President or its Secretary has made default in performing any duty imposed by or under this Act or in carrying out any orders lawfully issued by the Government may, by order in writing, fix a period for the performance of such duty, or the carrying out of such order.

(2)If such duty is not performed or such order is not carried out within the period fixed under sub-section (1) the Government may, after giving a reasonable opportunity to the Panchayat or its President or its Secretary, as the case may be, to explain why further action under this section may not be pursued, appoint any officer, or authority to perform the duty or to carry out the functions and may direct that the expenses incurred therefore shall be paid from the fund of the panchayat within such time as may be specified by the Government.

(3)If the expenses which the Government may direct under sub-section (2) to be paid from the fund of the Panchayat are not paid as provided in that sub-section, the Government may make an order directing the persons having the custody of the said fund to pay it in priority to any other charges against that fund, except charges for the service of authroised loans.

(4)The person referred to in sub section (3), shall as far as the funds to the credit of the Panchayat admit, be bound to comply with the order made by the Government under that sub-section. [132]

[132][191. ***Power of cancellation and suspension of resolutions etc.*** -(1) Government may either ***suo moto*** or, on a reference by President, Secretary or a member, or on a petition received from a citizen, cancel or very a resolution passed or a decision taken by the

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[132] Substituted by Act 13 of 1999.

(a)is not legally passed or taken; or

(b)is in excess of the powers conferred by this Act or any other law or its abuse; or

(c)is likely to endanger human life, health public safety, communal harmony or may lead to riot or quarrel; or

(d)is in violation of the directions or provisions of grant issued by Government in the matter of implementing the plans, schemes or programmes.

(2)Before cancelling or amending a resolution or decision as per sub-section (1), the Government may refer the matter for consideration either of the ombudsman constituted under section 271 G or the tribunal constituted under section 271S and the ombudsman or the tribunal, as the case may be; after giving the panchayat an opportunity of being head, send a report to the

Government with its conclusions and the Government may, on its basis cancel, amend or confirm the resolution or decision.

(3)If another remedy is available to the petitioner through the tribunal under section 276, the Government shall not consider any petition for cancelling or amending any resolution or decision of the Panchayat.

(4)If Government consider that a resolution or decision of the Panchayat has to be cancelled or amended as per sub-section (1) it may suspend such resolution or decision temporarily and may direct the panchayat to defer its implementation till the final disposal after the completion of the procedure under sub-section (2).]

[192. ***Administration report of the Panchayat.*** - (1) Every panchayat shall prepare a report in respect of this administration every year in such form and with such details as may be prescribed by Government in accordance with the provisions of this section and publish the same before the thirtieth of September of the succeeding year and if the report is not published within the said time limit, Government may withhold the payment of grants due to the panchayat thereafter.

(2)The draft of the administration report in respect of the institutions and offices under the administrative control of the panchayat shall be prepared by the heads of such institutions and offices and shall be furnished to the Secretary of the panchayat and he shall prepare the draft of the administration report of that panchayat in consultation with the President of the panchayat and shall be submitted before the panchayat for its approval.

(3)The panchayats within a district shall immediately after the approval and publication of the administration report, forward it to the officer authorised by the Government in this behalf and the Village Panchayats and Block Panchayats also shall furnish their administration reports to the District Panchayat.

133Substituted by Act 13 of 1999.

(4)The officer authorised by the Government shall submit a consolidated report containing the abstracts of the administration reports of the Village Panchayats, Block Panchayats and District Panchayats, to Government before the 31st of December every year.

(5)The Government shall, as soon as may after the receipt of the consolidated report cause it to be laid before the Legislative Assembly in its next session along with a review report of Government and it shall be so laid within forty five days from the first day of that session.]

134[193. ***Dissolution of Panchayats.*** - (1) If a panchayat fails to pass the budget of the panchayat for the succeeding financial year before the end of a financial year, which causes financial crisis or majority of its members resign from office or is disqualified, the Government shall, by notification in the Gazette, dissolve the panchayat from the date specified therein and a copy of the same forwarded to the State Election Commission by the Government.

Provided that, the panchayat shall be given a reasonable opportunity of being heard before such dissolution.

(2)If the Government is of opinion that panchayat persistently makes default in performing the duties imposed on it by law or in carrying out the orders or directions lawfully issued by the Government or exceeds or abuses its powers, the Government may by notification in the

Gazette, dissolve the said panchayat and shall forward a copy of the same to the State Election Commission:

Provided that, before such dissolution, the Government shall communicate to the panchayat the proposal to dissolve the panchayat along with the reasons for the same and give the panchayat a reasonable opportunity to show cause against it and shall consider the objections or explanation, if any:

Provided further that, if it is proposed to dissolve the panchayat after considering the objections or explanation of the panchayat, it shall seek the advice of the Ombudsman constituted under section 271G and take a final decision on the basis of such advice.]

(3)Upon the publication of a notification under sub-section (1) [or sub-section (2)] all the members of the Panchayat including the President and Vice-President shall forthwith be deemed to have vacated their offices as such, and fresh election, shall be held in accordance with the provisions of this Act.

(4)The members of a reconstituted Panchayat shall enter upon their offices on the date fixed for the reconstitution of the Panchayat and shall continue only for the remainder of the period for which the dissolved panchayat would have continued under the provisions of this Act had it not been so dissolved. [134] [135]

[134]Substituted by Act 13f 1999

[135]Inserted by Act 13 f 1999

[136][(5) The administration of the panchayat during the interval between the dissolution and reconstitution of panchayat shall be exercised by the special officer or administrative committee appointed under sub-section (2) of section 151.]

(6)when a Panchayat is dissolved under sub-section (1) [or sub-section (2)] the administrative committee or the special officer appointed by the Government until the date of reconstitution thereof, and the reconstituted Panchayat thereafter shall be entitled to all the assets and be subject to all the liabilities of the Panchayat as on the date of dissolution and on the date of reconstitution respectively.

(7)Every notification issued under sub-section (1) [or sub-section (2)] shall be laid, as soon as may be after it is issued, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions; and if before the expiry of session in which it is so laid or the session immediately following the Legislative Assembly makes any modification in the notification or decides that the notification should not be issued, the notification shall thereafter have effect only in such modified form or have no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

194. ***Powers of officers taking action on behalf of or in default of Panchayat and liability of Panchayat fund. -*** The Government or any other officer lawfully taking action on behalf, or in default, of a Panchayat under this Act shall have all such powers as are necessary for the purpose and shall be entitled to the same protection under this Act as the Panchayat or its employees whose powers are exercised; and compensation shall be recoverable from the Panchayat's fund by any person suffering damage from the exercise of such powers to the same extent, as if the action had been taken by the Panchayat or its employees. [136] [137] [138]

[136]substituted by Act

[137]Inserted by Act 13

[138]Substituted by Act

CHAPTER XIX FINANCE AND TAXATION

139[195. ***Grants and shares of Taxes.*** **—** (1) The Government shall having regard to the recommendation, if any, of the Finance Commission, in each year, after due appropriation made by the State Legislature by law in this behalf, make such grants and shares of various taxes, duties, cess and fees as are necessary to the panchayats for the proper discharge of their functions under this Act.

(2)The shares of taxes collected by the Government shall be distributed among panchayats at all levels in an equitable manner according to the formula fixed by Government in this behalf.]

196. ***Grants and loans for schemes and projects.*** - (1) The Government may make such further grants and loans to the Panchayats as they consider necessary for the execution of specific, schemes projects, programmes or plans relating to any of the matters administered by the Panchayats under such terms and conditions as may be fixed by the Government in this behalf.

(2)Every Panchayat shall utilise such grants or loans under this section only for the specific purposes for which such grants or loans are given.

(3)In respect of loans given by the Government under this section the provisions of the Kerala Local Authorities Loans Act, 1963 (30 of 1963) and the rules made there under shall apply.

140[196A. ***Annual Report on Grants.*** **-** (1) The State Chief Secretary shall, immediately after each financial year submit an annual report to the Governor in respect of the amount of annual grants due to the Panchayats under any law or otherwise and the amount actually paid to the panchayats and the criterion adopted by the Government for such payment.

(2) The annual report under sub-section (1) Shall be laid before the Legislative Assembly within the first six months of the next financial year.]

197. ***Power of Panchayat to raise loan.*** **-** (1) A Panchayat may borrow any sums of money which may be required for the purposes for which the funds of the Panchayat may be applied under the provisions of this Act or any other law in force:

141Provided that while raising such loan the assets of the Panchayat shall not be pledged for purposes other than for utilising in remunerative development schemes.

13 I bid.

9 Inserted by Act 13 of 1999.

14 I bid

(2)The District Panchayats may issue Revenue Bonds and the net proceeds received from facilities and services created utilising such bond may be offered as security for such bonds.

(3)Government may give direction to make good any short fall in escrow accounts from the grants due to the District Panchayat by them.

198.***Power of Panchayat to collect fixed fees.*** **-** (1) A Panchayat may collect such fees from the beneficiaries of the institutions which are run or financed wholly or partially by it at such rates [as fixed by it] subject to the rules made by the Government for the purpose.

[143][(2) Service charges at the rate fixed by the panchayat may be collected from the beneficiaries utilising the toilet facilities, parking facilities or any other amenities or services provided by it.

(3)The amount collected, as service charge shall be utilised for the up keep and maintenance of such facilities and services.]

199.***Surcharge on tax on direction by the Government.*** - (1) The Government may by order published in the Gazette, direct any village panchayat to levy from the whole panchayat area a surcharge not exceeding five per cent on the tax leviable under this Act by that panchayat at such rate and with effect from such date (not being earlier than first day of the half year immediately following that in which the order is published] as may be specified in the order, to cover any expenses to be incurred by the district panchayat and block panchayats in respect of any plan, project or work.

(2) Any surcharge levied under this section shall be demanded and collected by the village panchayat in the same manner as if it were the tax levied under this Act and distributed to the block panchayat and district panchayat in the manner prescribed after deducting three per cent thereof towards collection charges.

[144][(3) No surcharge under sub-section (1) shall be directed to be levied unless prior sanction of concerned panchayat is obtained for the implementation of such scheme, project or work.]

200.***Taxes cess etc, which may be levied by village panchayat.*** **-** (1) Every village panchayat may levy in its area a [142] [143] [144] [145][property tax] a profession tax, an advertisement tax and an entertainment tax.

(2)Service tax shall be levied at the rate fixed by the village panchayat, subject to the minimum rate prescribed for sanitation, water supply, scavenging, street lighting and drainage wherever such services are provided by the Village Panchayat.

[142]Substituted by Act

[143]Added by Act 13

[144]Added by Act 13

[145]Substituted by Act

(3) A duty shall also be levied in every village panchayat area on transfers of property in accordance with the provisions of section 206.

[146][(3 A) A village panchayat may levy from land owner, a land conversion cess at such rates and in such manner as prescribed in respect of paddy fields, marshy lands, pond or wet land which he was holding and has been converted into garden land or land on which there is a building.

Explanation. **-** Nothing in this section shall be deemed as affecting any of the provisions of Kerala Land Utilisation Order, 1967.

(4)(i) A show tax shall be levied on all shows within the village panchayat area at the rates prescribed by Government in this behalf.

Explanation. **-** the term 'show' includes any entertainment, exhibition performance, amusement, game, sport or race to which persons are admitted on payment of money.

(ii)The tax leviable shall be payable by and recoverable from the owner of the premises if he receives rent for the show or if no rent is paid, the proprietor of the show including any person responsible for the management thereof.]

[147] (201)[

202. ***Basic tax grant.*** - (1) The government shall pay annually, as recommended by the Finance Commission, to each Panchayat at the village level in the State a grant, which shall be equal as nearly as may be three by eight, of the amount of basic tax collected by the Government in the last preceding year from that panchayat area.

(2) The Government may, after considering the area, population, available financial resources and the requirement for development, etc., of the village panchayats and the expense for administration of panchayats, also provide an amount [146] [147] [148] [149]as nearly as may be three by eighth that may be prescribed by Government in proportion to the balance amount already collected by Government as basic tax from the entire land of the state for the preceding year, as grant for the village panchayats of the State.

[149][(3) The Government shall, for every year provide, as nearly as may be equal to three by tenth of the amount of basic tax as collected from the district panchayat area in the just previous year, as grant for the Block Panchayats of the Districts;

(4)The Government shall, for every year, provide to every district panchayat an amount as nearly as may be one by fifth of the basic tax collected from the concerned district panchayat area for the just previous year, as grant.]

[150][203. ***Property Tax. -*** (1) every village panchayat shall in accordance with the rules prescribed for the purpose levy a property tax on all buildings and land appurtenant

[146]Added by Act 13

[147]Omitted by Act 13

[148]Substituted by Act

[149]I bid.

thereto situated within the panchayat area and not exempted under this Act at such percentage as may be determined by the village panchayat on the net annual value determined on the basis of the plinth area and considering the site of the building, its use, type of construction and other determined factors:

Provided that in the case of buildings given on rent, tax shall be levied by adding twenty-five percentage also for the net annual value calculated according to plinth area][150] [151]

(2)The building tax shall be levied annually and be payable in two equal half yearly instalments.

(3)The building tax, and the surcharge on building tax, if any levied under section 208, shall subject to the prior payment of the land revenue, if any, due to the Government in respect of the site of the building, be a first charge upon the building and up on the movable property, if any, found within or upon the same and belonging to the person liable to such tax.

(4)The Government may make rules providing for, -

(i) the manner of ascertaining the net annual rental value of building on the categories in to which they fall for the purposes of taxation:

(ii)the person who shall be liable to pay tax and the giving of notices of transfer of buildings;

(iii)the grant of exemption from tax on the ground of property.

(iv) the grant of vacancy and other remissions; and

(v) the circumstances in which and the conditions subject to which buildings

constructed, reconstructed or demolished or situated in areas included in, or excluded from, the panchayat area during any half year, shall be liable or cease to be liable to the whole or any portion of the tax.

[2][(vi) method of fixing the annual value of property based on the plinth area of the building;

(vii)maximum tax to be paid by the assessee;

(viii)returns to be filed by the owners of the buildings;

(ix) rate of deduction to be allowed based on the age and use of the buildings.]

[150]Substituted by Act 13f 1999

[151]Added by Act 13 f

(5)If the occupier of a building pays the building tax on behalf of, the owner thereof, such occupier shall be entitled to recover the same from, the owner and may deduct the same from the rent then or there after due by him to the owner.

204.Profession tax. - (1) The profession tax shall subject to such rules as may be prescribed be levied every half year in every village panchayat area on -

(i)every company which transacts business in such panchayat area for not less than sixty days in the aggregate in that half year; and

(ii)every person who, in that half year -

(a)exercise a profession, art or calling, or transacts business or holds any appointment, public or private -

(1)within such panchayat area for not less than sixty days in the aggregate, or

(ii) outside in such panchayat area but who resides in it for not less than sixty days in the aggregate, or

(b)resides in such panchayat area for not less than sixty days in the aggregate and is in receipt of any income from investments.

(2)The profession tax shall be levied at such rates as may be fixed by the village panchayat not exceeding the maximum rates prescribed.

(3)A person shall be chargeable under the class appropriate to his aggregate income from all the sources specified in sub section (1) as being liable to the tax.

(4)If a company or person proves that it or he has paid the sum due on account of the profession tax levied under this Act, or profession tax levied under any law for the time being in force governing Municipalities in the State or any tax of the nature of a profession tax imposed under the Cantonment Act, 1924, for the same half year to any Panchayat or Nagar Panchayat or Municipal Council or Municipal Corporation or Cantonment authority in the State, such company or person shall not be liable by reason merely of change of place of business, exercise of profession, art or calli nce, to pay to any

other panchayat, Nagar Panchayat, Municipal Council or Municipal Corporation or Cantonment authority in the State more than the deference between such sum and the amount to which it or he is otherwise liable for the profession or companies tax for the half year under this Act or the law governing Municipalities or Cantonment.

(5)Nothing contained in this section shall be deemed to render a person who resides within the local limits of one local authority and exercises this profession, art or calling or transacts business or holds any appointment within the limits of any other local authority or authorities liable to higher profession tax for more than the higher of the amounts of tax leviable by any of the local authorities. In such cases the tax shall be levied by the local authority which levied the higher rate of tax and shall be apportioned among local authorities in such proportion as may be prescribed:

Provided that where one of the local authorities concerned is a Cantonment authority or the Port authority of a major port the decision of the local authorities shall be subject to the concurrence of the Central Government obtained in such manner as may be prescribed.

(6)The profession tax leviable from a firm or association may be levied from the agent of the firm or association as the case may be.

(7)(a) If a company or person employs a servant or agent to represent it or him for the purpose of transacting business in any local area of a Village Panchayat such company or person shall be deemed to transact business in that local area, and such servant or agent shall be liable for the profession tax in respect of the business of such company or person whether or not such servant or agent has power to make binding contracts on behalf of such company or person.

(b) Where one company or person is the agent of another company or person, the former company or person shall not be liable separately to the profession tax on the same income as that of the principal.

205. ***Collection of profession tax by employers.*** - (1) Every head of office or employer in relation to an office or undertaking or institution where persons are employed for salaries or wages shall as soon as may be, on receipt of the bill or notice of demand of profession tax, serve such bill or notice on the employees and return the duplicate of such bill or notice to the secretary of the village panchayat concerned.

(2)Subject to such rules as may be prescribed, upon service of bill or notice of demand, the Head of office or employer shall, after the expiry of the period specified in the bill or notice, recover or collect the amount of profession tax shown in the bill or notice, by deduction or otherwise from the salaries or wages of the employees and remit it to the village panchayat in such manner as may be prescribed.

(3)Where the amount of profession tax covered by a bill or notice of demand is in after on account of default on the part of the Head of office or employer to collect and remit the same as required in this section such amount shall be recovered from such Head of Office or employer subject to such rules as may be prescribed as if it is an arrear due from him:

Provided that in the case of self-drawing officers, the Head of office or employer shall take such steps as may be prescribed for ensuring remittance by such self-drawing officers of the profession tax covered by the bill or notice.

[205 A. ***Statements, Returns, etc, to be confidential. -*** All statements made, returns furnished or accounts or documents produced in connection with the assessment of profession tax payable by any company or person shall be treated as confidential and copies thereof shall not be issued to the public.

152 Inserted by Act 13 of 1999.

205B. Requisition on owner or occupier to furnish list of persons liable to tax. - The Secretary may, by notice, require the owner or the occupier of any building or land and every administrator or manager of a hotel, boarding or lodging house, club or residential chambers, to furnish within a specified time a list in writing containing the names of all persons occupying such building, land, hotel, boarding or lodging house, club or chambers and specifying the profession, art or employment of every such person and the rent, if any paid by them and the period of such occupation.

205C. ***Requisition on employers or their representatives to furnish list.*** - The Secretary may by notice require any employer or head of office or the administrator or the manager of any public or Private office, hotel, boarding or lodging house, club, firm or a company

(a)to furnish, within specified time a list in writing containing the names of the employer and all persons who were employed or working in such office, hotel, boarding or lodging house, club, firm or company as officers, employees, interpreters, agents, suppliers or contractors along with a statement of the salary or income of such persons employed and

(b)to furnish particulars in regard to any company of which such employer or head administrator or manager, as the case may be, is an agent.

205 D. ***Recovery of profession tax by employers.*** - Notwithstanding anything contained in the foregoing provisions, every head of office, employer, manager, proprietor and any person in the administrative control of any office company, firm, undertaking, establishment or any institution, where persons are employed or engaged for salaries or wages, shall be bound to recover from any such person liable to profession tax, the profession tax due at the rate fixed by the village panchayat and pay over to the village panchayat as hereinafter provided.

205 E. ***Requisition to furnish name of Institutions etc. -*** (1) The Secretary shall during the month of April every year, by notice, require every head of office or person bound to recover profession tax under section 205D to furnish the names and addresses of the offices or institutions under his control within such time as may be specified in the notice.

(2)Every head of office shall furnish to the Secretary the information required by him under sub-section (1) within such time as may be specified and he shall also furnish the name and designation of the head of office and shall intimate the secretary whenever there is a change to the head of office.

(3)The Secretary shall immediately on receipt of the information furnished to him under sub section (1) register the name of offices or institutions in a register maintained for the purpose.

205F. ***Assessment of profession tax by head of office etc.-*** (1) The Secretary shall, during the month of May and November in every half year, by notice require every head of office or employer to assess all employees in his institution, who are liable to pay profession tax and every self drawing officer to remit the Profession tax due in accordance with the schedule to the said notice.

(2) Before the end of August and February every year each head of office and employer shall assess the tax payable by all employees liable to pay tax

and recover the amount from them and pay over to the village panchayat together with a list of all employees whose tax has been assessed giving the details such as name, designation, half yearly income and amount of tax recovered and shall also furnish a certificate to the effect that all employees liable to tax have been included in the statement furnished.

205G. ***Issue of receipt for remittance. -*** (1) The Secretary shall, on receipt of the payment, issue an official receipt in the name of the head of office for the amount remitted.

(2) Every head of office shall, in turn, grant to each taxpayer a certificate in respect of the recovery and payment of tax to the village panchayat of the relevant half-year.

205 H. ***Payment of tax by self-drawing officers.*** - (1) Every self-drawing officer shall, before the end of August and February every year, remit or cause to be remitted the profession tax due from him in respect of such half-year in accordance with the schedule of tax in force along with a statement showing the details etc. of half yearly income.

(2) Soon after the receipt of payment under sub section (1) the Secretary shall issue official receipt thereof.

205 I. ***Maintenance of Demand Register. -*** The Secretary shall maintain a ward-wise Demand Register by providing independent pages for every institution specified in subsection (2) of section 205E and in such case the head of office and the self-drawing officers if any, shall be the assesses and the remittance shall be entered against their names. One demand register for this purpose may be used for one or more years.

205 J. ***Certificate of drawing and disbursing officers and self drawing officers,*** - A certificate shall be furnished along with the salary bill of the drawing and disbursing officer and the self-drawing officers relating to the month of February and August every year, to the effect that profession tax due in respect of all employees and himself, as the case may be has been paid and the details thereof have been furnished to the secretary and in the absence of such certificate the passing official shall not honour the bill.

205K. ***Penalty for non-payment of tax. -*** Where, at any time, it appears to the Secretary that any head of office or employer or self-drawing officer who are bound to furnish the details and remit the tax due as specified under sections 205 E, 205F and 205H has failed to furnish such details or to remit the tax due within the specified time, the secretary shall immediately thereafter take penal action against such defaulter or defaulters.

Explanation. - For the purpose of this section and sections 205D to 205J (both inclusive) the expression Head of office or employer in relation to an office, institution, undertaking, establishment etc. means the person authorised to draw and disburse the salary or wages of the employees in such office, institution, undertaking or establishment.

Description of instrument (1)	***Amount on which duty should be levied*** (2)
(i) Sale of immovable property	The amount or value of the consideration for the sale as set forth in the instrument.
(ii) Exchange of immovable property	The value of the property of the greatest value as set forth in the instrument.
(iii) Gift of immovable property	The value of the property as set forth in the instrument
(iv) Mortgage with possession of immovable property	The amount secured by the mortgage as set forth in the instrument
[153][(v) (a) assignment on lease of immovable property for more than one year	The same stamp duty on a bottomry bond (item 14 of the Schedule to the Kerala Stamp Act, 1959) which may be remitted or payable as per the lease deed.
(b) assignment on lease of immovable property for not less than one year but not more than five years.	The same stamp duty on a bottomry bond (item 14 of the Schedule to the Kerala Stamp Act 1959) on one year's average lease amount or price fixed.
(c) assignment on lease of immovable property for more than five years but not exceeding ten years.	The same stamp duty on a sale deed (items 21 or 22, as the case may be, of the Schedule to the Kerala Stamp Act, 1959) for a consideration equal to the average of lease amount fixed for an year
(d) assignment on lease of immovable property exceeding ten years but not being a perpetual lease	If the lease is subsisting for a very long period the same stamp duty as on a sale deed (item 21 or 22, as the case may be, of the Kerala Stamp Act, 1959) for a consideration equal to three times the average yearly lease amount or price remitted or paid for the first ten years

[153] Inserted by Act 7 of 1995

(e) Perpetual lease of immovable property	Total amount of lease remitted or paid during the first fifty years, as shown in the instrument]
(vi) Release, that is to say, any instrument whereby a person renounces a claim upon another person or against any specified property when such release does not operate in favour of his or her spouse or children	The amount or value as set forth in the released deed.

(2)On the introduction of the duty as aforesaid, -

(a)Section 28 of the Kerala Stamp Act, 1959 shall be read as if it specifically required the particulars to be set forth separately in respect of property situated in the area under the jurisdiction of a village panchayat and in respect of property situated outside such area; and

(b)Section 62 of the Kerala Stamp Act, 1959 shall be read as if it referred to the village panchayat as well as Government.

(3)The Government may make rules not inconsistent with this Act for regulating the collection of the duty, the payment thereof to the Village Panchayat and the deduction of any expenses incurred by the Government in the collection thereof.

(4)The amounts collected in all the village panchayats in the State as duty on transfer of property under this section shall be pooled every year for the entire State and distributed among the village panchayats after deducting three per cent thereof towards collection charges.

(5)Seventy-five per cent of the amounts payable to the village panchayats under subsection (4) shall be distributed among all the village panchayats in the State in proportion to the population of the village panchayat areas as ascertained at the latest census of which the relevant figures have been published. The balance of twenty-five per cent of the amounts shall be distributed to the village panchayats in such proportion as may be fixed by the Government or such other officer as they may authorise by special or general order having regard to the area, available resources, needs of development and cost of Panchayat administration.

207. ***Exemption from Tax, Cess, etc.*** **-** (1) The following buildings and lands shall be exempt from the tax, cess or duty leviable under section 200, namely: -

(a)Places set apart for public worship, and either actually so used or used for no other purposes.

(b)choultries for the occupation of which no rent is charged and choultries where the rent charged for the occupation is used exclusively for charitable purpose;

[154][(c) Buildings including hostels under the ownership and use of educational institutions recognised by Government, public buildings used for charitable purposes of providing shelter to destitutes and animals and libraries and playground open to public.]

(d)such ancient monuments protected under the law relating to the protection of ancient monuments for the time being in force, or parts thereof as are not used as residential quarters or as public offices;

(e)burial and burning grounds;

(f)building or land belonging to the Panchayats; and

(g)such property of the Government not being buildings as may from time to time, be notified by the Government in the Gazette.

155[(h) building with mud walls or roofs thatched with leaves or lightweight sheets and having a plinth area of less than 20 sq.metres;

(1)Residential building constructed by a person, who belongs to an economically weaker section, using Government subsidy and having a plinth area of less than twenty sq.metres.

Explanation. - The exemption under this section shall not be given to buildings and lands for which the owners realise rent and to residential houses appertaining to schools and colleges but not hostels and residential buildings attached to libraries.]

(2)The Government and with sanction of Government, a village panchayat may exempt any person or class of persons wholly or in part from the payment of any tax, cess or duty to which he or they may otherwise be liable under the provisions of this Act. But nothing in this section shall be deemed to authorise the exemption of any, person solely on the ground that he is a member of the Panchayat.

Explanation. - In this section, 'person' includes an institution, firm, company or corporation.

208. ***Surcharge on*** *154 * 156 **[property tax].* ***-*** (1) A village panchayat may in the manner prescribed, levy either from the whole panchayat area or any specified portion thereof and for a specified time a surcharge not exceeding five per cent on the [property tax] levied under section 203 to cover any unusual expenses incurred by it in respect of any plan, project or work:

Provided that not more than two surcharges shall be imposed on such 158[property tax] levied at a time.

154 Inserted by Act 13 of 1999.

15 Substituted by
5 Substituted by
15 Ibid.
6 158

(2)any surcharge levied under this section shall be demanded and collected in the same manner as if it where the 159 160[property tax] levied under section 203.

160[209. ***Tax on advertisement. -*** Every person who erects, exhibits, fixes or retains upon or over any land, building, wall boarding or structure, in a village panchayat area any advertisement or who displays any advertisement to public view in any manner whatsoever in any place in such area whether public or private shall pay to the village panchayat on every such advertisement a tax calculated at such rates and to such manner and subject to such exemptions as the village panchayat may with the approval of the Government and by resolution determine :

Provided that the rates shall not be less than the rates prescribed by the Government for the purpose:

Provided further that the tax under this section on any advertisement displayed in a public service vehicle as defined in the Motor Vehicles Act, 1988 (Central Act 59 of 1988) passing through the local limits of more than one Local Self Government Institution shall be levied by a village panchayat only if such vehicle;

(a)commences its operation from the area of that village panchayat; or

(b)commences its operation from a place not within the said village panchayat and passes through the said village panchayat before passing through the local limits of any other Local Self Government Institution:

Provided further that no tax under this section, shall be levied on any advertisement or a notice -

(a)of a public meeting; or

(b)of an election to any legislative body or a Municipality or a panchayat; or

(c)of a candidature in respect of such an election:

Provided also that no such tax shall be levied on any advertisement which is not a skysign and which -

(a)is exhibited inside the window of any building which is not a public place; or

(b)relates to the trade or business carried on within the land or building upon or over which such advertisement is exhibited, or to any sale or letting of such land or building or to any sale, entertainment or meeting to be held upon or inside the same; or

(c)relates to the name of the land or building upon or over which the advertisement is exhibited or to the name of the owner or occupier of such land or building;

[159]Ibid

[160]Inserted by Act 13f 1999

(d)relates to the business of any railway administration or airport authority;

(e)is exhibited within any railway station or airport or upon any such wall or other property facing the street excluding any portion of the surface of the wall or property belonging to the railway administration or airport authority.

Explanation 1. - The word “structure” in this section shall include any movable board on wheels used as an advertisement or as an advertisement medium.

Explanation 2. - The expression “sky-signs”, in this section, means any advertisement supported on or attached to any post, pole, pillar, frame work or other support wholly or partly upon or over any land, building, wall structure which, or any part of which, sky- sign shall be visible against, the sky from some point in any public place and includes all and every part of any such post, pole, pillar frame work or other support. The expression ’sky-sign’ shall also include any balloon, parachute or other similar device employed wholly or partly for the purposes of any advertisement upon or over any land buildings or, structure or upon or over any public place but shall not include-

(a)any flag-stiff, pole, vane, or weather, cock, unless adapted or used wholly or in part for the purpose of any advertisement; or

(b)any sign, or any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on the cornice or blocking course of any wall, or to the ridge of a roof

Provided that such board, frame or other contrivance be of one contiguous face land not open work and do not extend in the height more than one metre above any part of the wall or parapet or ridge to, against or on which it is fixed or supported; or

(c)any advertisement relating to the name of the land or building upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building; or

(d)any advertisement relating exclusively to the business of a railway administration and placed wholly upon or over any railway station, yard, platform or station approach belonging to a railway administration and so placed that it shall not fall into any street or public place; or

(e)any notice of land or buildings to be sold or let, placed upon such land or is building.

Explanation 3. - For the purpose of this section 'Public Place' means any place which is open to the use and enjoyment of the public whether it is actually used or enjoyed by the public or not.] [161]

[161][209 A. Prohibition of advertisement without written permission of the Secretary. -

(1)No advertisement shall after taking a decision by the Village

[161] Inserted by Act 13 of 1999.

building, wall, hoarding or structure within the village panchayat area or shall be displayed in any manner whatsoever in any place in that village panchayat area without the written permission of the Secretary.

(2)The Secretary shall not grant such permission if. -

(i) the advertisement contravenes any bye-law made by the Village Panchayat under section 256; or

(ii) the tax, if any, due in respect of the advertisement has not been paid.

(3)Subject to the provisions of subsection (2), in the case of an advertisement liable to advertisement tax, the Secretary shall grant permission for the period to which the payment of tax relates and no fee shall be charged in respect of such permission:

Provided that the provisions of this section shall not apply to any advertisement erected, exhibited, fixed or retained on the premises of a railway administration relating to the business of the railway administration.

209 B. ***Owner or person in possession be deemed responsible.*** - Where any advertisement is erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding or structure in contravention of the provisions of section 209 or 209A or after the written permission for the erection, exhibition, fixation or retention thereof for any period has been expired or become void, the owner or occupier of such land, building, wall, hoarding or structure shall be deemed to be the person who has erected, exhibited, fixed or retained, such advertisement in contravention unless he proves that such contravention has been committed by a person not in his employment or control or has been committed without his contrivance.

209 C. ***Removal of unauthorised advertisement. -*** (1) Where any advertisement is erected, exhibited, fixed or retained contrary to the provisions of section 209 or section 209 A or after the written permission for the erection, exhibition,

fixation or retention thereof for any period shall have expired or become void, the Secretary may, by notice in writing, require the owner or occupier of the land, building, wall hoarding or structure upon or over which the same is erected, exhibited, fixed or retained to take down or remove such advertisement, or may enter any building, land or property and have the advertisement removed.

(2)Any person exhibiting or responsible for exhibiting any advertisement otherwise than, in accordance with the provisions of this Act shall be liable to pay, in addition to the penalty prescribed in VI and VII Schedule, the charges for the removal of the unauthorised advertisement, to the Village Panchayat.

209 D. ***Collection of tax on advertisement.*** - The Secretary may farm out the collection of any tax on advertisement leviable under section 209 for any period not exceeding one year at a time on such terms and conditions as may be provided for by bye-laws made under section 256.

209 E. ***Recovery of tax payable.*** - Notwithstanding [anything contained in this Act any, amount payable under the provisions of this Act, rules or bye-laws, is not paid on the due date, shall be recovered together with penal interest at the rate of two per cent per month from the due date:

Provided that no penalty shall be recovered on any amount that has become payable or payable in a half year, if it is paid in the same half year.]

210.***Recovery of arrears of tax, cess, etc. -*** Any arrear of cess, rate, surcharge or tax imposed or fees levied under this Act shall be recoverable as an arrear of public revenue under the law relating to the recovery of arrears of public revenue for the time being in force:

Provided that the Secretary of a Village Panchayat may directly recover by distraint, under his warrant, and sale of movable properties of the defaulter subject to such rules as may be prescribed:

Provided further that, if for any reason the distraint or a sufficient distraint of a defaulter's property is impracticable, the Secretary may prosecute the defaulter before a Magistrate.

211. ***Power to require village officer to collect taxes and fees due to panchayats. -*** Subject to such rules as may be prescribed, the Secretary shall have power to require the village officer having jurisdictions over Village Panchayat area or any part thereof to collect any tax, cess, surcharge or fee due to the Panchayat on such conditions as the Government may by general or special order determine.

212.***Panchayat funds. -*** (1) Every Panchayat shall constitute a fund in accordance with provisions of this section.

(2)(a) All moneys received by the Village Panchayat except the [162] [163][money accepted for the Block Panchayat or District Panchayat or the Government] and those received on behalf of the Block Panchayat the District Panchayat or the Government shall constitute a fund called the Village Panchayat fund and shall be applied and disposed of in accordance with the provisions of this Act and the rules made there under:

Provided that the Village Panchayat shall have power, subject to such rules as may be prescribed, to direct that the proceeds of any tax or surcharge levied under this Act shall be earmark ncing any specific

public benefit. A separate account shall be kept of the receipts from every such tax or additional tax and the expenditure thereof.

[163][(b) The Village Panchayat fund shall consist of the following components, namely: -

(i)Own income of the Village Panchayat which shall consist of taxes, duties, cesses and surcharge levied under this Act or any other law, lease rents and other receipts from

[162]Substituted by Act 13f 1999

[163]Inserted by Act 13 f 1999

properties and enterprises, fees for licences and permissions, fines and penalties, income from endowments and trusts managed by the Village Panchayat, unclaimed deposits and other forfeitures and miscellaneous income from sources such as porampokes, fishing lands and shall include the share of the taxes collected by Government and transferred to the credit of the Village Panchayat and the grants released by Government.

(ii)Grants released by the Government for implementation of schemes, projects and plans formulated by the Village Panchayat;

(iii)Grants released by the Government for the implementation of schemes projects or plans assigned, delegated or entrusted to the Village Panchayat under this Act; and

(iv)Money raised through donations, contributions and grants from the public and non-Governmental agencies.

(v)The amount borrowed under section 197]

[164][* * *]

(3)All moneys received by the Block Panchayat except those received on behalf of the Government or the District Panchayat shall constitute a fund which shall be called ‘the Block Panchayat Fund’ and shall be applied and disposed of subject to the provisions of this Act and the rules made there under.

(4)All moneys received by the District Panchayat except those received on behalf of the Government shall constitute a fund which shall be called the ‘District Panchayat Fund’and shall be applied and disposed of subject to the provisions of this Act and rules made there under.

(5)Notwithstanding anything contained in sub-section (2) to (4) the Government may direct any panchayat to constitute separate funds to which shall be credited such receipt as may be specified by the Government and such funds shall be applied and disposed of in the manner prescribed.

(6)The amounts at the credit of the Village Panchayat fund, the Block Panchayat fund or the District Panchayat fund referred to in sub-sections (2) to (4) and the other fund referred to in sub-section (5) shall be kept in the Public Deposit Account in the Government treasury as may be specified by the Government.

(7)All fees for licences and permissions received by the Village Panchayat under this Act or any other law [164] [165] [166][* *] shall be utilised for the purpose for which the said fees are levied. [166](8) All grants released by the Government for the implementation of schemes, projects and plans shall be utilised only for the purposes for which such grants are released.

[164]Omitted by Act 13 of 1999.

[165]Omitted by Act 13 of 1999.

[166]Inserted by Act 13 of 1999.

(9)No contribution, grant or expense for a purpose not directly concerned with a function of the panchayat specified in this Act or any other law shall be made by a panchayat from the panchayat fund in excess of an annual limit that may be specified by the Government.

(10)The panchayat shall constitute a special fund on the discretion of the panchayat from the donations and contributions which are collected locally for meeting the expenses to be incurred by the President as per the powers delegated to the President by the panchayat and its constitution and utilisation are to be according to the bye-laws made by the panchayat for this.]

213. ***Items of expenditure debitable to panchayat fund.*** **—** (1) The purposes to which a panchayat fund may be applied include all objects authorised by this Act, the rules made there under and by other laws and in general everything necessary for or conducive to the safety, health, education, convenience, comfort and welfare of the inhabitants of the panchayat area concerned and everything incidental to the administration of the panchayat; and the funds shall be applicable thereto within the panchayat area subject to this Act, the rules framed there under [167][* * *]and shall be applicable thereto outside the panchayat area if the expenditure is specifically sanctioned by the Government.

(2)(a) It shall be the duty of every panchayat to provide for the payment of -

(i) any amount falling due on any loans contracted by it;

(ii) the election expenses including the cost of preparation of the electoral rolls and conduct of elections;

(iii) the salaries and allowances and the pensions, pensionary contributions, gratuity and provident fund contributions of its officers and employees and the allowances to the President, Vice-President and members which may be due;

(iv) sum due under any decree or order of a court;

(v) any other expenses rendered obligatory by or under this Act or any other law; and

(vi) amount of fees for audit.

(a)The Government shall determine the amount of the election expenses referred to in sub-clause (ii) of clause (a) and their determination shall be final and binding on the panchayat. Such amount shall have priority over all other charges except for the service of authorised loans including the loans and advances referred to in section 217.

(3)A panchayat may contribute any fund for the defence of India.

(4)A panchayat may by resolution supported by not less than one half of its strength, sanction the payment of -

(i) a contribution towards the expenses of any Panchayat conference or association of Panchayats, or

(ii) any contribution towards the expenses or reception of important personages or the expenses of any public exhibition, ceremony or entertainments -

[167] Omitted by Act 13 of 1999.

[168][or meet the expenses in connection with any matter not specified in the Act or the Rules made there under:

Provided that the total annual expenses under this sub-section shall not exceed the limit prescribed by the Government.]

5169 [* * * * * *]

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[214. ***Preparation and sanction of Budget. -*** (1) Subject to such directions as may be issued by Government from time to time and rules as may be prescribed, the budget proposals containing detailed estimate of income and expenditure expected for the next year including the expenditure on the development plans prepared and sanctioned under section 175 shall be prepared by the respective standing committee considering the estimates and proposals submitted by Secretary and the officers dealing with the respective subjects, before the 15th January every year and the same shall be submitted to the standing committee for finance.

(IA) The standing committee for finance, after considering the proposals submitted under sub-section (1) and all the requirements under this Act shall prepare a budget showing the income and expenditure of the panchayat for the ensuing year and the Chairman of the said standing committee shall, not later than the first week of March, in a special meeting of the panchayat regarding the development and declaration therein by the president regarding the development and welfare works that are proposed to be taken up by the panchayat, present the same before the panchayat for its approval.

(IB) The panchayat shall consider the budget proposals and finally pass the budget estimate with alterations if any, before the beginning of the year to which it relates.]

(2)The working balance shown in the budget shall not be less than five per cent of the current year's estimated receipts, excluding receipts from endowments, government grants contributions and debt account.

(3)Receipts anticipated shall be accurate and elaborate and shall be accompanied by detailed notes and explanations of any specific difference from the preceding years actual receipts.

(4)It shall contain necessary provisions to meet all the prescribed charges and repayment of debts.

(5)If in the course of a year a Panchayat finds it necessary to modify the estimates shown in the budget with regard to its receipts or expenditure on the different services undertaken by it, the Standing Committee shall frame a supplemental or revised budget and forward it to the Panchayat for sanction.

(6)Save in the case of a pressing emergency no sum shall be expended by or on behalf of a Panchayat unless such sum is included in the budget estimates in force at the time of incurring the expenditure. [168] [169] [170]

[168]Inserted by Act 13 of 1999.

[169]Omitted by Act 13 of 1999.

[170]Inserted by Act 13 of 1999.

171[(7) As soon as the budget is passed, copies thereof shall be furnished to the Government and to the officers authorised by the Government in this behalf and also to the auditors and such authorised officers shall prepare a consolidated statement of the budget estimate of the panchayats in each district:

Provided that, the village panchayats and the Block Panchayats in a district shall furnish copies of the budget passed by them to the district panchayat and the District Planning Committee concerned.

(8)A panchayat shall not either incur any expenditure in excess of the provision in the budget or where the budget of the year has not been passed before the first day of April, make any expenditure from that date.]

215. ***Accounts and audit.*** -(1) The Panchayat shall maintain such books of accounts and other books in relation to its accounts and prepare an annual statement of accounts in such form as may be prescribed.

(2)Accounts of receipts and expenditure of every Panchayat shall be maintained for every financial year in such form as may be prescribed.

(3)the Examiner of Local Fund Accounts and his nominees shall be the auditors of the Panchayat.

(4)The auditors shall conduct a continuous audit of the accounts of the Panchayat and shall after completing the audit for a year or for any shorter period or for any transaction or series of transactions, send a report to the Panchayat concerned and duplicate copies thereof to the officer authorised by the Government in this behalf.

(5)The auditors shall specify in the report under sub-section (4), all cases of irregular, illegal or improper expenditure or of failure to recover moneys or other property due to the Panchayat, or any loss or waste of money or other property thereof caused by neglect or misconduct of the officer and authorities of the Panchayat.

(6)The auditors shall also report on any other matter relating to the accounts of the Panchayats as may be required by the Government, to the officer authorised by the Government in this behalf.

(7)The Panchayat shall forthwith remedy any defect or irregularity pointed out by the auditors and report the action taken to the officer authorised by the Government in this behalf.

(8)The auditors shall in the performance of their functions under this Act have all the powers of the civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit in respect of the following matters, namely: -

(a)summoning and enforcing the attendance of any persona and examining him on oath;

171 Inserted by Act 13 of 1999.

(b)requiring the discovery and production of any document;

(c)receiving evidence on affidavits;

(d)requisitioning any public record or copy thereof, from any court of office; and

(e)such other matters as may be prescribed.

(9) The auditors shall, after giving a reasonable opportunity to the person concerned to explain his case, disallow every item of expenditure incurred contrary to law and surcharge the same on the person incurring, or authorising the incurring of, such expenditure and may charge against any person responsible therefore the amount of any deficiency, loss or unprofitable outlay occasioned by the negligence or misconduct of that person or of any sum which ought to have been but is not brought into account by that person and shall, in every such case certify the amount due from such person :

Provident that no surcharge under this sub-section shall be made after a period of four years from the date on which the expenditure in question was incurred.

Explanation. - It shall not be open to any person whose negligence or misconduct has caused or contributed to any such deficiency or loss, to contend that notwithstanding his negligence or

misconduct the deficiency or loss would not have occurred, but for the negligence or misconduct of some other person.

(10)The auditors shall state in writing, the reasons for their decision in respect of every disallowance, surcharge or charge and a copy of such decision shall be served on the person against whom it is made in the manner laid down for the service of summons in the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

(11)Any person aggrieved by any disallowance, surcharge or charge may, within fourteen days after the date of service on him of the decision of the auditor, make an application to the district court to set aside such disallowance, surcharge or charge and the court, after taking such evidence as is necessary may confirm, modify or remit such disallowance, surcharge or charge with such orders as to costs as it may think proper in the circumstances.

(12)Where an application is made to the court under sub-section (11) the auditors shall be the sole respondents thereto and the applicant shall not make either the Government or any other person a party to the proceedings.

(13)From the decision of the district court under sub-section (11) an appeal shall lie to the High Court.

(14)Every sum certified by the auditors to be due from a person under this Act shall be paid by such person to the Secretary of the Panchayat concerned within thirty days after the date of service on him of the decision of the auditors unless within that time such person has made an application to the court against the decision; and such sum, if not so paid, or such sum as the court declares to be due shall be recoverable as if it were an arrear of land revenue.

(15)An abstract of every annual report of a panchayat as certified by the auditor showing its income under each head of receipt, the charges for the establishment, works

undertaken, the sum expended on each work the balance, if any, remaining unexpended together with the audit report thereon shall be submitted to the officer authorised by the government in this behalf not later than fifteenth day of the second month of the next financial year.

(16)On receipt of the report referred to in sub-section (15), the Officer shall forthwith consolidate the report and submit it to the Government.

(17)The government shall -

(a)cause the accounts of the Panchayat together with the audit report thereon received by it under sub-section (16) to be laid before the Legislative Assembly; and

(b)cause the accounts of the Panchayat to be published in such manner as may be prescribed.

216. ***Contribution to the expenditure by other local Self Government Institutions. -*** ***If the*** expenditure incurred by the Government or by any other Panchayat or by any other Local Self Government Institutions in the State for any purpose authorised by or under this Act, is such as to benefit the inhabitants of the Panchayat area, the Panchayat may, [make a contribution towards such expenditure.]

217.***Recovery of loans and advances made by Government.*** - (1) Notwithstanding anything contained in the Kerala Local Authorities Loans Act 1963, the Government may, by order, direct any person having custody of the funds of the Panchayat to pay to them in priority to any other charges against such fund, except charges for the service of authorised loans any loan or advance made by them to the Panchayat for any purpose to which its funds may be applied under this Act.

(2) The person to whom the order referred to in sub-section (1) is addressed shall be bound to comply with such order.

172 substituted by Act 13 of 1999.

CHAPER XX
PUBLIC SAFETY, CONVENIENCE AND HEALTH

218. ***Vesting of watercourse, springs, reservoirs, etc., in Village Panchayats. - (1)*** Notwithstanding anything contained in the Kerala Land Conservancy Act 1957 (8 of 1958) or in any other law for the time being in force, all public water courses (other than river passing through more areas, than the panchayat area which the Government may, by notification in the gazette, specify), the beds and Banks of river streams, irrigation and drainage channels, canals, lakes, back waters and water courses and all standing and flowing water, springs, reservoirs, tanks, cisterns, fountains, wells, kappus, chals, stand pipes and other water works including those used by the public to such an extent as to give a prescriptive right to their use whether existing at the commencement of this Act or afterwards made, laid or erected and whether made, laid or erected at the cost of the panchayat or otherwise, and also any adjacent land, not being private property appertaining thereto shall stand transferred to and vest absolutely in the village panchayat:

Provided that nothing contained in this sub-section shall apply to any work which is or is connected with a work or irrigation or to any adjacent land appertaining of any such work.

(2)Subject to the provisions of this Act, all rights and liabilities of the Government in relation to the water courses, springs, reservoirs, tanks, cisterns, fountains, wells, kappus, chals, stand pipes and other water works vested in the village panchayat under subsection (1) shall from the date of such vesting be the rights and liabilities of the village panchayat.

(3)Notwithstanding anything contained in sub-section (1) or sub-section (2), the government may, by notifications in the Gazette, assume the administration of any public source of water supply and public land adjacent and appertaining thereto after consulting the village panchayat and giving due regard to its objection, if any.

(4)It shall not be lawful for any person to remove or appropriate for himself any tree, earth, sand, metal, laterite, limeshell or such other articles of value as may be notified by the village panchayat from any land which is transferred to or vested in the village panchayat, under this Act whether a poramboke or not except under and in accordance with the terms and conditions of a permit issued by the village panchayat in this behalf and on payment of such fees and compensation at the rate determined by the village panchayat.

219.***Contributions from persons having control over places of pilgrimage etc. -*** Where a mosque, temple, church, mutt or any place of religious worship or instruction or any place which is used for holding fairs or festivals or for other like purposes is situated within a village panchayat area or in the neighbourhood, thereof and attracts either throughout the year or on particular occasions a large number of persons, any special arrangements necessary for public health, safety or convenience, whether permanent or temporary, shall be made by the village panchayat, and the village panchayat shall after consulting the trustee or any other person having control over such place, require him to make such recurring or non-recurring contribution to the funds of the village panchayat

as may be reasonable in the circumstances of the case and it shall be incumbent on such person to make such contribution. If such person fails to pay the contribution within such time as may be prescribed the amount shall be recoverable as an arrear of public revenue due on land.

[219 A. Village Panchayat to arrange for the removal of rubbish, solid, wastes and filth. - (1) Every village panchayat shall make adequate arrangements for -

(a)the regular sweeping and cleaning of the roads and removal of sweeping there from;

(b)the daily removal of the fifth and the carcasses of animals from private premises;

(c)removal and burial of unclaimed dead bodies under intimation to the police;

(d)the removal of solid wastes;

(e)the daily removal of rubbish from dustbins and private premises and with this object, it shall provide -

(i)depots, receptacles and places for the deposit of filth, rubbish and the carcasses of animals;

(ii)Covered vehicles and vessels for the removal of filth;

(iii)vehicles or other suitable means for the removal of the carcasses of large animals and rubbish; and

(iv)dust bins, receptacles and places for the temporary deposit of domestic waste, dust, ashes, refuse, offensive matter, trade refuse, institutional refuse, carcasses of animals.

(2)The Secretary shall make adequate provision for preventing the depots, place, receptacles, dust bins, vehicles and vessels referred to in sub section (1) from becoming sources of nuisance.

(3)A village panchayat may contract out any part or the whole process of collection and disposal of solid waste from the public or private premises.

219 B. ***Duty of owners and occupiers for collection and deposit of rubbish and solid waste. -*** (1) It shall be the duty of the owners of all premises to provide receptacle of the size specified by the secretary for the purpose of collection of domestic waste, trade waste, institutional waste, dust, ashes, refuse and decayed matters generated from such premises.

(2)Such receptacles shall, at all times, be kept in good condition and shall be provided in such number and at such places at the secretary may, from time to time by written notice direct.

(3)The Secretary may, by public notice direct the owners or occupiers or all premises to segregate the waste generated from such premises for easy management and disposal of such waste by the employees or contractors engaged by the village panchayat.

(4)It shall be incumbent on the owners and occupiers of all premises to cause all domestic waste, trade waste, Institutional waste, dusts, ashes, refuse, rubbish etc., to be

[173] Inserted by Act 13 of 1999.

collected from their respective premises and to be deposited in the public receptacle depot or place provided for the temporary deposit of wastes at such time as the secretary may, by public notice from time to time, specify or hand over the waste to the persons engaged or identified by the village panchayat for the purpose.

219C. ***Contract with owner or occupier for removal of rubbish or filth. -*** The secretary may enter into contract with the owner or occupier of any premises to remove rubbish or filth from such premises on such terms and conditions as is deemed expedient to the secretary and on payment of fees at such rates as the village panchayat determines from time to time.

219D. ***Introduction of house-to-house collection of rubbish.*** - (1) The secretary may, with the sanction of the village panchayat introduce in the village panchayat area or part there of house to house collection of rubbish and other offensive matter for which he may publish from time to time an order specifying the hours within which the occupier of any house or premises or land may place, rubbish or offensive matter adjacent to his house, premises or land as may be specified by the secretary, in a proper receptacle provided by the village panchayat or in a receptacle of the size and type as may be specified by the secretary in the order that such rubbish or offensive matter may be removed by the employees of the village panchayat or by the contractors who may be engaged by the village panchayat for this purpose.

(2)No persons shall place rubbish or offensive matter on a public street at the time other than the time specified by the secretary and except in the receptacle provided or specified under sub-section (1).

219 E. Rubbish and other solid waste shall be the property of the village panchayat. **-**Rubbish and other solid waste collected by the employees or contractors of the village panchayat and the carcasses deposited in any public receptacles, depots or place shall be the property of the village panchayat and the village panchayat may dispose of the same by auction or otherwise.

219 F. ***Provision for the final disposal of solid waste*** - (1) Every village panchayat shall identify and notify suitable places within or outside the village panchayat area for the purpose of final disposal of waste.

(2)While notifying the land under sub-section (1) health and environmental aspects shall be taken into consideration by the village panchayats.

(3)Every village panchayat may make adequate arrangements for the utilisation of solid wastes for the preparation of compost and the disposal of it by sale.

(4)Where composting of waste is not found possible or practicable sanitary landfill methods shall be adopted for the disposal of waste at the landfill sites in the manner specified by the village panchayat.

(5)Incineration of waste may be resorted to by the village panchayat for the disposal of infectious waste rejected from the hospitals, nursing homes or health care centres and non-industrial hazardous waste as specified by the village panchayat from time to time.

219G. ***Provision for processing of solid wastes. -*** The village panchayat may for the purpose of recycling, treating, processing and disposing of solid wastes or converting such solid wastes into compost or any other matter, construct, acquire, operate maintain and manage any establishment within or outside the village panchayat area and run it on a commercial basis or may contract out such activity.

219H. Removal of rubbish and solid waste accumulated on non-residential premises. -

(1)The Secretary may if he thinks fit by notice in writing of any premises used as

(a)a factory, workshop or a place for carrying or any manufacturing process, or
(b)a market or trade premises, or
(c)a slaughter houses, or
(d)a hotel, eating house, or restaurant, or
(e)a hospital or a nursing home, or
(f)a warehouse or godown, or
(g)a place to public resorts, where rubbish offensive matter, filth, trade refuse, special wastes, hazardous wastes or excrementitious and polluted matters are accumulated in large quantities, to collect such matters accumulated thereon and to remove the same to a depot or place provided or directed by the secretary at such time and in such manner and by such routes as may be specified in the notice.

Provided that, where such solid wastes cannot be removed to such place or depot as required by the secretary on health reasons, the secretary may direct the owner a occupier of such, premises to make his own arrangements for disposal of such wastes and for noncompliance of such direction, he may on conviction, be punished with a fine which may extend to rupees ten thousand and a further fine at the rate of rupees one hundred for each day during which the offence is continued.

(2)Where the owner or occupier fails to dispose of the waste in pursuance of the notice under sub-section (1), the cost for such removal shall be fixed and realised by the village panchayat from the said owner or occupier.

219 I. ***Prohibition of improper disposal of carcasses rubbish and filth. -*** (1) No person shall after due provision has been made under section 219A by the village panchayat for the deposit and removal of rubbish, solid waste, carcasses or filth, deposit the same, -

(a)in any street or on a verandah of any building or any unoccupied ground along the side of any road or an any public quay, jetty or landing place or on the bank of a water course or pond; or

(b)in any dust bin or vehicle not intended for the removal of the same; or

(c)in any vehicle or vessel intended for such removal except to ameliorate or to prevent the spreading of bad smell.

(2) Without prejudice to the generality of the provisions in sub section (1) no person shall deposit or cause to be deposited any building rubbish on any streets or on any public or private land without the previous permission of village panchayat:

Provided that, no permission shall be granted without paying the fee as determined by the village panchayat:

Provided further that, the secretary may, for reasons to be recorded in writing refuse to give such permission.

219 J. ***Prohibition of keeping filth on premises. -*** No owner or occupier of any premises shall keep or allow to be kept for more than twenty four hours any filth on such premises or in any building or on the roof thereof or in any outhouse or any place appurtenant thereto, or fail to comply with any requisition of the secretary as to the construction, repair paving or clearing of any latrine belonging to premises.

219 K. ***Prohibition against allowing outflow of filth: -*** No owner or occupier of any premises shall allow the water from any sink, drain, latrine or stable, or any other filth to flow out of such premises to any portion of a street except a drain or a cess-pool or to flow out of such premises so as to cause an avoidable nuisance by the soakage of the said water or filth into the walls or ground at the side of drain

forming a portion of a street.

219 L. ***Prohibition of disposal of skin.*** -No person shall deposit the skin of a carcass or dispose of the carcass at a place other than that provided for the purpose.

219 M. Prohibition of using any cart without cover for the removal of filth etc. - No person shall, for the removal of filth use any cart or receptacle not having a proper covering for preventing the escape of the contents thereof or of the stench there from, or intentionally or negligently spill any filth while removing or fail to sweep and clean carefully the place any such filth has spilled or place or deposit in any public place any filth whether in a closed or open vessel or otherwise.

219 N. ***Prohibition of deposit of rubbish or filth in public places. -*** No person shall deposit or cause to be deposited any rubbish or filth or other debris into any public place not intended for deposit of rubbish or filth or debris.

219 O. ***Prohibition against causing nuisance in public streets etc.-*** No person shall cause any nuisance by relieving himself in any street, public place or public path or permit any person under his control to do so.

219 P. ***Presumption as to offender. -*** Where any rubbish, offensive matter trade refuse, special waste, hazardous waste or excrementatitious and polluted matter accumulated on any premises is deposited in any place in contravention of the provisions of this Act it shall be presumed unless the contrary is proved, that such contravention has been committed by occupier of such premises.

219 Q. The employees of village panchayat engaged in rubbish and solid waste management service prohibited from depositing waste at a place other than specified etc.- No employee of the village panchayat engaged in rubbish and solid waste management service shall throw or place any domestic waste, dust ashes, refuse, rubbish or trade refuse on any street or in any place not provided for the purpose or place or keep in any road any vehicle or carriage for the removal of solid waste excrementitious or

polluted matter or suffer the same to remain in any road or any greater length of time than it reasonably necessary.

219 R. ***Power to inspect premises for sanitary purposes.*** - The secretary or any officer authorised by him may at any time inspect any premises for the purpose of ascertaining the compliance of the provisions of this Act.

219 S. ***Punishment for depositing or throwing any rubbish or solid waste in contraction of the provisions of this Act. -*** Whosoever deposits or throws any rubbish, solid waste or carcasses in contravention of the provisions of this Act shall, on conviction, be punishable with fine which shall not be less than rupees fifty but may extend upto rupees two hundred and fifty.

220.***Prohibition of constructions in or over public roads, etc. -*** Not-withstanding anything contained in this Act no person shall,

(a)build any wall or erect any fence or other obstruction or projection or make any encroachment whatsoever, whether permanent or temporary, in or over any public road;

(b)[175] [176][Construct any building or structure other than a compound wall in any land abutting any National Highway, State High way, District roads or any other roads notified by the village panchayat within a distance of three metres from the boundary of his land abutting the road:

[176][Provided that, the said limit of three metres shall not be applicable for the construction of 1st floor or 2nd floor or both upon a building, existing on the date of coming into force of this Act:

Provided further that, any path, bridge or similar constructions used solely for entering into any building or weather shade or sun-shade

forming part of the building may, subject to the rules regarding construction of building, be constructed within the said three metres limit: Provided also that, when an existing portion of a building is to be demolished for the implementation of a Town Planning Scheme it shall not be in such a manner that it would adversely affect the remaining building or the additions to be made, and the full responsibility of the safety and stability thereof shall vest with the owner of the building, and when he has to undertake such a demolition it shall be done at his own expense and responsibility, and he shall not be eligible for any damages for the said construction and for this purpose a consent certificate shall be produced along with the application].

(c)make any hole or deposit any material in or upon any public road;

(d)work a quarry to remove stone, earth, rubble or other material from any place within twenty metres of a public road or of other immovable property vesting in or belonging to a Panchayat:

Provided that nothing in this clause shall be deemed to apply to any work which in the opinion of the village panchayat, is done in connection with a ***bonafide*** agricultural operation;

(e)erect any building over any sewer or drains or part thereof;

(f)plant any tree on any public road or other property vesting in or belonging to a village panchayat; or

[175]substituted by Act 13 of 1999.

[176]Substituted by Act 13 of 2000.

(g)fell, remove, destroy, lop or strip, bark, leaves or fruits from, or otherwise damage, any tree which is growing on any such public road, other property, poramboke or land, the use of which is regulated by a village panchayat and the right of which has not been established by such person or vesting in or belonging to him.

221.***Public markets -*** The village panchayat may, provide places, or use as public markets or close any such market or part thereof. All public markets within a village panchayat area shall be under the control and management of the village panchayat.

(2)Subject to such rules as may be prescribed, the village panchayat may parcel out any portion of a public market and lease such parcel or parcels by auction or otherwise or levy any one or more of the following frees in any public market at rates not exceeding the maximum prescribed, namely: -

(a)fees for the use of or for the right to expose, goods for sale in such market;

(b)fees for the use of shops, stalls, pens or stands in such market;

(c)fees on vehicles bringing any goods for sale in such market or on goods.

(d)fees on animals brought for sale into or sold in such market and

(e)licence fees on brokers, commission agents, weighmen and measurer practising their calling in such market.

[175]

[(3) Places used as a public markets shall be properly maintained by the village panchayat and no part thereof shall be used for any purpose other than those related to the functioning of the market.]

222.***Licensing of private markets: -*** (1) No person shall open a new private market or continue to keep open a private market unless he has obtained a licence from the Village Panchayat to do so. such, licence shall be got renewed by the licensee every year.

(2)The village panchayat may, -

(a)grant the licence applied for, subject to such conditions as it may think fit as to supervision and inspection, sanitation and water supply, weights and measures to be used, rents and fees to be charged and such other matters as may be prescribed.

(b)refuse renewal of a licence if it is satisfied that such refusal is justified in public interest.

(c)at any time suspend or cancel any licence granted under clause (a) for breach of any of the conditions thereof;

(d)modify the conditions of the licence to take effect from a specified date; and

(e)In a case where renewal of licence is refused under clause (b) the reasons therefor shall be intimated to the licensee and in case the licence cures such defects within the time prescribed such application shall be reconsidered.

(3)No market fee shall be charged in evening markets (Anthichanthas) and the licence for the same shall be granted free of charge, but shall be subject to such conditions as to

[175] Inserted by Act 13 of 1999.

supervision and inspections, sanitation and weights and measures to be used as may be prescribed.

(4) when a licence granted under sub-section (2) permits the licensee to levy any fee from the private market, a licence fee not exceeding one third of the gross income of the owner from the market in the preceding year shall be charged by the village panchayat:

Provided that in the case of a new market the licence fees shall be fixed by the Panchayat at rates which shall not be less than the amounts given hereunder, namely:-

(i) if the area of the market is not more than 0.1 hectare, rupees two hundred;
(ii) if the area is more than 0.1 hectare but less than 0.2 hectare, rupees four hundred;
(iii) and if the area is more than 0.2 hectare, rupees five hundred.

(5) The Village Panchayat or any officer duly authorised by it may close a private market which is unlicensed or the licence for which has been suspended or cancelled, or which is held or kept open contrary to the provisions of this Act after prior intimation.

223.***Levy of fees by licensees of private markets. -*** The Licensee of a private market may, subject to such rules as may be prescribed, levy any one or more of the following fees in any private market at such rates not exceeding the maximum prescribed, namely: -

(a)fees for the use of or for the right to expose, goods for sale in such market;

(b)fees for the use of shops, stalls, pens or stands in such market;

(c)fees on vehicles bringing any goods for sale in such markets or on goods;

(d)fees on animals brought for sale into or sold in such market; and

(e)licence fees on brokers, commission agents, weighmen and measurers practising their calling in such market.

224.***Prohibition of sale in unlicensed private markets, etc. —*** No person shall sell or expose for sale any animal or article. -

(a)in any public or licensed private market without the permission of a Village Panchayat or licensee, as the case may be, or of any person authorised by the village panchayat;

or

(b)in any unlicensed private market.

225.***Prohibition of sale in public roads.*** - The village panchayat shall by public notice prohibit the sale or exposure for sale of any animals or articles in or upon any public road or place or part thereof.

226. ***Prevention of person suffering from contagious diseases from entering markets. -***

The Village Panchayats in the case of public markets, and the licensee in the case of private markets, shall prevent the entry therein or expel there from any person suffering from any contagious or infectious disease and may expel there from any person who is creating a disturbance therein.

Public halting places

227.***Public landing places and cart-stands, etc. -*** Subjects to such rules as may be prescribed, the village panchayat may -

(a)provide public landing places, halting places and cart-stands (including stands for animals and vehicles of any description) and levy fees for their use; and

(b)Where any such place or stand has been provided, prohibit the use for the same purpose by any person, within such distance, thereof, any public place or the side of any public road as the panchayat may, subject to the control of the Regional Transport Authority, specify:

Provided that the previous sanction of the Regional transport Authority shall be obtained before any stand or halting place for motor vehicles is opened.

228.***Private cart-stands.*** - (1) No persons shall open a new private cart-stand or continue to keep open a private cart-stand unless he obtains from the village panchayat a licence to do so. Such licence shall be got renewed by the licensee every year.

(2)The Village Panchayat shall, as regards private cart-stands already lawfully established, and may at its discretion, as regards new private cart-stands, grant the licence applied for, subject to the payment of the prescribed fee and to such conditions as the Village Panchayat may think fit as to supervision and inspection, sanitation and such other maters as may be prescribed, or the village panchayat may refuse to grant such licence for any new cart-stand.

(3)The Village Panchayat may modify the conditions of the licence to take effect from a specified date.

(4)The village panchayat may at any time suspend or cancel any licence granted under sub-section (2) for breach of the conditions thereof.

(5)The Village Panchayat may levy on every grant or renewal of a licence under this section a fee not exceeding two hundred rupees.

(6)The licensee of a private cart stand may levy fees at rates not exceeding the maximum prescribed.

Slaughter houses

229.***Public slaughter houses. -*** (1) A Village Panchayat may provide places for use as public slaughter houses and charge such rents and fees for their use not exceeding the maximum as may be prescribed:

Provided that if any complaint with respect to the conduct of such slaughter houses has been received from the nearby residents, action for starting such slaughter houses shall be taken only after detailed examination of such complaint.

(2) The Village Panchayat may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

230.***Licence for slaughter houses.*** - (1) The owner of any place within the village panchayat area which is used as a slaughter house for the slaughtering of animals or for the skinning or cutting up of any carcasses shall in the first month of every year or in the case of a place to be newly opened one month before the opening of the same, apply to the [176] [177][Village Panchayat] for a licence.

(2)The Village Panchayat may, by an order and subject to such restrictions and regulations as to supervision and inspection as he thinks fit, grant or refuse to grant such licence.

(3)Nothing contained in this section shall apply to the slaughter of animals in any concealed place without causing hardship to the public in the Village Panchayat area on occasions of festivals, marriage ceremonies, etc.

[230 A. ***Slaughter houses to be maintained properly. -*** Every public or licensed slaughter house, shall be maintained properly and waste materials there from shall be disposed of without causing nuisance to the public, where any violation of the conditions of agreement or licence leads to unhygienic condition of the slaughter house, the person concerned may on conviction, be punished with a penalty upto rupees five thousand and a further fine at the rate of rupees five hundred for each day on which the offence is continuing and in case such penalty is imposed continuously for ten days, action can be taken treating the licence as automatically cancelled.]

231. ***Slaughter of animals for sale as food and power of Inspection. -***
(1)No person shall slaughter within the Village Panchayat area except in a public or licensed slaughter house any cattle, horse, sheep, goat or pig for sale as food or skin or cut up any carcass without or otherwise than in conformity with a licence from the Village Panchayat or dry or permit to be dried any skin in such manner as to cause a nuisance. It shall be ensured that the said slaughter house is kept clean:

Provided that the slaughtered meat kept ready for sale as food shall not be sold except after inspection by the prescribed officers.

Explanation. - Nuisance for the purpose of this section includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep or which is or may be dangerous to life or injurious to the health or property of the public or the people in general who dwell or occupy property in the vicinity or persons who may have occasion to use any public right or any animal kept in such a place or manner as to be prejudicial to health.

176Substituted by Act 13 of 1999.
177Inserted by Act 13 of 1999.

(2)No person shall exhibit or expose to public view, for sale or otherwise the carcass of animal, bird or fish (whether dressed or not) in any licensed premises or any other place in such a manner as to cause annoyance or offence to the sense of sight of the public.

(3)The President, Secretary or any officer authorised by the Government or by the village panchayat may without notice enter any place where meat or any other article of food is stored for sale and inspect such article.

Dangerous and offensive trades and factories

232.***Purpose for which places may not be used without a license. -*** (1) The village panchayat may notify that no place in the Panchayat area shall be used for any of the purposes specified in the rules made in this behalf being purposes which in the opinion of Government, are likely to be offensive or dangerous to human life or health or property, without a license issued by the 178(Secretary) and except in accordance with the conditions specified in such licence:

Provided that no such notification shall take effect until the expiry of thirty days from the date of its publication.

178Substituted by Act 13 of 1999.

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233. ***Permission for the construction of factories and the installation of machinery - (1)***

No person shall, without the permission of the village panchayat and except in accordance f

(a)construct or establish any factory, workshop or workplace in which it is proposed to employ steam power, water power or other mechanical power, or electrical power; or

(b)install in any premises any machinery or manufacturing plant driven by any power as aforesaid, not being machinery or manufacturing plan exempted by the [180](provisions of this Act or the rules made there under).

[181][(2) An application for permission under sub-section (1) shall be submitted to the village panchayat addressed to the Secretary in such form and with such details as prescribed.

(3) The secretary shall, as soon as may be after the receipt of the application, enquire and report to the village panchayat as to whether the establishment of the factory, workshop or workplace or other installation of machinery or manufacturing plant for which permission is applied for is objectionable by reason of density of population in the neighbourhood and the possibility to cause nuisance or pollution and the village panchayat after having considered the application and the reports of the secretary, and of such other authorities as specified in sub-section (4) may as expeditiously as possible, at any rate within sixty days, -

(a)grant the permission either absolutely or subject to such conditions as it thinks fit to impose; or

(b)refuse the permission for the reasons to be recorded.

(4)Before granting or refusing permission under sub-section (3), the village panchayat, shall obtain and consider.

(5)a report of the Inspector of Factories appointed under the Factories Act, 1948 (Central Act 63 of 1948) or of an officer of the Industries Department not below the rank of an Industries Extension Officer having jurisdiction over the area regarding the adequacy of ventilation, light etc. and sufficiency of the height and size of the rooms and doors and the suitability of exists to be used in case of fire in the plan of factories, workshop workplace or premises if they came within the purview of the Factories Act, 1948 (Central Act 63 of 1948) and such other matters as may be prescribed ;

(6)a report of the District Medical Officer regarding the possibility of nuisance or pollution of the connected load of the machinery proposed to be installed exceeds [179] [180] [181]

[179]Omitted by Act 13 of 1999.

[180]Substituted by Act 13 of 1999.

[181]Added by Act 13 of 1999.

25 HP or if the nature of the machinery and installation are such that it may cause nuisance or pollution; and

(a)a report of the Divisional Fire Officer or any other officer authorised by him regarding the adequacy of fire prevention and fire fighting measures planned if the proposed industry involves the use of high tension power or inflammable or explosive materials;

Provided that, no report under clause (b) shall be called for in respect of any industry if the applicant produces a declaration recommended by an officer of the Industries Department authorised in this behalf or by the Kerala State Pollution Control Board to the effect that such industry would not cause pollution.

(7)The grant of permission under this section, -

(a)Shall be subject to the conditions to be observed in respect of the replacement of machinery the levy of fees d conditions as may be

prescribed;

(b)Shall not be deemed as exempted from observing the provisions contained in section 235 (F) and 235 (H) or 235 (P) and 235 (Q).]

[233A. Abatement of nuisance caused by factory, workshop etc. —

(1)Where any factory, workshop, workplace or machinery causes, in the opinion of the village panchayat nuisance by reason of a particular kind of fuel being employed or by reason or the noise or vibration created, or effluent discharged or by reason of noxious odour, smoke or dust omitted, the secretary may direct the person in charge of such factory, workshop, workplace or machinery for the abatement of such nuisance within a reasonable time to be specified for that purpose.

(2)The village panchayat may, if required, obtain expert opinion with regard to the determination of the nuisance or its abatement, at the cost of the owner or person in charge of the factory, workshop, workplace or machinery concerned.

(3)Where there has been wilful default in carrying out a direction given under subsection (1) or where in the existing circumstances the abatement of nuisance is found impracticable, the secretary may prohibit the working of the factory workshop, workplace or machinery till such time the person concerned takes necessary steps to the satisfaction of the secretary for the abatement of the nuisance.

233B. ***Exemptions: -*** Notwithstanding anything contained in section 233, no permission of village panchayat shall be required for the installation of establishment of the following machinery or manufacturing plants or industrial units, as the case may be, namely: -

(a)Electrical and non-electrical appliances and machinery intended to be used for domestic purposes or personal comfort;

(b)Electrical and non-electrical installation installed for agricultural purposes ;

[182] Added by Act 13 of 1999.

(c)Normally unattended static transformer stations, co-denser stations and rectifier stations;

(d)Portable drilling machines and portable engines used for constructions purpose such as concrete mixers;

(e)Machinery installed at a workshop or workplace attached to an educational institution or for scientific purposes;

(f)Installations of the Kerala State Electricity Board for generation or transmission of electricity;

(g)Installation of the Kerala Water Authority for supply of drinking water and sewerage;

(h)Industrial units with machinery having capacity of less than 5 H.P., which is certified by the Industries Department of the Government or the Kerala State Pollution Control Board to be non-polluting industry;

(i)Industrial units, industrial estate, industrial development area, industrial development plot, industrial growth centre, export processing zone, or industrial park declared as such by the Government controlled agency:

Provided that the owner of any industrial unit specified under item (h) and (i) shall register the unit with the village panchayat concerned on remission of the fee prescribed.

233C. ***Consultation with the panchayat for opening Government industrial estate, industrial development area etc. —*** (1) The village panchayat shall be consulted before opening an industrial estate industrial development area, industrial development plot, industrial growth

centre, export processing zone or industrial park by the Government or an agency controlled by Government.

(2) So far as the industrial units specified under item clause (h) of section 233B are concerned, the provisions of section 235 F and 235 H or sections 235 P and 235 Q, as the case may be, shall be complied with.]

234. ***Power of Government to make rules in respect of the grant and renewal of licences and permissions. - (1) The Government may make rules, -***

(a)prohibiting or regulating the grant or renewal of licences under section 232 and the period for which such licences shall be valid;

(b)as to the time within which application for such licences or renewals thereof shall be made; and

(c)prohibiting or regulating the grant of permission under section 233.

(2) Rules made under clause (c) of sub-section (1) may empower the village panchayat to set apart specified places in the panchayat area for industrial purposes and provide for the refusal of permission under section 233 in respect of any factory, workshop, workplace or premises outside such places and also for the removal to such places of any factory, workshop or workplace which has been already established at any place, or any machinery which has already been installed in any premises situated outside the specified places :

Provided that no such rule shall authorise the removal of any factory, workshop or workplace or machinery installed in any premises in the occupation or under the control of the Central or State Government or of a Market Committee established under the Madras Commercial Crops Markets Act, 1933 or any other law.

[183][(3) x x x x]

[184][234A. - ***Vesting of the existing water supply and sewerage services under the water authority with the panchayat. -*** (1) Notwithstanding anything contained in the Kerala Water Supply and Sewerage Act, 1986 (14 of 1986) or in any other law from such date, on the Government may by notification in the gazette appoint, in respect of the Water Authority before such date and intended for the benefit of the panchayat at any level and situated within its area, -

(a)all plants, machinery, water works, pumping station and all buildings and land thereto and all works, implements, stores, goods, implementation of works, management of water supply, distribution, levy and collection of water charge in connection therewith and is situated upon any public street, or through it or over or under it, as the case may be, within the area of the panchayat at any level including all assets and other facilities shall vest in the panchayat specified in the notification and shall stand transferred to that panchayat ; and

(b)the collection of arrears of sewage charge, water charge and meter charge and arrears of any expense or fees in connection with water supply and sewerage, and all rights, liabilities and obligations of the water authority even if arisen from any contract or otherwise related to the said authority shall be the rights, liabilities and obligations, as the case may be, of the panchayat specified in the notification.

(2)The assets, rights liabilities and obligations in sub-section (1) shall be valued in the manner specified by the Government and shall be furnished to the Water Authority by the panchayat concerned.

(3)If any doubt or dispute arises as to the vesting of any property or asset in the panchayat or any right, liability or obligation, has become that of the panchayat such doubt or dispute shall be referred to the Government and the decision of the Government thereon shall be final and the water authority and the panchayat concerned shall be bound to implement the decision.

(4)In order to continue to get the services in connection with the properties, assets, water supply and sewerage to a panchayat to which such services have been transferred under sub-section (1) sufficient number of Employees of the Water authority as may be decided by the Government shall be deployed to the concerned panchayat.

(5)If a notification is issued by the Government under sub-section (1), all powers and rights of the Water Authority under the Kerala Water supply and Sewerage Act, 1986 (14 183 184

183Omitted by Act 13 of 1999.
184Added by Act 13 of 1999.

of 1986) within the area of the said panchayat shall cease to exist from the date specified in the notification and all such powers and rights shall vest in the concerned panchayat.

234B. ***Administrative powers of the panchayat in respect of the existing water supply and sewerage schemes. -*** (1) Notwithstanding anything contained in the Kerala Water Supply and Sewerage Act, 1986 (14 of 1986) or in any other law, the maintenance and administration of the water supply and sewerage schemes which cannot be vested in and transferred to the panchayat under section 234A and is beneficial to the residents within the area of more than one Local Self Government Institutions shall vest in the committee to be constituted by the Government for the purpose.

(2)In the committee referred to in subsection (1), -

(a)Chairpersons of the respective municipalities;

(b)Presidents of the respective panchayats;

(c)The Senior Engineer of the water authority of the related project who shall be its Secretary and Convenor; shall be its members and chairperson or President of that Local Self Government Institution to which the related scheme is more beneficial shall be the chairman of the committee.

(3)The water authority shall provide the fund and services of the employees necessary for the exercise of powers and functions of the committee.

234C. ***The power of the panchayat in the preparation and execution of schemes related to water supply and sewerage works. -*** (1) Notwithstanding anything contained in the Kerala Water supply and Sewerage Act, 1986 (Act 14 of 1986), the respective panchayat shall have the right and power to prepare and implement water supply or sewerage scheme within the area of a panchayat.

(2)When the Water supply schemes and sewerage schemes are prepared in accordance with sub-section (1) and if it is beneficial to the residents of more than one village panchayat area, it shall be prepared and implemented by the concerned Block Panchayat and if it is beneficial to the residents of more than one block panchayats such schemes shall be prepared and implemented by the district panchayat concerned;

Provided that the provisions of this section shall not affect the preparation and implementation of such schemes by more than one panchayat among themselves.

(3)The panchayats preparing and implementing the water supply and sewerage schemes in accordance with sub-section (1) may collect water charges and sewerage service charges from the beneficiaries in the manner prescribed.]

CHAPTER XXI

185[BUILDINGS]

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[235. ***Numbering of buildings.*** - (1) The Secretary of the village panchayat may in any area, where this Act is applicable, affix a number of a particular size and form on the side or outer door of any building or on any place at the entrance to the compound.

(2) No person shall without any legal authority, destroy, remove or wipe out any such number affixed on any building in any such area.

(3) When a number is affixed under sub-section (1) the owner of the building is liable to keep it up and renumber in case it is removed or faded away and if he defaults in doing so, the Secretary may, by notice, require him to put the number again.

235 A. ***Building Rules. -*** (1) The Government may make rules, -

(a)for the regulation or restriction of the use of sites for the construction of building;
(b)for the regulation and restriction of building construction.

(2) Without prejudice to the generality of the powers conferred by clause (a) of subsection (1), rules made under that clause may provide that -

(a)no unhealthy or dangerous site shall be used for building construction;
(b)no site shall be used for the construction of a building intended for public worship, if the construction thereon will wound the religious feelings of any class or persons.

(3) Without prejudice to the generality of the powers conferred by clause (b) of sub section (1), rules made under that clause may provide for the following matters namely: -

(a)information and plans to be submitted along with the application for permission to construct a building;
(b)height of buildings irrespective of or relative to the width of streets;
(c)ground level and width of foundation of the ground floor and stability of structure;
(d)number of storeys and height of the building and the height of rooms;
(e)provisions for sufficient open space inside or outside and adequate means of ventilation;
(f)provision for exit in case of fire;
(g)provisions for secondary means of access for the removal of filth;
(h)materials and methods of construction of external and partition walls, roofs and floors;

[185]Substituted by Act 13 of 1999.

[186]Omitted by Act 13 of 1999.

[187]Added by Act 13 of 1999.

(i)place, materials and methods of construction of hearths, smoke escapes, chimneys, staircases, latrines, drains and cess pools;
(j)paving yards; and
(k)restrictions on the use of inflammable materials in the building.

235 B. ***Building site and construction or reconstruction of building.*** - No part of the land shall be used as a site for the construction of a building and no building shall be constructed or re-constructed otherwise than in accordance with the provisions of this part and of any rules or bye-laws made under this Act relating to the use of building sites or the construction or reconstruction of buildings.

235C. ***Power of village panchayat to regulate further construction of certain classes of buildings in particular streets or localities. -*** (1) (a) The village panchayat may issue public notice of intention to declare in any area or areas mentioned in the notice, that, -

(i)continuous building shall be allowed;
(ii)the elevation and construction of the frontage of all buildings thereafter constructed or

reconstructed shall in respect of their architectural features, be such as the village panchayat may consider suitable to the locality; or

(b)that in any locality specified in the notice, the construction of only detached building shall be allowed; or

(c)that in any road portion of road or localities specified in the notice, the construction of shops, warehouses, factories, huts or buildings of a specified architectural character of buildings destined for particular use shall not be allowed without the special permission of the village panchayat.

(2)No objection to any such declaration shall be received after a period of three months from the publication of such notice.

(3)The village panchayat shall consider all objections received within the said period and may modify or confirm the declaration and the modification shall not be so as to extend its effect.

(4)The Secretary shall publish any declaration so confirmed which shall take effect from the date of its publication.

(5)No person shall, after the date of publication of the declaration under sub-section (4), construct or reconstruct any building in contravention of such declaration.

235 D. ***Building at corner of street. -*** A village panchayat may require any building intended to be erected at the corner of two roads to be rounded off or splayed off such height and extend as it may determine and may acquire in accordance with the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1984) such portions of the site at the corner as it may consider necessary for public convenience or amenity.

235 E. ***Prohibition of construction of doors, ground floor, windows and bars so as to open outwards. -*** Any door, gate, bar or ground floor, windows which opens outwards to any public road shall not be constructed or re-constructed.

235 F. ***Application to construct or reconstruct buildings. -*** (1) Where any person intends to construct or re-construct a building other than a hut within a village panchayat area he shall send to the Secretary. -

(a)an application in writing together with a site plan of the land for the approval of the site and

(b)and application in writing together with a ground plan, elevation and sections of the building and specification of the work for permission to execute the work.

Explanation. - Building in this sub-section shall include a wall on the boundary of the public street or any height abutting any public street.

(2)Every document furnished under sub-section (1) shall contain such particulars and be prepared in such manner as may be required under the rules or bye-laws made under this Act.

235.G. ***Requirement of prior approval of site.*** -The Secretary shall not grant permission to construct or reconstruct a building unless and until he has approved the site on an application made under section 235 F.

235 H. ***Prohibition of commencement of work without permission. -*** The construction or re-construction of a building shall not be commenced unless and until the Secretary has granted permission for the execution of the work.

235 I. ***Period within which approval or disapproval shall be intimated. -*** Within thirty days after the receipt of an application made under section 235 F for approval of a site or of any information, or further information required under any rules or byelaws, the Secretary shall by an order in writing either approve or refuse to approve the site and shall intimate the fact to the applicant.

235.J. ***Period with in which Secretary is to grant or refuse to grant permission to execute work. -*** Within thirty days after the date of receipt of an application made under section 235F for permission to execute any work or of any information or of document or further information or documents required under any rules or bye-laws, made under this Act, the Secretary shall by an order in writing either grant or refuse to grant such permission on any of the grounds mentioned in section 235L and shall intimate the fact to the applicant in writing:
Provided that the said period of thirty days shall not commence until the site has been approved under section 235 I.

235 K. ***Reference to village Panchayat where Secretary makes delay in granting or refusing approval or permission. -*** (1) Where, within the period specified in section 235 I or 235 J, as the case may be, the Secretary has neither given nor refused approval of a building site, or permission to execute any work, as the case may be, the Village

Panchayat shall be bound on the written request of the applicant, to determine whether such approval or permission should be given or not.

(2) Whether the village panchayat does not, with in one month from the date of receipt of such written request, determine whether such approval or permission should be given or not, such approval or permission shall be deemed to have been given, and the applicant may proceed to execute the work. But it shall not be so as to contravene any of the provision of this Act or any rules or bye-laws made thereunder.

235 L. ***Grounds on which approval of building site or permission to construct or reconstruct a building may be refused. -*** (1) The grounds on which approval of site or permission to construct or re-construct a building shall be refused are the following namely: -

(1)that the work or use of the site of the work or any of the particulars comprised in the site plan, ground plan, elevations, sections or specifications would contravene any law, or any order, rule, declarations, or bye-law made under any law;

(ii)that application for the permission does not contain the particulars or is not prepared in the manner required by any rule or bye-law made under the Act;

(iii)that may of the documents specified in section 235 F has not been signed as required by rules or bye-laws made under this Act;

(iv)that any information or document required by the Secretary under rules or bye-laws made under this Act has not been duly furnished;

(v) that the proposed building would be an encroachment upon a land belonging to the Government or the Village Panchayat; or

(vi)that the land is under acquisition proceedings.

(2)No application for approval of a building site or for permission to construct or reconstruct a building shall be refused with out stating the reasons for such refusal.

235 M. ***Lapse of Permission. -*** Where the construction or reconstruction of a building is not completed within the period specified in the permission, the permission shall lapse unless an application for extension of time is made before the expiry of the period specified.

235 N. ***Power of Secretary to require alteration in work. -*** (1) Where it comes to the notice of the Secretary that, a work -

(a) is not in accordance with the plans or specifications approved, or

(b)is in contravention of any of the provisions of this Act or any rule, bye-law, order of declaration made there under, he may, by notice, require the person for whom such work is done, -

(i) to make such alteration as may be specified in the said notice to bring the work in conformity with the plans or specification approved or the provisions so contravened; or

(ii)to show cause why such alteration should not be made, within such period as may be specified in the notice:

Provided that any construction made in deviation from such approved plan or specifications may not be required to be altered unless it contravenes any specifications or provisions mentioned in this Act or building rules made thereunder.

(2)Where such person does not show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(3)Where such person shows sufficient cause as aforesaid, the Secretary shall, by order confirm, modify or cancel the notice issued under sub-section (1).

235 O. Stoppage of construction or reconstruction endangering human life. - Notwithstanding anything contained in any of the foregoing provisions in this chapter, the Secretary may, at any time, stop the construction or reconstruction of any building if, in his opinion, the work in progress is dangerous to human life.

235 P. ***Application to construct or re-construct huts. -*** (1) Every person who proposes to construct or re-construct a hut in any land lying adjacent to the roads referred to in clause (b) of section 220, with in a Village Panchayat area shall send to the Secretary, -

(a)a site plan of the land, and

(b)an application for permission to execute the work.

(2) Every application and plan under sub-section (1) shall contain such particulars and be prepared in such manner as required by the rules or bye-laws made under this Act.

235 Q. ***Prohibition of commencement of work without permission.*** - No person shall, commence the construction or re-construction of a hut without permission in any land referred to in section 235 P.

235 R Period within which Secretary is to grant or refuse to grant permission to execute the work. - The Secretary shall within fourteen days after the date of receipt of an application under section 235 P, or any information or plan or further information or fresh plan required under the rules or bye-laws made under this Act, by an order in writing either grant the permission or refuse the permission on any of the grounds mentioned in section 235T.

235 S. Reference to Village Panchayat where Secretary causes delay in passing orders.- (1) Where with in the period specified in section 235 R the Secretary has neither granted nor refused to grant permission to construct or re-construct a hut, the Village Panchayat shall be bound on the written request of the applicant to determine whether such permission should be granted or not.

(2) Where the Village Panchayat does not, within thirty days from the date of receipt of such written request, determine whether such permission should be granted or not, such permission shall be deemed to have been granted and the applicant may proceed to

execute the work but not so as to contravene any of the provisions of this Act or any rules or bye laws made there under.

235 T. Grounds on which permission to construct or re-construct hut may be refused. -(1)The grounds on which permission to construct or re-construct a hut may be refused are the following, namely: -

(1)that the work or use of the site for the work would contravene the provisions of any law or any order, rule, bye-law or declaration made under, such law;

(ii)that the application for permission does not contain the particulars or are not prepared in the manner required by any rule or bye-law made under this Act;

(iii)that any information or plan required by the Secretary under the rules or bye-laws made under this Act has not been duly furnished;

(iv)that the proposed hut would be an encroachment upon the land belonging to the Government or the Village Panchayat

(2)No application for permission to construct or re-construct a hut shall be refused without stating the reasons for such refusal.

235 U. ***Lapse of Permission. -*** Where the construction or reconstruction of a hut is not completed within the period specified in the permission, such permission shall lapse unless an application for extension of time is made before the expiry of the period specified.

235V. ***Application of the Provisions to alteration and additions. —*** The provisions of this Act and of any rule or bye-law made thereunder relating to construction and reconstruction of buildings shall also be applicable to any alteration thereof or addition thereto:

Provided that repair works using materials of the same nature and value to keep the building as such without enhancing its value and without changing its occupancy and use and which do not affect the position or dimension of a building or any room therein shall not be deemed to be an alteration or an addition for the purpose of this section changing of roof or construction of walls by using a different material and other similar works which enhance the value of the building to any extent will not be treated as repair but as a new construction.

235 W. Demolition or alteration of building works unlawfully commenced, carrying on or completed. - (1) Where the Secretary is satisfied that -

(i) the construction, or reconstruction or alteration of any building -

(a) has been commenced without obtaining the permission of the Secretary or in contravention of the decision of the village panchayat; or

(b)is being carried on, or has been completed otherwise than in accordance with the plans specifications, or information on which such permission or decision was based; or

(c)is being carried on, or has been completed in contravention of any of the provisions of this Act or any rule or bye-law or order made or issued there under or any direction or requisition lawfully given or made under this Act, such rule, bye-law or order; or (ii)any alteration required by notice issued under section 235 N, has not been duly made; or

(iii)any alteration of or addition to any building or any other work made or done for any purpose in or upon any building has been commenced or is being carried on or has been completed in contravention of the provisions of section 235-V, he may make a provisional order requiring the owner or the persons for whom the work is done, to demolish the work done, or any part of it as, in the opinion of the Secretary, has been unlawfully executed or to make such alteration as may be necessary to bring the work in conformity with the provisions of this Act, bye-laws, rules, direction, order or requisition as aforesaid, or with the plans and specifications on which such permission or decision was based, and may also direct that until the said order is complied with, the owner or such person shall refrain from proceeding with the work

Provided that the Secretary may, on realisation of a compounding fee as may be fixed by government, regularise any construction, re-construction, or alteration of the building, commenced, carried on or completed, without getting a plan approved by the Secretary or in deviation of the plan approved by him, if such construction or alteration of the building does

not contravene any of the criteria or specifications mentioned in the Act or the rules made there under.

(2)The Secretary shall serve a copy of the provisional order made under sub-section (1) on the owner or the persons for whom such work is done together with a notice requiring him to show cause with in a reasonable time, to be specified in such notice, why the order should not be confirmed.

(3)where the owner or the person for whom the work is done fails to show cause to the satisfaction of the Secretary, the Secretary may confirm the order or modify the order to such an extent as he may think fit to make and such order shall then be binding on the owner or the person for whom the work is done and on the failure to comply with the order, the Secretary may himself cause the building or part thereof, demolished, as the case may be, and expenses thereof shall be recoverable from the owner or such person.

(4)Notwithstanding anything contained in sub-section (2) or sub-section (3), prosecution proceedings may be initiated against the owner or the person for whom the work is done.

(5)Where the Government is satisfied that the construction, re-construction or alteration of any building has been carried out in violation of any of the provisions of this Act or any rule made there under or any direction lawfully given by the Government or Secretary, the Government may direct the Secretary of the Village Panchayat to cause the demolition of such construction, re-construction or alteration and if such direction is not

complied within the time limit specified in such direction, the Government may arrange its demolition and the cost there of shall be recovered from the Village Panchayat.

235. X. ***Order of stoppage of Buildings or works in certain cases. -*** (1) Where the erection of any building or the execution of any work has been commenced or is being carried on (but has not been completed) without obtaining the permission of the Secretary or in contravention of any decision of the Village Panchayat or any of the provisions of this Act or any rule or byelaw made there under or any lawful direction or requisition given or made under this Act, or the rules or byelaws, the Secretary may without prejudice to any other action that may be taken under this Act, by order require the person at whose instance the building or the work has been commenced or is being carried on, to stop the same forthwith.

(2)Where such order is not complied with, the Secretary may require any Police Officer to remove such person and all his assistants and workmen from the premises within the specified time on such application and the police officer will have to act accordingly.

(3)After complying with the requisition under sub-section (2), the secretary may, if he thinks fit, require in writing the assistance of a Police Officer or dispute by a written order an officer or employee of the Village Panchayat to watch the premises in order to ensure that the construction of the building or the execution of the work is not continuing and the cost thereof shall be paid by the person at whose instance such construction or execution was being continued or to whom notice under sub-section (1) was given, and shall be recoverable from such persons as arrears of property tax under this Act.

235 Y. ***Certain buildings or sheds exempted. -*** Any building constructed and used, or intended to be constructed and used, exclusively for the purpose of a plant-house; meter house, not being a dwelling house, or sheds which are used exclusively for keeping fuel, or fire wood for the domestic use of its owner or for keeping agricultural implements, tools, rubbish or other materials or for watching crops or kennel shed intended to keep not more than four dogs or cattle shed intended to keep not more than four cattles and its one calf each or poultry shed intended to keep not more than twenty hen, duck etc. or any other shed of temporary nature shall stand exempted from the provisions other than Sections 220 B and 235 E :

provided that the said building or sheds shall be at a distance of at least one metre from any boundary of land on which it is constructed.

235 Z. ***Penalty for unlawful construction of building. -*** (1) Where the construction, reconstruction or alteration of any building,

(a)is commenced without the permission of the Secretary; or

(b)is carried on or completed otherwise than in accordance with the particulars on which such permission is based; or

(c)is carried on or completed in contravention of any lawful order or in breach of any provision contained in this Act or in any rule or bye-law made there under or of any direction or requisition lawfully given or made; or

(d)about which alteration or addition required by notice issued under section 235 Nis not duly made; or

(e)about which any person to whom a direction, given by the Secretary under section 235 W, fails to obey such direction; the owner of the building or such person, as the case may be, shall, on conviction be liable to a fine which may extend to rupees ten thousand in the case of a building and to rupees one thousand in the case of a hut and to a further fine of rupees one thousand in the case of a building and rupees ten in the case of a hut for each day of continued offence:

Provided that the construction or reconstruction of the building may be regularised under section 235 W and if so regularised by the secretary, no person shall be made liable for conviction under this sub-section.

(2) Where the violation of any stipulation as to the standard or specification mentioned in any of the provisions of this Act or any rules made there under or any lawful directions in respect of the construction of a building poses threat to public safety or danger to human life, the owner or the builder of such building shall on conviction be punishable with imprisonment for a term which may extent up to one year.

235 AA. ***Property tax to the building constructed unlawfully. -*** (1) Where any person has unlawfully constructed or re-constructed any building, such building shall, without prejudice to any action that may be taken against that person, be liable to property tax from the date of completion or occupation whichever is earlier, till the date of demolition of that building.

(2) Nothing contained in sub-section (1) shall preclude the Secretary from proceeding against a person under section 235 W- and no one shall be entitled to compensation or damages due to any action, taken by the Secretary under this section.

235 AB. ***Power to regularise the unlawful building construction.*** - (1) Not with standing any thing contained in this Act, if any person or institution unlawfully developed any land or constructed any building on or before 31st December 1998, the Government may, on realisation of a compounding fee as prescribed, regularise such land development or building construction:

Provided that such regularisation shall not adversely affect any planning scheme or master plan, approved under the existing provisions of the Town Planning Act:

Provided further that no building construction shall be regularised, which is done in contravention of the provisions in respect of the security arrangements provided in this Act, or the building rules made there under.

(2) Application for regularisation under sub-section (1) shall be submitted within such time and in such manner as prescribed.

Explanation. - For the purpose of this Act, unlawful construction means any construction for which the Secretary shall have no power to regularise under section 235 W of this Act or any construction or re-construction do the provision of this Act or the

building rules made there under or in contravention of any approved plan or any construction done in deviation of any exemption order sanctioned by the Government or any conditions specified therein.

CHAPTER XXI A
[188][GENERAL AND MISCELLANEOUS]

Licenses and Permissions

236. ***General provisions regarding licenses and permissions. -*** (1) Save as otherwise expressly provided in, or may be prescribed under this Act, every application for any licence or permission under this Act or any rule or byelaw made there under or for the renewal thereof, shall be made not less than thirty and not more than ninety days before the earliest date with effect from which, or the commencement of the period (being a year of such less period as is mentioned in the application) for which the licence or permission is required.

(2)Save as otherwise expressly provided in or may be prescribed under this Act, for every such licence or permission fees may be charged on such units and at such rates as may be fixed by the Village Panchayat with due regard to the expenditure to be incurred for rendering service to the trade and for the regulation of the trade, for which the licence or permission is granted.

(3)Save as aforesaid, if orders on an application for any such licence or permission are not communicated to the applicant within thirty days or such longer period as may be prescribed in any class of cases after the receipt of the application by the Secretary the application shall be deemed to have been allowed for the period, if any for which it would have been ordinarily allowed and subject to the law, rules and bye-laws and all conditions ordinarily imposed.

(4)The acceptance of the pre-payment of the fee for any such licence or permission shall not entitle the person making such pre-payment to the licence or permission but only to a refund of the fee in case of refusal of the licence or permission.

(5)If an act for which any such licence or permission is necessary is done without such licence or permission or in a manner inconsistent with the terms of the licence or permission obtained, then -

(a)The Secretary may, by notice require the person so doing such act to alter, remove or as far as practicable restore to its original state, the whole, or any part of any property, movable or immovable, public or private, affected thereby, within a time to be specified in the notice; and [188] [189][shall, so require if directed by the Village Panchayat;] (b)If no penalty has been specifically provided in this Act for so doing such act the person so doing it shall be punishable with fine not exceeding one thousand rupees and with such higher rate of fine in case of repetition of offence and after three offences much severer punishment [190]["may be awarded or prosecution proceeding may be initiated as the Panchayat may deem fit"]

[188]Substituted by Act 13 of 1999.

[189]Added by Act 13 of 1999.

[190]Substituted by Act 13 of 1999.

(6)Whenever any person is convicted of an offence in respect of the failure to obtain any such licence or permission, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the village panchayat the amount of the fee chargeable for the licence or permission, and may, in his discretion, also recover summarily and pay over to the village panchayat such amount, if any as he may fix as the costs of the prosecution.

Explanation. - The recovery of the fee for a licence or permission under this sub-section shall not entitle the person convicted to the licence or permission.

(7)Every order of the Secretary granting or refusing a licence or permission shall be published on the notice board of the village pa

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(8)Every order of the Secretary refusing, suspending, cancelling or modifying a licence or permission shall be in writing and shall state the grounds on which it proceeds.

(9)Any licence or permission granted under this Act or any rule made under it may at any time be suspended or revoked by the Secretary, if any of its restrictions limitations or conditions is evaded or infringed by the grantee or if the grantee is convicted of a breach of the provisions of the Act or of any rules made under it in any matter to which such licence or permission relates or if the grantee has obtained the same by misrepresentation or fraud.

(10) It shall be the duty of the Secretary to inspect places in respect of which a licence or permission is required by or under this Act, and he may enter any such place between sunrise and sunset and if he has reason to believe that anything is being done in any place without a licence or permission where the same is required by or under this Act, or otherwise than in conformity with the same, he may at any time by day or night without notice enter such place for the purpose of satisfying himself whether any provision of law or rules, any condition of a licence or permission or any lawful direction or prohibition is contravened and no claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this sub-section by the secretary or any person to whom he has lawfully delegated his powers or by any force necessary for effecting an entrance under this sub-section.

(11) When any licence or permission is suspended or revoked or when the period for which it was granted, or within which application for renewal should be made, has expired, whichever expires later, the grantee shall for all purposes of this Act or any rule made under it be deemed to be without a licence or permission until the order suspending or revoking the licence or permission is cancelled or, subject to sub- sections (3) and (4), until the licence or permission is renewed, as the case may be.

(12) Every grantee of a licence or permission shall at all reasonable times, while such licence or permission remains in force, produce the same when required by the secretary

191Omitted by Act 13 of 1999.

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[(13) Notwithstanding anything contained in the provisions of this section, no licence or permission under this Act shall be granted to any person who has defaulted payment of any tax, fees or other dues payable to the Village Panchayat.]

237.***Government not to obtain licence and permission.*** - Nothing in this Act or in rule or bye-law made there under shall be construed as requiring any State Government or the Central Government to take out a licence in respect of any place in the possession or under the control of or any property belonging to such Government.

Notice, Orders, Permission etc.

238. ***Precautions in case of dangerous trees and pruning of hedges and trees. - (1) (a)*** If any tree or any branch or portion of a tree or the fruits of any tree be deemed by the village panchayat to be likely to fall and thereby endanger any person or any structure or any cultivation, the Village Panchayat may by notice require the owner of the said tree to secure, lop or cut down the said tree or remove the fruits thereof so as to prevent any danger there from.

(b) If immediate action is necessary, the village panchayat shall itself before giving such notice or before the period of such notice expires secure, lop or cut down the said tree or remove the fruit thereof fence off a part of any street or take such other temporary measures as it thinks fit to prevent danger, and the cost of so doing shall be recoverable from the owner of the tree in the same manner as an arrear of public revenue due on land.

[193] [(c) If any tree or the branch thereof in the opinion of the village panchayat, causes pollution to the drinking water of a well or tank, the village panchayat may, by notice, require the owner of such tree to cut down and remove such tree or branch thereof.]

(2) The Secretary of a village panchayat may without notice. -

(a)trim or prune any hedge bordering on a public street so that it may not exceed such height from the level of the adjoining roadways as may be provided for this purpose; or

(b)cut and trim any hedge or tree overhanging the said trees and obstructing it or the view of traffic or causing damage to it; or

(c)remove fallen trees on public roads and waterways which obstruct traffic.

239.***Power of Panchayat for carrying out their functions.*** - (1) A Panchayat shall exercise all the powers conferred on, and perform all the functions entrusted to that Panchayat by or under this Act or any other law and shall also exercise such other powers and perform such other functions as may be conferred on or entrusted to it by the Government for carrying out the provisions of this Act.

(2) A Panchayat shall have power to do all acts necessary for and incidental to, carrying out the functions entrusted or delegated to it.

[19] Inserted by Act 13 of 1999.
[2] Ibid.

(3) Without prejudice to the generality of the foregoing power, a village panchayat shall have power, -

(a)to require by notice, the owner or occupier of any land or building which is a nuisance to the neighbourhood on account of -

(i) its insanitary conditions; or
(ii)the collection of any drainage, filth or stagnant water thereon; or (iii)the existence of will or noxious vegetation thereon; or
(iv) the presence of poisonous reptiles or other harmful animals or insect.

(b)to take such action as it deems necessary to abate the nuisance within a reasonable period to be specified in such notice;

(c) to prohibit the use of the water of any stream, well, pond or any other excavation believed to be dangerous to public health; and

(d)to regulate or prohibit the watering of cattle or bathing or washing in any stream, well, pond or other excavation reserved for drinking water.

Notices etc.

240. ***Form the notices and permissions time for complying with notices, orders etc. and powers to enforce them. -*** (1) All notices and permissions given issued or granted as the case may be, under the provisions of this Act shall be in writing and be signed by the Secretary of the Panchayat concerned.

(2)Whenever by any notice, requisition or order under this Act or under any rule or byelaw made thereunder, any person is required to execute any work, to take any measures or to do

anything, a reasonable time shall be fixed in such notice, requisition or order within which the work shall be executed, the measures taken or the thing done.

(3)If such notice, requisition or order is not complied within the time so fixed -

(a)the Secretary, may, with the approval of the Panchayat concerned, cause such work to be executed, or may take any measures or do anything which may, in his opinion, be necessary for giving due effect to the notice, requisition or order; and the cost incurred by the panchayat in this connection may be recovered from the owner or occupier of the premises in the same manner as if the same were taxes due to the Panchayat; and

(b)if no penalty has been specifically provided in this Act fob failure to comply with such notice, requisition or order, the said person shall be punishable with fine not exceeding five hundred rupees for every such offence.

Powers of entry and inspection

241.***Powers of entry and inspection.*** - (1) Subject to such restrictions and conditions as may be prescribed, the Secretary of a Panchayat or any person authorised by him or by

the Panchayat may enter on or into any place, building or land, with or without assistants or workmen in order -

(a)to make any inquiry, inspection, test examination, survey, measurement or valuation or to execute any other works which is authorised by the provisions of this Act or of any rule or bye-law or order made under it or which it is necessary to make or execute for any of the purposes of this Act or in pursuance of any of the said provisions; or

(b)to satisfy himself that nothing is being done in such place, building or land for which a licence or permission is required under any of the said provisions without such licence or permission or otherwise than in conformity with the terms of the licence or permission obtained.

Provided that -

(1)no such entry into a building shall be made between sunset and sunrise.

(ii)no dwelling house or place shall be so entered except with the consent of the occupier thereof or without giving the occupier at least twenty-four hours notice of the intention to make such entry;

(iii)reasonable opportunity and facility shall be allowed to the women occupying any part of a dwelling house to withdraw; and

(iv)due regard shall, so far as feasible, be paid to the social and religious customs and usages of the occupants of the premises entered into.

(2)It shall be lawful for any officer authorised by the Secretary or by the Panchayat to open or cause to be opened any door, gate or other barrier to made any entry into any place -

(a)if he considers the opening thereof necessary for the purpose of such entry; and (b)if the owner or occupier is absent or, being present, refuse to open such door, gate or barrier.

(3)Before making any entry into any such place or opening of causing to be opened any such door, gate or other barrier under sub-section (2), the person authorised in this behalf shall call upon two or more persons of the locality in which the place to be entered into is situated to witness the entry or opening and may issue an order in writing to them or any of them so to do.

242. ***Power to call for information from village officers. -*** (1) The Secretary of a Panchayat may, with the approval of the Panchayat by an order in writing require the village officer of any revenue village in the Panchayat area to furnish him with the information on any matter falling

within such categories as may be prescribed in respect of such village or any part thereof or any person or property therein and every such order shall be complied with by the village officer.

(2) The order shall specify the period within which it may be complied with, and it shall be complied within the time specified and if not, the Secretary shall not extend such time limit more than once.

Limitation

243.***Limitation for recovery of dues. -*** (1) No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any tax or other sum due to a Panchayat under this Act or any rule or bye-law, or order made under it after the expiration of a period of three years from the date on which the distraint might first have been made, a suit might first have been instituted or the prosecution might first have been commenced, as the case may be, in respect or such tax or sum:

194[Provided that in the case of assessment under sub-section (2) the above said period of three years shall be computed from the date on which destraint, suit or prosecution might first have been made, instituted or commenced, as the case may be, after making such assessment.

(2) Notwithstanding anything contrary to this contained in this Act or the rules made there under, where for any reason, a person liable to pay any tax or fees leviable under this Act has escaped assessment, the Secretary may at any time within four years from the date on which such tax should have been assessed, serve on him a notice assessing the tax or fee due and demand the payment within fifteen days from the date of serving such notice and thereupon the provisions of this Act and the rules made there under shall apply as if the assessment of such tax or fee was made in time.

(3) Where any tax or other amount due to a panchayat has been barred by limitation under sub-section (1), due to the default of taking steps at the appropriate time and it is found in a lawful enquiry that it was lost due to the default of any officer or offices, the amount so lost to the panchayat shall be realised with twelve percent interest thereon from such officer or officers.]

244.***Writing of irrecoverable amounts. -*** Subject to such restrictions and control as may be prescribed, a Panchayat may write of any amount whatsoever due to it whether under a contract or otherwise, or any sum payable in connection therewith, if in its opinion such amount or sum is irrecoverable:

Provided that where the Government are responsible for the collection of any amount due to the Panchayat, the power to write off such amount payable in connection therewith on the ground of its being irrecoverable shall be exercised by or only with the sanction of the Government.

Prosecutions, suits etc.

245.***Persons empowered to prosecute.*** - (1) Save as otherwise expressly provided in this Act, no person shall be tried for an offence against this Act or any rule or bye-law made thereunder unless complaint is made within one year of the commission of the offence by 194

194Added by Act 13 of 1999.

the police, the Secretary or a person expressly authorised by the Panchayat in this behalf, but nothing herein shall affect the provisions of the Code of Criminal Procedure, 1973. (Central Act 2 of 1974) in regard to the power of certain Magistrate to take cognizance of offences upon information received or upon their own knowledge of suspicion:

Provided that failure to take out a licence or obtain permission under this Act shall, for the purpose of this section, be deemed to be a continuing offence until the expiration of the period, if any, for which the licence or permission is required.

(2) Every person other than the Secretary making a complaint shall immediately report the fact to the Secretary.

246.***Composition of offence. -*** The Secretary of a panchayat may, subject to such restrictions and control as may be prescribed, compound any offence against this Act, or any rule or bye-law made thereunder, which may by rules be declared compoundable with the approval of the President.

247.***Prosecutions and compositions to be reported to Panchayats. -*** Every Prosecution instituted or offence compounded by the Secretary shall be reported by him to the Panchayat at its next meeting and its approval secured.

248.***Sanction for prosecution of President, Vice-president, Chairman of a Standing Committee, members and Secretary of a Panchayat. -*** When the President, VicePresident, Chairman of a Standing Committee or any member of a Panchayat, or the Secretary or other employee of the Panchayat who is not removable from his office save by or with the sanction of the Government 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 Government.

249. ***Institutions of suits against authorities of Panchayats, their officers etc. - (1) No*** suit or other civil proceedings against a Panchayat or against the President, the VicePresident or any other member, or employee thereof or against any other person acting under the direction of the Panchayat or any member or employee thereof for anything done or purporting to be done under this Act in its or his official capacity, -

(a)shall be instituted until the expiration of one month after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the nature of the relief which he claims, has been, in the case of a Panchayat delivered or left at the office of the Panchayat and in the case of a member, employee or person as aforesaid delivered to him or left at his office or at his usual place of abode and the plaint shall in each such case contain a statement that such notice has been so delivered or left; or

(b)shall be instituted unless it is a suit for the recovery of immovable property or for the declaration of title thereto, otherwise than within six months next after the accrual of the alleged cause of action.

(2) The notice referred to in sub-section (1), when it is intended for a Panchayat shall be addressed to the Secretary.

(3) If any panchayat or person to whom notice is given under sub-section (1) tenders to plaintiff before the proceeding is commenced and if the plaintiff does not in such proceedings require more than the amounts so tendered he shall no recover any costs incurred by him after such tender: and the plaintiff shall also pay all cost incurred by the panchayat after such tender.

250. ***Protection of Acts done in good faith.*** -[195] (1) No suit prosecution or other legal proceedings shall lie against the president, vice-president, any member, secretary, any officer or employee of a panchayat for anything which is in good faith done or purported or intended to be done in pursuance of this Act or any rule or bye-law made thereunder.

[196]251. ***Assessment etc. not to be impeached.*** - (1) No assessment or demand made, and no charge imposed, under the authority of this act shall be impeached or affected by reason of any clerical error or by reason of any mistake, -

(a)in respect of the name, residence, place of business or occupation of any person; or

(b)in the description of any property or thing; or

(c)in respect of the amount assessed

Provided that the provisions of this Act have in substance and effect been complied with:

Provided further that no proceedings under this Act shall, merely or any defect in form, be quashed or set aside by any court of law.

(2)No suit shall be brought in any court to recover any sum of money collected under the authority of this Act or to recover damages on account of any assessment or collection of money, made under the said authority if the provisions of this Act have in subsistence and effect been complied with.

(3)No distraint or sale, under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any error, defect or want of

form in the bill, notice, schedule, form or summons, notice of demand, warrant of distraint, inventory, or other proceeding relating thereto, if the provisions of this Act and of the rules and bye-laws made there under have in substance and effect been complied with.

252. ***Duties of Police Officers.*** - (1) It shall be the duty of every police officer, -

(a)to communicate without delay to the President and Secretary any information which he receives of the design to commit or of the commission of any offence under this Act or any rule or bye-law made thereunder; and

(b)to assist the President or the Secretary or any officer of the Panchayat demanding in writing his aid for the lawful exercise of any power vesting in the President, the Secretary or in such officer or employee of the Panchayat under this Act or any [195] [196]

[195]Substituted by Act 13 of 1999.

[196]I bid.

rule or bye-law made thereunder, or for the performance of any function entrusted to any of them.

(2) Any police officer who omits or refuses to perform any duty imposed on him by this Act shall be deemed to have committed an offence under section 41 of the Kerala Police Act, 1960 (5 of 1961).

[197][253.]

[197] Omitted by Act 13 of 1999.

CHAPTER XXII
RULES, BYE LAWS AND PENALTIES FOR THEIR BREACH

254. ***Powers of Government to make rules.*** - (1) The Government may, by notification in the Gazette, make rules either prospectively or retrospectively to carry out all or any purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules, -

(i) as to the provision of burial and burning grounds, the licensing of private burial and burning grounds, the regulation of the use of all grounds so provided or licensed, the closing of any such grounds and the prohibition of the disposal of corpses except in such grounds or other permitted places;

(ii)as to the licensing of pigs and dogs and the disposal of unlicensed pigs and dogs;

(iii)prohibiting or regulating the use for any specified purpose of any public spring, tank, well or water course or of any private spring, tank, well or water course with the consent of its owner and without such consent.

(iv)as to the realisation of any tax or other sum due to a village panchayat under this Act or any other law or any rules or bye-laws whether by distraint and sale of movable property, by prosecution before a Magistrate or by, a suit or otherwise;

(v) as to the realisation of fees due in respect of the use of cartstands and the like, whether by the seizure and sale of the vehicles or animal concerned or any part of its burden, or otherwise;

(vi)as to the powers of Secretary to call for information on any matter, to summon and examine witnesses and to compel the production of documents;

(vii)as to the interpellation of the President by the members and the moving of resolutions at meetings of Panchayats;

(viii)as to the powers of auditors, inspecting and Superintending Officers and officers authorised to hold inquiries, to summon and examine witnesses and to compel the production of documents and all other matters connected with audit, inspection and superintendence.

(ix) as to the conditions on which and the mode in which contracts may be made by or on behalf of Panchayat;

(x) as to the constitution of standing committees and functional committees of Panchayats, the inclusion of outsiders therein and the delegation of functions to such committees;

(xi)as to the preparation of plans and estimates for works and the power of Panchayats and of officers of the Central or State Government to accord technical or administrative sanction to estimates;

(xii) for the lodging and investment of the moneys of the Panchayat and for the manner in which such moneys may be drawn upon.

(xiii) as to the delegation of any function of a Panchayat to the President, Vice-President, Chairman of standing committee, member, any officer of the Panchayat, or any officer of the Central or State Government;

(xiv) as to the grant to the public of copies of any proceeding or record of the Panchayat not relating to any matter classified as confidential by the Government or any authority empowered by them, and the fees to be levied for the grant of such copies;

(xv) as to the form and contents of licences, permission and notices granted or issued under this Act, the manner of their issue or the method of their service and the modification, suspension or cancellation thereof;

(xvi) as to the prohibition or regulation of the slaughter cutting up or skinning of animals at places other than public slaughter houses and licensing of persons to slaughter animals for purposes of the sale to the public;

(xvii) for the determination of any claim to trees growing on public roads or other property vesting in or belonging to Panchayats or on porambokes or on lands; the use of which is regulated by them and for the presumptions to be drawn as regards the ownership of such trees;

(xviii) as to the regulation or restriction of construction of buildings and the use of building sites;

(xix) as to the powers which may be exercised by the Panchayat or the Secretary or officer in respect of any public or private market or the use thereof, and the enforcement of any orders issued in pursuance of such powers; and as to the prohibition of the sale or purchase of any commercial crop in any such market within any area, notified in respect of such crop under the Madras Commercial Crops Markets Act, 1933 or any other law;

(xx) as to the disposal of household and farm-yard waste in the panchayat area, the acquisition of land by the Panchayat for laying out plot for digging pits in which such waste may be thrown, the assignment of any of those plot to persons in Panchayat, area and the conditions subject to which such assignment may be made, including the rent to be charged;

(xxi) regulating contracts between the Panchayat and the owners or occupiers of private premises for the removal there from or rubbish or filth, or any kind of rubbish or filth;

(xxii) as to the preparation of development schemes and plans and execution of such h

(xxiii) as to the form of administration report and the preparation of such report;

(xxiv) as to the estimates of receipts and expenditure, returns statements and reports to be submitted by Panchayats;

198 [(xxv)]

(xxvi) for the use of the facsimiles of signatures of the President the Secretary and other officers of the Panchayats;

(xxvii) for the removal of encroachments of any description from public roads vesting in village Panchayats and the repair of any damage caused to such roads by the person causing the damage or at his expense;

(xxviii) for compelling owners of cattle to stall them in cattle sheds provided by the Panchayat and the fees leviable in respect thereof;

(xxix) as to the imposition and recovery of penalties for the unauthorised occupation of public roads or other land vesting in or belonging to village panchayats and the assessment and the recovery of compensation for any damage caused by such

(xxx) as to the duties to be discharged by village officer in relation to Panchayats and their Secretaries;

(xxxi) for the decision of disputes between a Panchayat and other local authorities; as

(xxxii) to the class of Magistrates by whom offences against this Act shall be tried; as to

(xxxiii) the manner of publication of any notifications or notices to the public under this Act;

(xxxiv) as to the way of discharging the functions by the Panchayat;

(xxxv) as to the transfer of allotments entered in the sanctioned budget of a Panchayat from one head to another;

(xxxvi) as to the accounts to be kept by Panchayats, the audit and publication of such accounts and conditions under which rate-payers may appear before auditors, inspect books and accounts, and take exception to items entered or omitted;

(xxxvii) as to the conditions on which property may be acquired by a Panchayat or on which property vested in or belonging to Panchayat may be transferred by sale, mortgage, lease, exchange or otherwise;

(xxxviii) for regulating the sharing between Panchayat in the State of the proceeds of any tax, duty or income levied or obtained under this or any other Act;

198 Omitted by Act 13 of 1999.

(xxxix) as to the time within which appeals allowed by this Act or by rules thereunder should be presented;

(xl) for the distribution of the basic tax or surcharge among the Panchayats;

(xli) as to the accounts to be kept by owners, occupiers and farmers of private markets and the audit and inspection of such accounts;

(xlii) as to the assessment of taxes under this Act and the revision of and appeals against assessments;

(xliii) as to the form of and the fees to be paid in respect of any matter mentioned in the Act;

(xliv) as to the determination of ordinary residence by the State Election Commission;

(xIv) as to the particulars to be ente f Panchayats;

(xlvi) as to the preliminary publication of electoral rolls of Panchayats;

(xlvii) as to the manner in which and the time within which claims and objections as to entries in electoral rolls may be preferred;

(xlviii) as to the manner in which notices of claims or objections shall be published;

(xlix) the place, date and the time at which claims or objections shall be heard and the manner in which claims or objections shall be heard and disposed of;

(l) the final publication of electoral rolls;

(li) the revision and correction of electoral rolls and inclusion of names therein and exclusion of names therefrom;

(lii) the duties of presiding officers and polling officers at polling stations;

(liii) the checking of voters by reference to the electoral rolls;

(liv) all matters expressly required or allowed by this Act to be prescribed.

(3) Every rule pertaining to elections shall only be made in consultation with the State Election Commission.

(4) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified from or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

255.***Penalties for breach of rules. -*** In making any rule under this Act, the Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees, or in case of a continuing breach, with fine, not exceeding fifty rupees for every day during which the breach continues after conviction for the first breach.

256.***Bye-laws and penalties for the breach thereof. -*** (1) Subject to the provision of this Act and of any other law and to such rules as may be prescribed, a Panchayat may with the approval of the Government make bye-laws for carrying out any of the purposes for which it is constituted.

(2)In making a bye-law the Panchayat may provide that any person who commits a breach thereof, shall be liable to pay by way of penalty such sums as may be fixed by the Panchayat not exceeding five hundred rupees or, in case of a continuing breach fifty rupees for every day during which the breach continues after a penalty has been levied for the first breach.

(3)The Government shall have power to make rules regarding the procedure for the making of bye-laws, the publication thereof and the date on which they shall come into effect.

CHAPTER XXIII
PENALTIES

257. ***General provisions regarding penalties specified in schedule: - (1) Whoever-***

(a)contravenes any of the provisions of this Act, specified in the first and the second columns of the sixth schedule; or

(b)contravenes any rule or order under any of the provisions so specified; or

(c)fails to comply with any direction lawfully given to him, or any requisition lawfully made upon him under or in pursuance or any of the said provisions;

Shall be punishable with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule.

(2)Whoever after having been convicted of:

(a)contravening any of the provisions of this Act specified in the first and the second column of the seventh schedule, or

(b)contravening any rule or order made under any of the provisions so specified to; or

(c)failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said provisions,

continues to fail on comply with the said direction or requisition shall be punishable for each day after the date of previous conviction during which be continues so to offend, with fine, which may extend to the amount mentioned in that behalf in the fourth column of the said schedule.

Explanation. -The entries in the third column of sixth and seventh schedules headed'subject' are not intended as definitions of the offences described in the provisions specified in the first and the second columns thereof, or even as abstracts of those provisions, but are inserted merely as references to the subject dealt with thereon.

258.***Penalty for acting as President Vice President or member of a Panchayat when disqualified. -*** (1) Whoever acts as the President, acting President, or Vice-President of a Panchayat, or exercises any of his functions knowing that under this Act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold office as such, or to exercise such functions, shall be punishable with fine not exceeding five thousand rupees for every such offence.

(2) Whoever acts as a member of a Panchayat knowing that, under this act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold office as such, shall be punishable with fine not exceeding one thousand rupees for every such offence.

259.***Penalty for acquisition by an officer or employee*** [199]***[or member of] interest in contract work.*** - If any officer or [200]. employee or member of a Panchayat knowingly acquires, directly or indirectly, by himself or by a partner, employer or servant, any personal share or interest in any contract or employment with, by or on behalf of the Panchayat, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code: Provided that no person shall by reason of being a share holder in, or member of, any company, be held to be interested in any contract entered into between such company and the Panchayat unless he is a director of such company.

[2]°i

260. ***Wrongful restraint of Secretary or his delegate. -*** (1) Any person who prevents the President, the Secretary or any person to whom the President or the Secretary has lawfully delegated his powers of entering on or into any place, building or land, from exercising his lawful power of entering thereon or there into shall be deemed to have committed as offence under section 341 of the Indian Penal Code.

[202]

[(2) Any person who prevents any standing committee or any other committee of the Panchayat or the Chairman of the Standing Committee from exercising its or his legal power of entering into any place, building or land shall be deemed to have committed the offence specified in sub-section (1)]

261. ***Prohibition of obstruction of Panchayat etc. -*** Any person obstructing or molesting a Panchayat, or the President, Vice-President, Chairman of Standing Committee, member or the Secretary of the Panchayat, or any any person with whom a contract

has been entered into by or on behalf of the Panchayat, in the discharge of his duty or of anything which he is empowered or required to do by virtue, or in consequence, of this Act or of any rule, bye-law or order made there under, shall be punishable with fine which may extend to five hundred rupees.

262. ***Prohibition of removal or obliteration of notice -*** Any person who without authority in that behalf, removes, destroys, deface or otherwise on literates any notice exhibited or any sign or mark erected by, or under the orders, of a Panchayat or its Secretary, shall be punishable with fine which may extend to two hundred rupees.

263.***Penalty for not giving information or giving false information. -*** Any person who is required by this Act or by any notice or other proceedings issued there under to furnish any information, without reasonable excuse omits to furnish such information or knowingly furnish false information shall be punishable with fine not exceeding five hundred rupees.

264.***Fines to be credited to Panchayat. -*** All fines imposed [by the panchayat or the court] under this Act or any rule or bye-law made there under shall on realisation be credited to the fund of the Panchayat concerned in respect of offences committed within the jurisdiction of such Panchayat.

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CHAPTER XXIV
REGISTRATION OF TUTORIAL INSTIUTIONS

265. Definitions. - In this Chapter, -

(a)‘recognised school’ means a private unaided school recognised by the Government under the Kerala Education Act 1958 (6 of 1959) or the rules framed thereunder.

(b)‘tutorial institution’ means an unrecognised institution having not less than ten students, (by whatever name called) established or run by a person or more than one person jointly for imparting education or instruction or training to any person in any subject, with a view to help him to prepare or to appear for an examination in any branch of education conducted or recognised by the Government or the Universities in the State or by other State Governments or Universities or by the Central Government or under any law for the time being in force but does not include a recognised school or a college affiliated to any university in the State.

[204][266. ***Registration of Tutorial Institutions.*** - (1) On or after the commencement of this Act, no tutorial institution shall be established within a village panchayat area without prior registration obtained from that village panchayat and an application for such registration shall be made to the village panchayat concerned in the prescribed manner along with such fee as prescribed:

Provided that a tutorial Institution existing in a village panchayat area at the commencement of this Act shall be deemed to have been registered under this Act if the person conducting it makes an application for ‘registration to the village panchayat within the date fixed by the Government for the purpose.

(2)Such registration shall be renewed annually and the application shall be made to the Village Panchayat in the prescribed manner along with fee.]

267. ***Penalty for maintaining or running unregistered tutorial institution.*** -Any person who maintains or runs a tutorial institution in contravention of the provisions of this Act or who establishes and maintains a tutorial institution without obtaining the registration certificate

under this Act or who after cancellation of the registration certificate issued to him continues to run such an institution shall on conviction be punished with fine which may extend to one thousand rupees [204] [205][and further fine which may extend to one hundred rupees for each day during which the offence continued.]

268 [206][* * * * * *

[204]Substituted by Act 13 of 1999.

[205]Added by Act 13 of 1999.

[206]Omitted by Act 7 of 1995.

CHAPTER XXV
REGISTERATION OF PRIVATE HOSPITALS AND PARAMEDICAL INSTIUTIONS

269.***Definition.*** - In this chapter, -

(a)'hospital' means any establishment or premises used or intended to be used for the reception or accommodation of persons suffering from any sickness, injury or infirmity whether of body or mind, and the providing of treatment or nursing or both for them, and includes a maternity home, but does not include any hospital or nursing homes, licensed under the Mental Health Act, 1987 (Central Act 14 of 1987), and institutions for the care of mentally retarded persons and leprosy patients, and institutions run by the Government or voluntary organisations for the care of old people and for conducting welfare activities for them. (b)'maternity home' means an establishment where women are usually received and accommodated for the purpose of confinement and antenatal and post-natal care in connection with the child birth or anything connected therewith.

(c)'Private hospital' means any hospital other than a hospital belonging to or administered by the Central Government or State Government.

(d)'private para-medical institution' includes privately owned clinical laboratory X-ray unit, blood bank, scanning centres, etc., and training centres [and Nursing schools] relating to the respective subjects.

270. ***Registration of Private hospitals and private para-medical institutions. - (1) On or*** after the commencement of this Act, no private hospital or para-medical institutions shall be established within the territorial area of a village panchayat without prior registration in that village panchayat.

[208][but nothing in this section shall apply in the case of a private hospital or para-medical institution which is in existence in the territorial area of a village panchayat at the date of the commencement of this Act in that area, within the date as may be by the Government for the purpose.]

(2)Every application for registration in respect of a private hospital to private paramedical institution or for the renewal of the registration shall contain such particulars and shall be accompanied by such fees as may be prescribed.

[209][270 A. ***Penalty for maintaining and running private hospitals and private paramedical Institutions without registration.*** - Any person who maintains or runs a private hospital or a para-medical institution in contravention of the provisions of this Act or without registration under this Act or continue to maintain or run the same after cancellation of registration shall, on conviction, be punished with fine which may extend to five thousand rupees and with a further fine which may extend to five hundred rupees for each day during which the offence continued.]

271.***Collection of fees by the village panchayat.*** - The village panchayat may collect such annual fees from the private hospitals for any service rendered by it at such rates as may be fixed

by them, subject to the rules made by the Government for the purpose but the fees so collected shall be at different rates for private hospitals of different standards. [207] [208] [209]

[207]Substituted by Act 13 of 1999.

[208]Substituted by Act 13 of 1999.

[209]Added by Act 13 of 1999.

CHAPTER XXV A
[210][RIGHT TO INFORMATION]

271 A. ***Definitions.*** - For the purpose of this chapter, -

(a)'Information' means any materials or information contained in a document relating to the administrative, developmental or regulatory functions of a Panchayat and includes any document or record relating to the affairs of the Panchayat.

(b)'right to Information' means the right to have access to information and includes the right to take certified copies or relevant extracts of a document.

(c)'Notified document' means any document of the Panchayat notified by the Government under sub-section (2) of section 271B.

271 B. ***Right to information.*** - (1) Every person bonafide requiring any information shall have the right to get such information in accordance with the procedure prescribed.

(2)Notwithstanding anything contained in sub-section (1), the Government may, in the interest of public and local administration by notification in the Gazette, classify any document containing special categories of information as notified document and no person shall have any right to such information and the Panchayat may reject any application to get such information.

(3)The Government may, by general or special order, direct the Panchayat to publish, the categories of information mentioned in such order for the general information of the people living in the area of a Panchayat.

271 C. ***Procedure for furnishing information. -*** (1) A person, requiring any information from a Panchayat, shall make an application to the Secretary of that Panchayat in such form and in such manner and paying such fees as may be prescribed in that behalf and the Secretary or the officer authorised by the Panchayat shall, furnish such information to the applicant within the prescribed period unless the application is rejected or otherwise disposed of within that period.

(2) If any application for information is rejected, the reason for such rejection shall be given in writing.

271 D. ***Penalty for withholding information.*** - (1) The Secretary or any officer of the Panchayat responsible for furnishing any information under this Chapter shall be personally liable for furnishing the same within the period prescribed unless such information is in respect of a notified document.

(2) Where such information is not furnished within the time specified, the officer responsible for not furnishing the information shall be punishable with a fine of rupees fifty for each day of delay after the due date for furnishing the information and the fine so collected shall be credited to the fund of the Panchayat.

[210] Added by Act 13 of 1999.

(3)where the Secretary of the Panchayat or any other officer bound to furnish the information fails to do so or furnishes false information in respect of its material particulars which he knows or has reason to believe it to be false or not true, he shall be punishable with a fine which shall not be less than rupees one thousand.

271 E. ***Protection of action taken in good faith. -*** Notwithstanding anything contained in section 271 D the Secretary or the officer bound to furnish the information after making a thorough search find that the docum son of the expiry of the period for

preservation of that document or the document is not available or for any other valid reason and that the information cannot, therefore, be furnished, the matter shall be communicated to the applicant and dispose of the application and no action shall lie against him.

CHAPTER XXV B
OMBUDSMAN FOR LOCAL SELF GOVENRMENT INSTIUTIONS

271 F. ***Definitions.*** - (1) For the purpose of this Chapter, -

(a)'action' means action taken by way of decision, recommendation, resolution or finding or in execution thereof or in exercise of administrative or legal functions in any other manner and includes wilful default in taking action or omission and all other expressions connoting such action shall be construed accordingly;

(b)'allegation', -

(a)in relation to a public servant means, any affirmation that such public servant, -

(i) has abused his position as such for any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person;

(ii) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives;

(iii) is guilty of corruption, favouritism, nepotism or lack of integrity;

(iv) is guilty of any action as public servant which facilitates or causes to make any loss, waste or misapplication of money or other property of the Local Self Government Institution.

(b)In relation to a Local Self Government Institution means any affirmation that such Local Self Government Institution has defaulted or acted in excess of its powers in the discharge of its functions imposed on it by law or in implementing the lawful orders and directions of the Government;

(c)'Complaint' means a statement of allegation that a public servant or a Local Self Government Institution is guilty of corruption or maladministration and includes any reference to an allegation in respect of which ***suo moto*** enquiry has been proposed or recommendation for enquiry has been made by Government;

(d)'Corruption' includes anything publishable under Chapter X of the Indian Penal Code (Central Act 45 of 1860) or under the Prevention of Corruption Act, 1988 (Central Act 49 1988);

(e)'Maladministration' means action taken or purporting to have been taken in the exercise of administrative function in any case, -

(i) Where such action, administrative procedure or practice governing such auction is unreasonable, unjust, oppressive, discriminatory or nepotic and will make illegitimate, gain or loss or will deny deserving benefits; or

(ii) Where there is wilful negligence or delay in taking such action, or the administrative procedure or method regulating such action will cause undue delay and includes the action leading to loss or waste or misuse of fund by mal-feasance or misfeasance.

(f)'Ombudsman' means the ombudsman [referred to in section] 271 G;

(g)'Public Servant' means an employee, or officer under the Local Self Government Institution or an elected member of the Local Self Government Institution including its President or Chairperson and includes an employee or officer of any office or institution transferred to the Local Self Government Institution under the Provisions of this Act;

(h)'Secretary' means the Secre referred to in section] 271 G;

(i) 'investigating officer' means an officer authorised by the Ombudsman to conduct investigation in respect of an allegation or complaint.

[213]***[271 G. Term of office and conditions of Service of Ombudsman. -***

(1)There shall be an authority for Local Self Government Institutions, at State Level known as 'Ombudsman' for making investigations and enquiries, in respect of charges on any action involving corruption or maladministration or irregularities in the discharge of administrative functions, in accordance with the provisions of this Act by Local Self Government Institutions and Public Servants working under them and for the disposal of such complaint in accordance with Section 271 Q.

(2)The Governor shall, on the advice of the Chief Minister, appoint a person who has held the post of a Judge of the High Court as Ombudsman.

(3)A person appointed to be the Ombudsman shall, before he enter upon his office, make and subscribe before the Governor or some person appointed in that behalf by him, an oath or affirmation according to the form set out below: -

"I,A.B. having been appointed as the Ombudsman for Local Self Government Institutions under the Kerala Panchayat Raj Act, 1994, do swear in the name of God/Solemnly affirm that I will bear true faith and allegiance to the Constitution of India and I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will".

(4)A person appointed as Ombudsman shall hold office for a term of three years from the date on which he enters upon his office:

Provided that, -

(a)the Ombudsman may, by writing under this hand addressed to the Governor, resign his office; and

(b)the person appointed as Ombudsman may be removed from his office in the manner provided in Section 271 H.

(5)The person appointed as Ombudsman shall be entitled for salary and allowances as are admissible to a Judge of the High Court of Kerala. [211] [212] [213]

[211]Substituted by Act 12 of 2001.

[212]Substituted by Act 12 of 2001.

[213]Substituted by Act 12 of 2001.

(6)On expiry of his term of office as Ombudsman, he shall not be eligible for reappointment as Ombudsman or for further appointment to any office of profit under the Government of Kerala or in any corporation, company, society or university by or under the control of the Government of Kerala.]

[214]

[271 H. ***Removal of Ombudsman. -*** (1) The Ombudsman shall not be removed from his office, except by an order of the Governor, passed after an address by the State Legislative Assembly, supported by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of the Legislative Assembly present and voting, has been presented to the Governor in the same session for such removal, on the ground of proved misbehaviour or incapacity.

(2)The procedure for the presentation of an address under sub-section (1) and for the investigation and proof of the misbehaviour or incapacity of the Ombudsman shall be in accordance with the provisions of law made by the Legislative Assembly.]

271 I. ***Staff of the Ombudsman. -*** (1) The Ombudsman shall have a Secretary, and such other officers and employees as the Government may determine in consultation with the Ombudsman

to assist the Ombudsman in the exercise of its powers and discharge of its functions under this Act.

(2)The appointment and conditions of service of the Secretary and the employees shall be such as may be specified by the Government and as far as possible appointment on deputation from Government Department shall be resorted to.

(3)The Ombudsman may require the assistance of any Officer of any Government Department in order to ascertain the veracity of an allegation under investigation and such officer shall be bound to render such assistance in addition and without detriment, to his official duties.

(4)The Ombudsman may utilise the services of any person having experience and expertise in any particular subject in deciding the questions before it.

271 J. ***Functions of the Ombudsman. -*** (1) The Ombudsman shall perform all or any of the following functions, namely: -

(i)Investigate into any allegation contained in a complaint or on a reference from Government, or that has come to the notice of the Ombudsman;

(ii)Enquire into any complaint in which corruption or maladministration of a public servant or a Local Self Government Institution is alleged;

(iii)Pass an order on the allegation in the following manner, namely: -

(a)Where the irregularity involves a criminal offence committed by a public servant, the mater shall be referred to the appropriate authority for investigation.

[214] Substituted by Act 12 of 2001.

(b)Where the irregularity causes loss or inconvenience to a citizen, direct the Local Self Government Institution to give him compensation and to reimburse the loss from the person responsible for the irregularity;

(c)Where the irregularity involves loss or waste or misuse of the fund of the Local Self Government Institution, realise such loss from those who are responsible for such irregularity, and

(d)Where the irregularity is due to omission or inaction cause to supply the omission and to rectify the mistake.

(2)In addition to the functions enumerated in sub-section (1), the Ombudsman may pass interim order restraining the Local Self Government Institution from doing anything detrimental to the interest of the complainant if it is satisfied that much loss or injury will be caused to the complainant due to the alleged act.

(3)The Ombudsman may by order, impose penalty in addition to compensation if it is of opinion that the irregularity involves corrupt practice for personal gain.

271 K. ***Powers of the Ombudsman.*** — (1) The Ombudsman shall, for the purpose of any investigation or enquiry under this Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely: -

(a)summoning and enforcing the attendance of any witness and examining him;
(b)requiring the discovery and production of any document;
(c)receiving evidence on affidavits;
(d)requisitioning any public records, or copy thereof from any Court or Office;
(e)issuing commissions for the examination of witness;
(f) such other powers as are prescribed;

(2)Where the Ombudsman finds that the allegation contained in a complaint is without any substance or trivial in nature it may by order direct the complainant to pay to the opposite party so much of the amount specified in the order by way of cost.

(3)Where the allegation contained in a complaint is about the loss or waste or misapplication of the fund of the Local Self Government Institution or in respect of the loss or misconvenience caused to a citizen, the Ombudsman may, during enquiry, collect evidence, determine the loss and direct in its order the amount to be realised from the person responsible.

(4)If the amount paid as per the order passed by the Ombudsman under sub-section (2) or sub-section (3) is not paid within the period specified by it, the same shall be recoverable by Revenue Recovery Proceedings as if it were an arrears of land revenue.

271L. ***Service of Government Departments.*** **-** The Government may, at the request of the Ombudsman make available the services of officers and employee of the Government including police personnel to assist the Ombudsman in the conduct of investigation and

enquiry and in respect of such functions such Officer or employee shall be deemed to be the officer or employee of the Ombudsman.

271M. ***Investigation.*** **-** (1) The Ombudsman may, according to the provisions of this Act, enquire into any complaint filed before it under this Act.

(2)Notwithstanding anything contained in this Act the Government may refer any allegation of corruption or maladministration against a Local Self Government Institution or a public servant which is within its knowledge or brought to its notice, to the Ombudsman and the Ombudsman shall enquire into it as if it was a complaint filed under this Act.

(3)The Ombudsman may, on receipt of a complaint, conduct an investigation in the matter and where there is prima facie case it may conduct a detailed enquiry.

(4)The Ombudsman shall not enquire into matters relating to, -

(a)any matter in respect of which a formal and public enquiry has been ordered by Government;

(b)any matter in respect of which a remedy is available from the Tribunal for Local Self Government Institutions constituted under Section 271S;

(c)any matter in respect of which an enquiry has been ordered under the Commission of Inquiries Act, 1952 (Central Act 60 of 1952) or any matter pending before a court;

(d)any complaint filed after the expiry of three years from the date on which the matter complain against have taken place:

Provided that the Ombudsman may entertain such complaint if the complainant satisfies that he had sufficient reason for not filing the complaint within the specified period.

271 N. ***Enquiry.*** **-** (1) After an investigation if the Ombudsman is satisfied that, -

(a)the complaint is frivolous or vexatious or is not made in good faith; or

(b)there is no sufficient ground to initiate proceedings; or

(c) other remedies are available to the complainant and it would be more beneficial for the complainant to avail of such remedies in view of the circumstances of the case, it may dispose of the complaint as rejected after recording its findings stating the reason therefore, and communicate the same to the complainant.

(2) If, the Ombudsman is of opinion that there is a prima-facie case against the person or the Local Self Government Institution complained of it shall record its findings to this effect and send notices of the proposed enquiry to the complainant and to the opposite party.

(3)The Ombudsman shall, subject to the provisions of this Act and the rules made there under, have power to regulate its procedures by fixing the time and place of sitting.

215[(4) (5) xxxx]

(6) In any proceedings before the Ombudsman, no legal practitioner will be permitted to represent any person, unless the Ombudsman permits, by an order, a person to be represented by a legal practitioner for reasons to be recorded.

271 O. ***Existing cases to be transferred to Ombudsman. -*** (1) Notwithstanding anything contained in the Kerala Lok-Ayukta Act, 1999 (8 of 1999) or any other law, if any proceedings, filed and not disposed of under the said Act, before the constitution of Ombudsman as per the provisions of this chapter, relate to a public servant or Local Self Government Institution as per the provisions of this Act, all cases with regard to such proceedings shall be transferred to the Ombudsman and the Ombudsman shall decide the cases in accordance with the provisions of this Act.

(2)All cases, with regard to the loss, wastage and misappropriation of any land of the Local Self Government Institution, pending before the Government or any other authority and disposed of just before the constitution of Ombudsman and the Ombudsman shall dispose of the cases in accordance with the provisions of this Act.

(3)No complaint, against a public servant as defined in this chapter, shall be entertained by a Lok-Ayukta or Upalok-Ayukta constituted as per the Kerala Lok-Ayukata Act, 1999 (8 of 1999) on or after the date of the constitution of Ombudsman as per the provisions of this chapter.

271 P. ***Initiation of prosecution. -***(1) If, after an investigation or inquiry, the Ombudsman finds that there is a prima-facie case against the accused involving a criminal offence, the Ombudsman may refer the complaint and the findings to a competent authority with recommendation to initiate prosecution.

(2) The authority responsible, for initiating such prosecution shall conduct a detailed enquiry if necessary and charge a case.

271 Q. ***Disposal of complaints. -*** (1) The Ombudsman may consider and dispose of complaints other than those involving criminal offences, in the following manner, -

(i)award of compensation, to a citizen in case of loss or grievance;

(ii)Order the recovery of loss caused to the Local Self Government Institution from the person responsible;

(iii)Order the supply of omission or rectification of defects due to inaction;

(iv)Order the recovery of loss from the accused failing which, order realisation through Revenue Recovery Proceedings;

(v) Order other necessary remedial measures considering the facts and circumstances of the case.

215 Omitted by Act 12 of 2001.

(2) Where the Ombudsman finds that the procedure or practice regarding the administration of Local Self Government Institution gives room for complaint, it may give suggestions to the Government or Local Self Government Institutions relating to the measures for avoiding the recurrence of such complaint.

(3) The Ombudsman shall give annually a detailed report regarding the performance of its functions under this Act to the Government and the Government it shall lay it before the Legislative Assembly with an explanatory memorandum.

271 R. ***Procedures to be prescribed.*** - The Government may make rules in respect of the following matters, namely: -

(i) The conditions of service of[216][the person of the Ombudsman and Ombudsman's] staff;
(ii) The manner of filing complaints before the Ombudsman and the manner or filling cases

either ***suo moto*** or on reference by State Government

(iii) The manner and procedure of conducting investigation;
(iv) Procedure for moving the appropriate authority for the initiation of prosecution;
(v) Procedure to be followed during the inquiry, which as far as possible be summary

proceedings;

(vi) The manner of implementing the order of the Ombudsman and further proceedings;
(vii) The form for filing complaints to Ombudsman;
(viii) Any other matter which the Government may deem necessary to prescribe.

[216] Substituted by Act 12 of 2001.

CHAPTER XXV C
TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS

271 S. Constitution of Tribunal for Local Self Government Institutions. -

(1) The Government shall constitute a Tribunal for every district or for more than one district, to consider and dispose of the appeal of revision filed against the decisions of the Local Self Government Institutions under section 276 of this Act and Section 509 of the Kerala Municipality Act, 1994.

(2) A Tribunal shall consist of one judicial officer having the rank of a District Judge, appointed by the Government in consultation with the Chief Justice of the High Court of Kerala and by notification in the Gazette.

(3) A Tribunal shall have the same powers as are vested in a Civil Court under the code of Civil Procedure, 1908 (Central Act V of 1908) when trying a suit in respect of the following matters, namely -

(a) Summoning and enforcing the attendance of any person and examining him on oath;

(b) Demanding the discovery and production of any document or other material object producible as evidence;

(c) Receiving evidence on affidavits;
(d) Requisitioning any public document or a copy there of from any court or office;
(e) Appointing commissions for the examination of witnesses or in respect of documents.
(4) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within

the meaning of section 193 and section 228 of the Indian Penal Code (Central Act 45 of 1860).

(5) The Tribunal shall be assisted by the officers and staff as the Government may decide.

271 T. Rendering of opinion on matters referred to by the Government. -

The Tribunal shall, on a reference from the Government with regard to the legality or sustainability of any decision of the Local Self Government Institution, render its opinion to the Government there on after giving the President or the Local Self Government Institution concerned, an opportunity of being heard, if necessary.

271 U. ***Matters to be prescribed. -*** The Government may prescribe the following matters, namely: -

(a) the conditions of service of the Tribunals;
(b) The manner of filing appeal petition or revision petition;
(c) The procedure to be followed in hearing the appeal petition or revision petition.
(d) The effects of the order of the Tribunals ;
(e) Any other matter which the Government may consider necessary to prescribe

CHAPTER XXVI
SUPPLEMENTAL PROVISIONS

272.***Public Roads, markets, wells, tanks, etc. to be open to all. -*** All roads, markets, wells, tanks, reservoirs and waterways, vested in or maintained by a Panchayat shall be open to the use and enjoyment of all persons, irrespective of their caste or creed or any other considerations.

[272 A. ***Citizen Charter to be published.*** - (1) Every Panchayat shall, in the manner prescribed, formulate citizens charter regarding the different categories of services rendered to the citizen by the panchayat, the conditions for such service and also the time limit for such service and publish it in the name 'citizens charter'.

(2) The citizens charter shall be renewed and updated periodically at least once in a year.]

273.***Power to farm out fees.*** - (1) Panchayat shall have power to farm out the collection of any fees due to it under this Act or any rules or byelaw made there under for any period not exceeding three years at a time on such conditions as it thinks fit.

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(2) All amounts including the tax, cess fee and surcharge collected by the panchayat and other amounts accounted to the panchayat fund as per the provisions of this Act or the rules made there under shall be rounded to a rupee.

Explanation. - For this purpose the fraction of a rupee shall be rounded or to the next higher rupee.

274. ***Extension of provisions of the Municipal laws or of the rules thereunder. -*** ***(1)*** The Government may, whether at the request of the Panchayat or otherwise, by notification in the Gazette, declare that any of the provisions of the law relating to Municipalities in the state in force for the time being or of any rules made there under, shall be extended to, and be in force, in a Panchayat area or any specified place therein.

(2) The provisions so notified shall be construed with such alterations not affecting the substance as may be necessary or proper for the purpose of adapting them to the Panchayat area or any specified place therein.

275.***Delegation of powers etc., -*** (1) The Government may, by notification in the Gazette, authorise a superior officer to exercise in any Panchayat area in regard to any Panchayat or any class of Panchayats or all panchayats any of the powers vested in them by this Act except the power to make rules, and may in like manner withdraw such authorisation.

(2) The government may, by notification authorise any officer to exercise in any panchayat in each district or any class of Panchayats or all Panchayats any power vested

21 Added by Act 13 of 1999.
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by this Act or the rules made thereunder and may in like manner withdraw such authorisation.

(3) The exercise of any power delegated under sub-section (1) or sub-section (2) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification. The Government shall also have power to control and revise the acts or proceedings of any person so empowered.

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[276. ***Appeal and Revision. -*** (1) An appeal shall lie to the panchayat against the notice issued or order passed or action taken by the president or secretary in exercise of the powers conferred as per the provisions of this Act, rules, bye-laws or regulations made thereunder except sections 235 I, 235 J, 235 N, 235 W and 235 X:

Provided that an appeal or matters connected with tax shall be filed before the standing committee for finance of the village panchayat.

(2)If an application is submitted during the pendency of an appeal filed under subsection (1) the president may, by order, stay the operation of the notice, order or other action appealed against. Every case in which an order has been passed shall be reported by the president to the panchayat at its next ordinary meeting with the reasons for making such an order and the panchayat shall either confirm such order with or without modification or revoke it, failing which it shall stand cancelled.

(3)An appeal filed under sub-section (1) shall be disposed of by the Panchayat or the standing committee in the manner as it may deem fit within sixty days of its receipt.

(4)An appeal on the notice, order or action of the Secretary under section 235 I, 235 J, 235 N, 235 W and 235 X shall be filed before the Tribunal Constituted for Local Self Government Institutions under section 271 S, and it may on an application by an order, stay the operation of the said notice, order or action taken pending disposal of the appeal.

(5)An appeal on any notice issued, order passed, or action taken by the panchayat or a revision on a decision taken by the panchayat or standing committee on any appeal shall lie to the Tribunal Constituted under Section 271 S, provided that such appeal or revision shall be confined only to the following subjects and relating to other subjects as may be prescribed for the purpose, namely: -

(a)Assessment, demand and Collection of taxes or fees or cess;

(b)Grant of permission and licences for trades, factories, markets and other establishments

(6)An appeal or revision shall be filed within thirty days from the date of notice or order or action taken and such appeal or revision, as the case may be, shall be disposed of within sixty days from the date of receipt of such appeal or revision.

(7)No appeal or revision shall be filed against the assessment of tax unless the tax demanded in the demand notice has been paid.

219 Substituted by Act 13 of 1999.

(8)Notwithstanding anything contained in the section, all appeals and revisions filed before any authority and not disposed of, before the date on which the Tribunal came into force, shall be handed over by such Authority to the Tribunal.]

277. ***Construction of reference to Panchayat and District Council. -***

(1) Any reference to a Panchayat contained in a law, rule, by law, regulation, 220[notification] scheme, from or order, in force in the State at the commencement of this Act shall be deemed to be a reference to a Village Panchayat as constituted or reconstituted under this Act.

(2) Any reference to a district council constituted under the Kerala District Administration Act, 1979 (7 of 1980) contained in any law, rule, bye-law, regulation, 221[notification] scheme, form, order, memorandum and articles of association of any society, in force in the State at the time of commencement of this Act shall be deemed to be a reference to a district panchayat as constituted or reconstituted under this Act.

278. ***Reference to Presidents in other enactments and in notifications etc. issued thereunder.*** **-** (1) Any reference to the President of a Panchayat contained in any enactment in force in the State or in any notification, order, scheme, rule, form or byelaw made under any such enactment and in force in the State shall where such reference relates to the executive functions of the President be construed as a reference to the secretary of the Village Panchayat.

(2) If any question arises as to whether any such reference relates to the executive functions of the President or not, the decision of, the Government shall be final.

279. ***Village Panchayat to regulate the use of contain porambokes.*** **—** (1) Village Panchayat shall have power subject to such restrictions and control as may be prescribed to regulate the use of the land set apart for the common use of the community such as grazing grounds, burning and burial grounds and cart stands, which are at the disposal of the Government.

(2)The Government or any officer authorised by them after consulting the village panchayat may, by notification, exclude from the operation of this Act any poramboke referred to in sub-section (1) and may also modify or cancel such notification.

(3)The village Panchayat shall also have power, subject to such restrictions and control as may be prescribed, to regulate the use of any other poramboke which is at the disposal of Government if the Village Panchayat is authorised in that behalf by an order of Government.

(4)The village Panchayat may subject to such restrictions and control as may be prescribed, plant trees on any poramboke the use of which is regulated by it under subsection (1).

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280.***Power to remove difficulties.*** **-** (1) If any difficulty arises in first giving effect to the provisions of this Act or as to the first constitution of any Panchayat after the commencement of this Act, the Government, as occasion may require, may, by order do anything which appears to them necessary for the purpose of removing the difficulties:

Provided that no order shall be made under this section after the expiry of one year from the date of the first constitution of the Panchayats in the State.

(2) Every order made under this section shall be laid before the Legislative Assembly, within fourteen days after it is made, if the Assembly is in session or if the Assembly is not in session it shall be laid at its next session.

281.***Offences by companies.*** **-** (1) If the person committing any offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence and shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

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

Explanation. **-** For the purpose of this section,

(a)‘company’ means any body co-operate and includes a firm or other association of individuals or a society, or a co-operative society.

(b)‘director’ in relation to firm means partner in the firm.

282.***Adjudication of disputes between Panchayats. -*** (1) Where a dispute exists among two or more village Panchayats or between a village panchayat and one or more than one block Panchayats or between a village Panchayat and a district Panchayat or between a district Panchayat and one or more block Panchayats or among two or more block Panchayat and or among two or more district Panchayats in regard to any matter arising under the provisions of this or any other law and the Panchayats involved in the dispute are according to their own admission unable to settle amicably any officer of the Government authorised by the Government in this behalf by general or special order, may take such action as is necessary to settle the dispute by himself or if it cannot be so settled, refer it with a report to the Government for decision.

(2) Any decision of the Government under sub-section (1) shall be binding on each Panchayat involved in the dispute and shall not be liable to be questioned in any court of law.

283. ***Power of Government to alter Schedules. -*** (1) The Government may by notification [222]** and to any of the entries in the Schedules to this Act[223]**

[224](2) Any schedule in this Act or any entry to such schedule shall not be omitted otherwise than in exercise of the power conferred by a law made by the legislature of the State.)

284. ***Repeal and Savings.*** - (1) In this section unless the context otherwise requires -

(a)‘appointment day’ means the date of coming into force of this Act;

(b)‘an existing panchayat’ means a Panchayat constituted or deemed to have been constituted under the Kerala Panchayat Act, 1960 (32 of 1960) and existing immediately before the appointed day, and where any such panchayats has been first constituted or reconstituted or dissolved includes the special officer or administrative committee and its President appointed to exercise the powers or to perform the functions of such Panchayats; (c)‘district council’ means a district council constituted under section 3 of the Kerala District Administration Act, 1979 (7 of 1980) and existing immediately before the appointed day;

(d)‘The successor panchayat’ means a village Panchayat constituted under this Act, for such village as corresponds to the respective local area of the existing panchayat.

(2) With effect on and from the appointed day the Kerala Panchayats Act, 1960 (32 of 1960), the Kerala District Administration Act, 1979 (7 of 1980) and also the provisions relating to Panchayats contained in the Kerala Local Authorities (Constitution and Preparation of Electoral Rolls) Act, 1994 (4 of 1994) shall stand repealed and the following consequences shall ensue, that is to say, -

(a)all property, movable and immovable, and all interests of whatsoever kind therein, which vested in an existing Panchayat or, as the case may be, vested in a district council immediately before the appointed day, shall be deemed to be transferred to and shall vest in the successor Panchayat or as the case may be, in the Government subject to all limitations, conditions and rights or interests of any person, body or authority in force of subsisting immediately before the appointed day;

(b)all rights, liabilities and obligations of an existing Panchayat or as the case may be, a district council shall be deemed to be the rights, or liabilities and obligations of the success Panchayat or as the case may be, of the Government;

(c)any function, scheme project or plan or work transferred to, an existing Panchayat, or to, a district council under the Kerala Panchayat Act, 1960 or as the case may be under

222 Omitted by Act 7 of 1996.
223 Ibid
224 Inserted by Act 7 of 1996.

the Kerala District Administration Act, 1979 or under any other law or order shall be deemed to have been transferred to the successor panchayat or as the case may be to the Government under this Act;

(d)all sums due to an existing Panchayat, whether on account of any tax, cess, fee, surcharge 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 Panchayat Fund constituted under the Kerala Panchayats Act, 1960 and all sums due to an existing panchayat or the unexpended balance in the district council fund constituted under the Kerala District Administration Act, 1979 and all sums due to a district council, shall form part of, and be paid into the respective village panchayat fund constituted under this Act or, as the case may be, paid to the Government; (f)all the contracts made with; and all instruments executed by or on behalf of an existing panchayat or on behalf of a district council shall be deemed to have been made with or executed by or on behalf of the successor Panchayat or as the case may be, on behalf of the Government, and shall have effect accordingly;

(g)all proceedings and matters pending before the existing Panchayat or any authority of an existing panchayats under the Kerala Panchayats Act, 1960 or pending before the district council or any authorities of a district council under the Kerala District Administration Act, 1979 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 Panchayats may direct as the case may be, before the Government or such authority as the Government may direct ;

(h)in all suits and legal proceedings pending on the appointed day in or to which an existing Panchayats or the district council is a party the successor Panchayat or, as the case may be the Government shall be deemed to be substituted therefore;

(i) 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 Panchayat area of existing Panchayat under the Kerala Panchayats Act, 1960 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 Panchayats area of a successor panchayat under this Act until superseded or modified by any appointment, notification, notice, tax, fee, order, scheme, licence, permission, rule, bye-law, regulation or form made, issued imposed, or granted under this Act ;

(j)all budget estimates; assessments, assessment list, valuation or measurements made or authenticated by or in respect of an existing panchayat under the Kerala Panchayats Act, 1960 and inforce 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.

(k)all officers and employees 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 service of the successor Panchayats;

(l)all officers and employees in the employment of a district council immediately before the appointed day shall be transferred to the concerned department of the Government by general or special order issued by the Government in this behalf;

(m)any reference to a district council or secretary to district council contained in any enactments mentioned in section 102 of the Kerala District Administration Act, 1979 and in force on the appointed day shall be deemed to be a reference to a District Panchayat constituted under this Act or, as the case may be the executive officer of the District Panchayat; and

(n)any thing done or any action taken under the Kerala Local Authorities (Constitution and Preparation of Electoral Roles) Act, 1994 (4 of 1994) in respect of a Panchayat shall be deemed to have been done or taken under the corresponding provisions of this Act as if this act had commenced on and from the 1st day of November, 1993.

(o)with regard to the Village Panchayat constituted under the Kerala Local Authorities (Constitution and Preparation of Electoral Roles) Act, 1994 for a village or villages which include the territories of an existing panchayat, the Special Officer or Administrative Committee or its President shall be deemed to have been appointed under this Act and such Special Officer or Administrative Committee shall continue in office until the expiry of their existing term or until the elected members of such Village Panchayats assume office under this Act, whichever is earlier.

285. ***Transitional provisions.*** - Notwithstanding anything contained in any law for the time being in force except the Constitution (Seventy third Amendment) Act, 1992 the term of office of the members of a Panchayat constituted or deemed to have been constituted under the Kerala Panchayats Act, 1960 (32 of 1960) which expired on the 9th day of August, 1993 shall be deemed to have been extended until a corresponding Village Panchayat is duly constituted under this Act for the first time [within one year from the commencement of the constitution (Seventy third Amendment) Act, 1992] and accordingly anything done or any action taken by the Government or said Panchayats or any person or authority in the purported exercise of the powers and functions conferred by or under the Kerala Panchayats Act, 1906 shall not be deemed to be invalid or ever to have been invalid merely, on the grounds that the term of office of the members of the Panchayats aforesaid had expired on said date.

SECOND SCHEDULE

[See Section 152 (1) and 153 (13)]

Form of Oath or Affirmation

I,....., having been elected member/President/Vice President of the.....village/block/district panchayat, do swear in the name of God/solemnly affirm, that I will bear true faith and allegiance to the Constitution of India as by law established, and [226][uphold the sovereignty and integrity of India] that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour or affection or illwill.

[226] Substituted by Act 13 of 1999.

[227]THIRDSCHEDULE

[See Sub-section (1) of section 166]

Functions of Village Panchayats A. Mandatory Functions.

1.Regulating building construction.

2.Protection of public lands against encroachment

3.Maintenance of traditional drinking water sources.

4.Preservation of ponds and other water tanks

5.Maintenance of waterways and canals under the control of Village Panchayats.

6.Collection and disposal of solid waste and regulation of liquid waste disposal.

7.Storm water drainage.

8.Maintenance of environmental hygiene.

9.Management of public markets.

10.Vector Control

11.Regulation of slaughtering of animals and sale of meat, fish and other easily perishable food stuffs etc.

12.Control of eating places.

13.Prevention of food adulteration.

14.Protection of roads and other public properties.

15.Street lighting and its maintenance.

16.Adopt immunisation programmes.

17.Effective implementation of National and State level strategies and programmes for prevention and control of diseases.

18.Establishment and maintenance of burial and burning grounds.

19.Issue of licenses to dangerous and offensive trades.

20.Registration of births and deaths.

21.Providing bathing and washing ghats.

22.Provision for ferries.

23.Provision for parking spaces for vehicles.

24.Construction of waiting sheds for travellers.

25.Provision for toilet facilities and bathing ghats at public places.

26.Regulate the conduct of fairs and festivals.

27.Issue licence to domestic dogs and to destroy stray dogs.

B.General Functions

1.Collection and updating of essential statistics.

2.Organise voluntary workers and make them participate in collective activities.

3.Organise campaigns for thrift

4.Awareness building against social evils like drinking, consumption of narcotics, dowry, abuse of women and children

5.Ensuing maximum peoples participation at all stages of development.

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6.Organise relief activities during natural calamities.

7.Inculcating environmental awareness and motivating local action for environmental upgradation.

8.Promotion of co-operative sector.

9.Enhancing communal harmony.

10. Mobilisation of local resources in cash or in kind including free surrender of land for developmental purposes.

11.Campaign on legal awareness among weaker sections.

12.Campaign against economic offences.

13.Organising neighbourhood groups and self-help groups focusing on the poor.

14.Awareness building on civic duties.

C.Sector-wise functions.

I. Agriculture

1.Cultivate wastelands and marginal lands.

2.Ensure optimum utilisation of land.

3.Soil protection

4.Production of organic manure.

5.Establishment of nurseries.

6.Encourage the system co-operative ground farming.

7.Organise self help groups among farmers

8.Encourage horticulture and vegetable cultivation.

9.Fodder development.

10.Plant production.

11.Seed protection.

12.Farm mechanisation.

13.Management of Krishi Bhavans.

II.Animal Husbandry and Diary farming

1.Cattle Development Programmes

2.Diary farming

3.Poultry farming, bee keeping, piggery development, goat rearing, rabbit rearing, etc.

4.Running of veterinary hospitals

5.Running of ICDP sub-centres.

6.Preventive Health Programmes for animals.

7.Prevention of cruelty to animals.

8.Implementation of fertility improvement programmes.

9.Control of diseases of animal origin.

III.Minor Irrigation

1.Maintenance and implementation of all minor irrigation projects within the area of a village panchayat.

2.Implementation and maintenance of all micro irrigation projects.

3.Put into practice water conservation.

4.***Fishing***

5.Development of fisheries in ponds, pisci-culture in fresh water and brackish water and mariculture.

6.Improvement of fish seed production and distribution of offsprings.

7.Distribution of fishing implements.

8.Provide assistance for fish marketing.

9.Provide minimum basic facilities for fishermen families.

10. Implementation of fishermen Welfare Schemes.

11. ***Social Forestry***

12. Growing trees for cattle feed, fire wood and growing of fruit trees.

13. Organise campaigns for planting of trees and to build environmental awareness.

14. Afforestation of waste land

15. ***Small scale Industries***

16. Promotion of cottage-village industries.

17. Promotion of handicreafts.

18. Promotion of traditional and mini industries.

19. ***Housing***

20. Identification of the homeless people and the poramboke dwellers and provide them with lands for house construction and with houses.

21. Implementation of rural housing programmes.

22. Implementation of shelter upgradation programmes.

23. ***Water Supply***

24. Management of water supply schemes within a village panchayat.

25. Setting up of water supply schemes within a village panchayat.

26. ***Electricity and Energy***

27. Installation and maintenance of streetlights.

28. Encourage the consumption of bio-gas.

29. ***Education***

30. Management of Government Pre-primary Schools and Primary Schools.

31. Implementation of literacy programmes.

32. Management and promotion of reading rooms and libraries.

XI. Public Works

1.Construction and maintenance of village roads within a village panchayat.

2.Construction of buildings for institutions including those transferred from the government.

XII. Public Health and Sanitation

1.Running of dispensaries, Primary Health Centres and Sub-centres (with all systems of medicines.)

2.Management of maternity and Child Welfare Centres.

3.Carry out immunisation and other preventive measures.

4.Implementation of family welfare programme.

5.Implementation of sanitation programmes.

XIII. Social Welfare

1.Running of Anganwadis

2.Sanctioning and distribution of pension to destitutes, widows, handicapped and agricultural labourers.

3.Sanctioning and distribution of unemployment wages.

4.Sanctioning of financial assistance for the marriage of the daughters of widows.

5.Implementation of Group Insurance Scheme for the poor.

XIV. Poverty Alleviation

1.Identifying the poor.

2.Implementation of self employment and Group Employment Schemes for the poor especially for women.

3.Providing community assets of continuing benefits to the poor.

XV.Scheduled Caste-Scheduled Tribe Development

1.Implementation of beneficiary oriented schemes under S.C.P., T.S.P.

2.Running of nursery schools for Scheduled Caste-Scheduled Tribes.

3.Arrange basic facilities in Scheduled Caste-Scheduled Tribe Colonies.

4.Provide assistance to Scheduled Caste-Scheduled Tribe Students.

5.Provide discretionary assistance to scheduled Caste-Scheduled Tribe when necessary.

XVI. Sports and Cultural Affairs

1.Construction of playgrounds.

2.Establishment of Cultural Centres.

XVII. Public Distribution System

1.Examining the complaints against the Public Distribution System and find out and implement remedial measures.

2.Organise campaigns against offences relating to weights and measures.

3.General supervision and guidance of Ration Shops, Maveli Stores, Neethi Stores and other public distribution systems and start new public distribution centres, if necessary.

XVIII. Natural calamities Relief

1.Protection of Relief Centres.

2.Conduct works relating to natural calamity. The work to compensate damages caused to the assets should be done by the respective panchayats.

XIX. Co-operation

1.Organise Co-operative societies within the boundaries of village panchayat.

2.Strengthen [the existing co-operative institutions]

[228][FOURTH SCHEDULE

[See Sub-section (1) of section 172]

Functions of Block Panchayats

(A)General Functions

1.Utilise Govemmental-non-Govemmental technical expertise at block level.

2.Provide technical assistance to Village Panchayats.

3.Prepare schemes taking into consideration the schemes of village panchayats in order to avoid duplication and to provide backward, forward linkage.

(B) Sectorwise functions

I. Agriculture

1.Farmers training programmes for the implementation at the village level.

2.Arrange agricultural inputs required for schemes at the village level.

3.Conduct of agricultural exhibitions.

4.Management of watersheds falling within the Block Panchayat area.

5.Mobilise agricultural loans.

6.Encouragement of sericulture.

II.Animal Husbandry and Dairy Farming

1.Running of veterinary poly clinics and zonal artificial insemination centres.

2.Provide speciality services in animal husbandry.

3.Conducting of cattle and poultry shows.

III.Minor Irrigation

Implementation and maintenance of all Lift Irrigation Schemes and Minor Irrigation Schemes covering more than one village panchayats.

IV.Fisheries

Development of traditional landing centres.

V.Small Scale Industries.

VI. Establishment of mini industrial estates.

VII.Promotion of industries with investment limit of one third of S.S.I.

VIII. Formulation of self employment schemes in Industrial sector.

228Substituted by Act 13 of 1999.

VI. Housing

1.Popularisation of low cost housing.

2.Promotion of housing co-operative societies.

VII. Electricity and Energy

Development of conventional energy sources.

VIII. Education

Management of Government Industrial Training Institutions.

IX. Public Works

1.Maintenance of Village roads connecting more than one village panchayat within the Block Panchayat and other roads vested in block panchayat.

2.Construction of buildings for institutions transferred from Government.

XPublic Health and Sanitation

Running of community health centres and Taluk Hospitals with all systems of medicine within the Block Panchayat.

XI Social Welfare

Management of I.C.D.S.

XIIPoverty Alleviation

1.Planning and implementation of employment assurance schemes in co-ordination with the Village Panchayat.

2.Skill upgradation of poor for self employment and giving wage employment for people below poverty line.

XIII. Scheduled Caste/Scheduled Tribe Development

1.Management of pre-metric hostels.

2.Promotion of Co-operative Societies means for Scheduled Caste/Scheduled Tribes.

XIV. Co-operation

1.Organising co-operatives within the jurisdiction of block panchayat.

[229]**[FIFTH SCHEDULE**

[See Sub section (1) of Section 175]

Functions of District Panchayats

(A) General Functions

1.Mobilisation of the technical expertise available from Government-non- Govemment institutions.

2.Provide technical assistance to Block Panchayats, Village Panchayats and Municipalities.

3.Prepare schemes after taking into account the schemes of the Village Panchayat and the Block Panchayat to avoid duplication and to provide forward-backward linkage.

(A) Sectorwise Functions

I.Agriculture

1.Running of agriculture farms other than regional farms and research centres.

2.Integrated water-shed management in water sheds covering more than one block panchayat area.

3.Provide for agricultural inputs.

4.Soil testing

5.Pest control

6.Marketing of agricultural products

7.Cultivation of ornamental plants.

8.Promotion of agricultural co-operatives

9.Promotion of commercial crops.

10.Application of bio-technology.

11.Popularisation of innovative field trials and pilot projects.

12.Conduct of locally appropriate research and development.

II.Animal Husbandry and dairy Farming

1.Running of district level veterinary hospitals and laboratories.

2.Running of dairy extension units.

3.Promotion of Milk co-operative societies.

4.Running of farms other than regional farms, breeding farms and research centres.

5.Implementation of district level training.

6.Implementation of disease prevention programmes.

7.Propagating new methods of field trials and pilot projects.

8.Locally relevant research and development.

III. Minor Irrigation

1. Development of ground water resources.

[229] Substituted by Act 13 of 1999.

2.Construction and maintenance of minor irrigation schemes covering more than one block panchayat.

3.Command area development.

IV.Fisheries

1.Arrangements for fish marketing

2.Management of fish farm development agency.

3.Management of district level pisci-culture centres net making units, fish markets, feed mills, ice plants and cold storages.

4.Management of fisheries schools.

5.Introduction of new technologies.

6.Provide implements required for fishermen.

7.Promotion of fishermen's co-operative societies.

V.Small Scale Industries.

1.Management of district industries centres.

2.Promotion of small scale industries.

3.Setting up of industrial estates.

4.Organising exhibitions for sale of products

5.Conduct of entrepreneur development programme.

6.Marketing of products.

7.Imparting training.

8.Create input service and common facility centres.

9.Implementation of industries development credit schemes.

VI. Housing

1.Implementation of housing complex and infrastructure development.

2.Mobilisation of housing finance.

VII. Water Supply

1.Implementation of water supply schemes covering more than one village panchayat.

2.Taking over of water supply schemes covering more than one village panchayat.

VIII. Electricity & Energy

1.Taking over of micro-hydal projects.

2.Determining priority areas for extension of electricity.

IX. Education.

1.Management of Government high schools (including Lower and Upper Primary Schools attached to high schools).

2.Management of Government Higher Secondary schools.

3.Management of Government Technical Schools.

4.Management of Government Vocational Training Centres and Polytechnics.

5.Management of government Vocational Higher Secondary Schools.

6.Management of District Institute for Education and Training.

7.Co-ordination of centrally and state sponsored programmes related to education.

X.Public Works.

1.Construction and maintenance of all district roads vested within the district panchayat other than major district roads.

2.Construction of building for institutions transferred.

XI. Public Health & Sanitations

1.Management of district hospitals with all systems of medicines.

2.Setting up of centres for the care of special categories of handicapped and mentally disabled people.

3.Co-ordination of centrally and state sponsored programmes at district level.

XII. Social Welfare

1.Provide grants to orphanages.

2.Establishment of welfare centres for the handicapped and destitutes.

XIII. Poverty Alleviation

1. Providing infrastructure facilities for self employment programme.

XIV. Development of Scheduled Caste-Scheduled Tribe

1.Management of post metric hostels.

2.Management of vocational training centres for the Scheduled Caste/Scheduled Tribes.

XV.Sports and Cultural affairs.

Construction of stadia.

XVI. Co-operation

1.Organisation of co-operatives within the limits of district panchayat.

2.Strengthening of the co-operative institutions.]

Section	Sub section/ clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
[230][205B		The Occupier or the owner/making default in submitting the list of persons engaged in any profession art etc.	One thousand rupees
205 C		The employer or the head of office or firm or company making default in submitting the list of persons employed under him.	One thousand rupees.
205 D		Employer making default in recovering profession tax	Five hundred rupees.
205 (E)	(2)	Making default in submitting the list of employees etc.	Five hundred rupees.
205 (H)		Making default in payment of profession tax by self drawing officers	Two hundred and fifty rupees.
209 (C)	(2)	Exhibition of any advertisement without permission	Five hundred rupees]
220	(a)	Unlawful building of wall or erecting offence, etc., in or over public road.	Five hundred rupees.
220	(b)	Construction of building or a high structure in the land abutting the road without leaving a distance of three meters	Two thousand and five hundred rupees
220	(c)	Unlawful making of hole or depositing of matter in or over public road	Two hundred rupees
220	(d)	Unlawful quarrying in any place near public road, etc.	Two hundred rupees
220	(e)	Unlawful construction of building over drain	One Thousand rupees
220	(f)	Planting of trees without permission on any public road or other property vested in a panchayat	One hundred rupees
220	(g)	Felling etc., without permission of trees growing in public road or other property vested in a panchayat or on a poramboke or land, the use of which is regulated by it under section 220.	One thousand rupees.

222	**(1)**	**Unlawful opening or keeping open a market**	**Two thousand rupees**
222	**(3)**	**Levy of fees in private evening market (Anthichantha)**	**Two hundred rupees**
222	**(4)**	**Levy of fees in private market without a licence.**	**Five hundred**
224		**Sale or exposure for sale in public or private market of any animal or article without permission**	**Two hundred rupees**
225		**Sale, etc., of articles in public roads or places after prohibition or without licence or contrary to regulations**	**One hundred rupees**
227	**(b)**	**Using of any public place or roadside as a landing or**	**Two hundred**

230 Inserted by Act 13 of 1999. 220(b) inserted by

		halting place or as a cart-stand within prohibited distance.	rupees.
228	(1)	Opening a new private cart-stand or continuing to keep open private cart-stand without licence or contrary to licence	One thousand rupees.
230		Use of place as a slaughterhouse without licence or contrary to licence.	One thousand rupees
231		Slaughter of animals for sale as food or skinning or cutting up carcasses without licence or contrary to licence or drying skin so as to cause a nuisance	One hundred rupees for every animal carcass or skin
232		Using a place for any prescribed purpose without licence or contrary to licence	Five hundred rupees
233.		Unlawful erection of factory, workshop, etc.	231[Five thousand rupees]
235	(2)	Unlawful destruction, etc., of number of buildings	Fifty rupees
235	3)	Failure to replace number when required to do so	One hundred rupees
232[235	(C) (5)	Construction or reconstruction of the buildings against the declaration issued by the village panchayat	Two thousand rupees
235	(D)	Making default in not complying with the request of making the building at the corner of the street rounded of or splayed of	Five thousand rupees.
235	(E)	Construction of doors and windows so as to open on public road	Two hundred rupees
274		Obstructing a persons in the use or enjoyment of a public road, market, well, tank, etc.	Five hundred rupees.

231 Substituted by Act 13 of 1999.
232 Added by Act 13 of 1999.

Section	section/ Sub clause	Subject	Fine which may be imposed
(1)	**(2)**	**(3)**	**(4)**
233[209	**(C) (2)**	**Unauthorised exhibition of any advertisement**	**One hundred rupees**
220	**(a)**	**Unlawful building of over public road wall or erectingfence, etc. in or**	**One hundred rupees**
220	**(b)**	**Construction of building or a high structure in the land abutting the road without leaving a distance of three metres**	**One hundred ruppes**
220	**(c)**	**Unlawful making of over public road hole or depositing of matter in or**	**Fifty rupees**
220	**(d)**	**Unlawful quarrying**	**Fifty rupees**
220	**(e)**	**Unlawful construction of building**	**Two hundred rupees**

222	(1)	Opening or keeping open a private market in contravention of section 221	Five hundred rupees
222	(3)	Levy of fees in private evening market (Anthichantha)	One hundred rupees
222	(4)	Levy of fees in private market without a licence	Two hundred rupees
224		Sale or exposure for of animal or article without sale in public permission or private market	One hundred rupees
228	(1)	Keeping open a private cart-stand without licence or contrary to licence.	One hundred rupees
232		Using a place for any purpose prescribed undersection 232 without a licence or contrary to licence	One hundred rupees
233		Unlawful erection of factory, workshop, etc.	Five hundred rupees.

233 Inserted by Act 13 of 1999.

220 (b) inserted by SRO No.665/96

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Omitted by Act 13 of 1999.