

GOVERNMENT

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Dated, Gangtok the 18th October, 1993

The following Act of the Sikkim Legislative Assembly Secretariat having received the assent of the Governor on 11th day of October, 1993 is hereby published for general information :-

THE SIKKIM PANCHAYAT ACT, 1993
(ACT NO. 6 OF 1993)
AN
ACT

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THE SIKKIM PANCHAYAT ACT , 1993
(ACT NO. 6 OF 1993)

AN

ACT

to consolidate and amend the law relating to Panchayats and to provide for the constitution and organisation of Panchayats as units of Self-Government in Sikkim in accordance with the provisions of Part IX of the Constitution as inserted by the Constitution (Seventy-Third Amendment) Act, 1992 and for matters connected therewith and incidental thereto.

EE it enacted by the Legislative Assembly of Sikkim in the Forty-fourth Year of the Republic of India as follows :-

CHAPTER I
PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Sikkim Panchayat Act, 1993.

(2) It extends to the whole of Sikkim except the areas which may hereafter be declared as or included in the Nagar Panchayat.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas and for different provisions of the Act.

Definitions.

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

(a) "Adhakshya" means an Adhakshya of a Zilla Panchayat elected under sub-section (1) of section 54;

(b) "Auditor" means an auditor appointed under sub-section (2) of section 48;

(c) "District Collector" means the Collector of the District;

(d) "District Development Officer-cum- Panchayat Officer" means the District - Development Officer - cum - Panchayat Officer of the District appointed by the State Government;

(e) "Governor" means the Governor of Sikkim;

(f) "Gram" means any village or part of a village or group of adjoining villages or parts thereof declared by the State Government to be a Gram under sub-section (1) of section 3;

(g) "Gram Panchayat" means a Gram Panchayat constituted under section 12;

(h) "Nagar Panchayat" means a Nagar Panchayat and includes a municipality, municipal committee or corporation or such other body by whatever name called constituted under the law relating to such Nagar Panchayats for the time being in force;

(i) 'Notification' means the notification published in the Official Gazette;

(j) "Prescribed Authority" means an authority appointed by the State Government, by notification, for all or any of the purposes of this Act;

(k) "Sabhapati" ,means a Sabhapati of a Gram Panchayat elected under sub-section (1) of section 17;

(l) "Secretary" means the Secretary to the Government of Sikkim in the Rural Development Department and includes an Additional Secretary, Joint Secretary, Deputy Secretary and Under Secretary of that Department;

(m) "State Government" means the Government of the State of Sikkim;

(n) "Up-Adhakshya" means an Up-Adhakshya of a Zilla Panchayat elected under sub-section (1) of section 54;

(o) "Up-Sabhapati" means an Up-Sabhapati of a Gram Panchayat elected under sub-section (1) of section 17;

(p) "Zilla Panchayat" means a Zilla Panchayat of a district constituted under sub-section (1) of section 49;

(2) Words defined in the Constitution (Seventy-Third Amendment) Act, 1992 but not defined in this Act shall have the same meanings as respectively assigned to them in the Constitution (Seventy-Third Amendment) Act, 1992.

CHAPTER II

CONSTITUTION OF GRAM AND GRAM SABHA

Constitution of Gram, its name and jurisdiction.

3. (1) Subject to the consideration of local conditions, the State Government may, by notification, declare for the purpose of this Act any village or part of a village or a group of adjoining villages or parts thereof to be a Gram.

(2) As soon as may be after the constitution of a Gram under sub-section (1), the State Government may, by notification, divide each Gram into wards and each ward shall, as far as possible, comprise of a Revenue Block.

(3) The State Government may, by notification, specify the number of members to be elected from each ward having regard to the number of voters in such ward and such other considerations as the State Government may consider appropriate.

(4) The notification under sub-section (1) shall specify the name of the Gram by which the Panchayat shall be known and shall specify the local limits of such Panchayat.

(5) The State Government may, after making such enquiry as it may think fit and/or after obtaining the views of the Gram Sabha, by notification-

- (a) exclude from any Gram any area comprised therein; or
- (b) include in any Gram any area adjoining to such Gram; or
- (c) divide the area of a Gram so as to constitute two or more Grams; or
- (d) unite the areas of two or more Grams so as to constitute a new Gram.

4. (1) When an area is excluded from a Gram under clause (a) of sub-section (5) of section 3, such area shall, as from the date of the notification referred to in that sub-section, cease to be subject to the jurisdiction of the Gram Panchayat of that Gram and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in that Gram shall also cease to apply to the area so excluded.

(2) When an area is included in a Gram under clause (b) of sub-section (5) of section 3, the Gram Panchayat for that Gram shall, as from the date of the notification referred to in that sub-section have jurisdiction over such area and, unless the State Government otherwise directs, all rules, orders, directions and notifications in force in that Gram shall apply to the area so included.

(3) When the area of any Gram is divided under clause (c) of sub-section (5) of section 3 so as to constitute two or more Grams, the Gram Panchayat of that Gram shall, as from the date of the notification referred to in that sub-section, cease to exist and there shall be reconstitution of the Gram Panchayats for the newly constituted Grams in accordance with the provisions of this Act.

(4) When the areas of two or more Grams are united under clause (d) of sub-section (5) of section 3 so as to constitute a new Gram, the Gram Panchayats of the said Grams shall, as from the date of the notification referred to in that sub-section, cease to exist and a separate Gram Panchayat shall be constituted for the new Grams in accordance with the provisions of this Act.

(5) When under sub-section (5) of section 3 any area is excluded from, or included in, a Gram or a Gram is divided so as to constitute two or more Grams, or two or more Grams are united to constitute a new Gram, the properties, funds and liabilities of the Gram Panchayat or Panchayats affected by such reconstitution shall vest in such Gram Panchayat or Panchayats in accordance with such allocation as may be determined by order in writing by the prescribed authority, and such determination shall be final.

(6) An order made under sub-section (5) may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reconstitution.

Effect of alteration of the area of Gram.

Effect of inclusion of a Gram or part thereof in Nagar Panchayat, etc.

5. (1) If, at any time, the whole of the area of a Gram is included within the Nagar Panchayat under the provisions of the law made in this behalf, the Gram Panchayat concerned shall cease to exist, and the properties, funds and other assets vested in such Gram Panchayat and all the rights and liabilities of such Gram Panchayat shall vest in, and devolve on, the Nagar Panchayat.

(2) If, at any time, a part of the area of a Gram is included in a Nagar Panchayat under the provisions of the law made in this behalf, the area of the Gram shall be deemed to have been reduced to the extent of the part so included within the Nagar Panchayat and the properties, funds, rights and liabilities of the Gram Panchayat concerned in respect of the part so included shall vest in, and devolve on the Nagar Panchayat in such manner as may be determined by the prescribed authority and such determination shall be final, and unless the State Government otherwise directs, all rules, orders, directions and notifications in force in the areas comprised in the Nagar Panchayat shall apply to the part of the area of the Gram so included.

Meetings of Gram Sabha.

6. Subject to the general orders of the State Government the Gram Sabha shall meet at least twice in a year and where the Gram Panchayat fails to convene Gram Sabha, the prescribed authority shall with the approval of the State Government and after giving notice to the Gram Panchayat concerned, convene it.

Quorum for the meeting and resolution.

7. (1) Quorum for the meeting of a Gram Sabha shall be one-tenth of the total members of the Gram Sabha.

(2) Any resolution relating to the matters entrusted to the Gram Sabha shall be passed by a majority of votes of the members present and voting in the meeting of the Gram Sabha.

Convening of meetings of Gram Sabha.

8. The procedure for convening and conducting the meetings of the Gram Sabha shall be such as may be prescribed.

Presiding Officer.

9. Every meeting of the Gram Sabha shall be presided over by the Sabhapati of the concerned Gram Panchayat and in his absence by the Up-Sabhapati of that Gram Panchayat.

Matters for consideration of Gram Sabha.

10. (1) The Gram Sabha shall consider, and may make recommendations and suggestions to the Gram Panchayat on the following matters, namely:-

(a) the annual statement of accounts of the Gram Panchayat, the report of administrations of the preceding financial year and the last audit note and replies, if any, made thereto;

(b) the report in respect of development programmes proposed to be undertaken during the current year;

(c) the promotion of unity and harmony among all sections of society in the village;

(d) programme of adult education within the village;

(e) such other matters as the State Government may, by general or special order, specify.

(2) The Gram Panchayat shall give due consideration to the recommendations and suggestions of the Gram Sabha.

Functions of Gram Sabha.

11. The Gram Sabha shall perform the following functions, namely:-

(a) mobilising voluntary labour and contributions in kind and cash for the community welfare programme;

(b) identification of beneficiaries for implementation of developmental schemes pertaining to the village;

Provided that if the Gram Sabha fails to identify the beneficiaries within the reasonable time, the prescribed authority shall, in consultation with the Gram Panchayat, identify the beneficiaries;

(c) rendering assistance in the implementation of developmental schemes

pertaining to the village.

CHAPTER III GRAM PANCHAYAT

Constitution of Gram Panchayat.

12. (1) There shall be constituted, in each Panchayat area, an institution of Self-Government called the Gram Panchayat bearing the name of the Gram.

(2) For the purpose of sub-section (1), each Panchayat area shall be divided into wards in such manner as the State Government, may determine:

Provided that the number of members to be elected in each ward shall, as far as practicable, be in the same proportions to the total number of persons to be elected for the Gram Panchayats as the population of the ward bears to the total population of the Panchayat area.

(3) The list of wards determined under sub-section (2) shall be prepared and published in the Official Gazette.

13. (1) A Gram Panchayat shall, subject to the provisions of sub-section (5), consist of such number of members not less than five and not more than nine, as the Secretary may, subject to the general order of the State Government in regard to the allocation of number of seats to different Gram having regard to the varying extent of population therein, determine and such members shall be chosen by direct election through secret ballot by persons whose names are included in the electoral roll of the Sikkim Legislative Assembly for the time being in force pertaining to the area comprised in the Gram.

(2) Election to the Gram Panchayat shall be held in such manner as may be prescribed.

(3) Where a Gram fails to elect the full number of members as determined under sub-section (1) it shall be called upon to elect the remaining number of members.

(4) The term of office of the members of Gram Panchayat shall, subject to the provisions of section 29, be co-terminus with the term of the Gram Panchayat.

(5) The State Government shall, by notification reserve the seats for Scheduled Castes and the Scheduled Tribes in every Gram Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that panchayat area or of the Scheduled Tribes in that panchayat area bears to the total population of that area and such seats shall be allotted by rotation to different wards in a Gram Panchayat in such manner as may be prescribed.

(6) Not less than one-third of the total number of seats reserved under sub-section (5) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(7) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Gram Panchayat shall be reserved for women and such seats may be allotted by rotation to different wards in a Gram Panchayat in such manner as may be prescribed.

Incorporation of Gram Panchayat.

14. (1) Every Gram Panchayat shall be a body corporate having perpetual succession and a common seal and shall by its corporate name, sue and be sued.

(2) A Gram Panchayat shall have power to acquire, hold and dispose of property and to enter into contract:

Provided that in cases of acquisition or disposal of immovable property, the Gram Panchayat shall obtain the previous approval of the State Government.

Duration of Gram Panchayat.

15. (1) Every Gram Panchayat, save as otherwise provided in this Act, shall continue for a term of five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of

causing dissolution of a Gram Panchayat, which is functioning immediately before such amendment till the expiration of its duration specified in sub-section (1).

(3) The election to constitute a Gram Panchayat shall be completed-

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

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

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

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

16. A person shall be disqualified for being chosen as and for being, a member of a Gram Panchayat-

(a) if he is so disqualified by or under any law for the time being in force for the purpose of elections to the Legislative Assembly of Sikkim:

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

(b) if he is a member of a Nagar Panchayat established under the law relating to constitution of such Nagar Panchayat for the time being in force; or

(c) if he holds any office of profit under a local authority or a co-operative society or a Government company or a Corporation owned or controlled by the Central or the State Government; or

(d) has been dismissed from the service of a State Government or the Central Government or a local authority or a Co-operative Society or a Government company or a Corporation owned or controlled by the Central or the State Government for misconduct; or

(e) if he is of unsound mind and stand so declared by a competent court; or

(f) if he is an undischarged insolvent; or

(g) if he is suffering from a variety of leprosy which is infectious; or

(h) if he is convicted of an election offence; or

(i) if he has been convicted by a Court of an offence involving moral turpitude and sentenced to imprisonment for a term exceeding six months; or

(j) if he has not paid any arrear in respect of any tax or rate or fee payable to a Gram Panchayat or a Zilla Panchayat or a Nagar Panchayat or the State Government:

Provided that the disqualification under this clause shall cease upon payment of the rate or tax or fee; or

(k) if he directly or indirectly by himself or by his partner or employer or an employee, hold any share or interest in any contract with, by or on behalf of a Zilla Panchayat or a Gram Panchayat:

Provided that a person shall not be deemed to have incurred disqualification by reason of his having a share or interest in any public company or registered co-operative society which has a contract with or is employed by a Gram Panchayat or a Zilla Panchayat of the district.

17. (1) Every Gram Panchayat shall, at its first meeting at which a quorum is present, elect one of its members to be the Sabhapati and another member to be the Up-Sabhapati of the Gram Panchayat in such manner as may be prescribed.

(2) The State Government shall, by notification reserve-

(a) such number of offices of Sabhapati and Up-Sabhapati of Gram Panchayats in each district for the Scheduled Castes and the Scheduled Tribes and the number of such offices shall bear as nearly as may be, the same proportion to the total number of offices in the district as the population of the Scheduled Castes and of the

Scheduled Tribes in the district bears to the total population of the district;

(b) not less than one-third of the total number of offices of Sabhapati and Up-Sabhapati of the Gram Panchayat of the district from each of the categories which are reserved for persons belonging to the Scheduled Castes and the Scheduled Tribes and of those which are reserved for women:

Provided that the offices reserved under this sub-section shall be allotted by rotation to different Gram Panchayats in such manner as may be prescribed.

Explanation:- For the removal of doubt it is hereby declared that the principle of rotation for purposes of reservation of offices under this sub-section shall commence from the first election to be held after the commencement of this Act.

(3) The Sabhapati and Up-Sabhapati shall, subject to the provision of section 27 and to their continuing as members, hold office for a period of five years.

(4) When-

(a) the office of the Sabhapati falls vacant by reason of death, resignation, removal or otherwise; or

(b) the Sabhapati is, by reason of leave, illness or other cause, temporarily unable to act,
the Up-Sabhapati shall exercise the powers, perform the functions and discharge the duties of the Sabhapati until a new Sabhapati is elected and assumes office or until the Sabhapati resumes his duties, as the case may be.

(5) When-

(a) the office of the Up-Sabhapati falls vacant by reason of death, resignation, removal or otherwise; or

(b) the Up-Sabhapati is, by reason of leave, illness or other cause, temporarily unable to act,
the Sabhapati shall exercise the powers, perform the functions and discharge the duties of the Up-Sabhapati until a new Up-Sabhapati is elected and assumes office or until the Up-Sabhapati resumes his duties, as the case may be.

(6) When the office of the Sabhapati and the Up-Sabhapati are both vacant, or the Sabhapati and Up-Sabhapati are temporarily unable to act, the prescribed authority may appoint a Sabhapati and Up-Sabhapati from among the members of the Gram Panchayat to act as such until a Sabhapati and Up-Sabhapati are elected and assume office.

18. Every election or nomination of a Sabhapati, Up-Sabhapati, Sachiva and members of Gram Panchayat, as the case may be, shall be published by the State Government by notification and such persons shall enter upon their respective offices from the date of such publication:

Provided that if no such publication has been made the Sabhapati, Up-Sabhapati, Sachiva and members shall be deemed to have entered upon their respective offices from the date of declaration of result of their election or nomination, as the case may be.

19. (1) Notwithstanding any vacancy in the membership of the Gram Panchayat, the prescribed authority shall, immediately after but before the expiration of thirty days from the date of publication of the notification under section 18 appoint a date for the meeting of the Gram Panchayat members (which meeting shall be called the first meeting of the Gram Panchayat) for electing the Sabhapati, Up-Sabhapati and the Sachiva of the Gram Panchayat from amongst themselves.

(2) The meeting to be held under sub-section (1) shall be convened by the prescribed authority in such manner as may be prescribed.

20. (1) Every Gram Panchayat shall hold a meeting for transaction of its business at least twice in every month at the office of the Gram Panchayat or at such place within the local limits of the Gram Panchayat concerned and at such time as the Sabhapati of the Gram Panchayat may decide.

Election or nomination of Sabhapati, Up-Sabhapati, Sachiva and members to be published.

First meeting of Gram Panchayat.

Meeting of Gram Panchayats.

(2) The Sabhapati may, whenever he thinks fit, in the public interest or shall upon receipt of a written requisition of not less than one half of the total number of members of the Gram Panchayat or if directed by the Secretary of the Rural Development Department or District Development Officer-cum-Panchayat Officer or the District Collector of the concerned district, call a special meeting of the Gram Panchayat within a period of ten days from the date of receipt of the requisition or direction, as the case may be:

Provided that if the Sabhapati fails to call such special meeting within the specified period from the date of receipt of the requisition or direction, as the case may be, the Secretary of the Rural Development Department or District Development Officer-cum-Panchayat Officer or the District Collector of the concerned district may direct the Sachiva or any member of the Gram Panchayat to call such meeting at such time and at such place within the local limits of the Gram Panchayat concerned as the Sachiva or the member directed to call the meeting may, decide.

(3) Two-third of the total number of members constituting the Gram Panchayat shall form a quorum for a meeting of the Gram Panchayat:

Provided that no quorum shall be necessary for an adjourned meeting.

(4) The Sabhapati or in his absence, the Up-Sabhapati shall preside at the meeting of the Gram Panchayat and in the absence of both, the members present shall elect one from amongst themselves to preside at the meeting.

(5) All questions coming before a Gram Panchayat shall, unless otherwise specifically provided under this Act be decided by a majority of votes of the member present and voting:

Provided that in case of equality of votes the person presiding shall have a second or a casting vote.

(6) No member shall vote on, and take part in the discussions of any question coming up for consideration at a meeting of a Gram Panchayat if the question is one in which he has any direct or indirect pecuniary interest other than an interest as a member of public.

(7) If it appears to any member present at a meeting that the person presiding at the meeting has any such pecuniary interest in any matter before the meeting for discussion or any question coming up for consideration as referred to in sub-section (6) and a motion brought by him to that effect is carried, such a person shall not preside at such meeting and shall not take part therein, and for the purpose of sub-section (4) such person shall be deemed to be absent during the discussions or consideration of the particular matter.

21. No matter once finally disposed of by the Gram Panchayat shall be reconsidered by it within the period of six months unless the recorded consent of not less than one-half of its total number of members has been obtained thereto.

*Consideration
of question dis-
posed of by
Gram Pan-
chayat.*

*2. List of business
to be transacted
at a meeting.*

22. (1) A list of the business to be transacted at every meeting of a Gram Panchayat except at an adjourned meeting, shall be sent to each member of the Gram Panchayat, atleast seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting, other than the business for which notice has been so given except with the approval of the majority of the members present at such meeting:

Provided that non-receipt of a notice by a member shall not vitiate the proceedings of the meeting;

Provided further that if the Sabhapati thinks that a situation has arisen for which an emergent meeting of the Gram Panchayat should be called, he may call such meeting at such time and at such place within the local limits of the Gram Panchayat concerned after ensuring receipt of intimation of such emergency meeting by all

members.

(2) The business of the Gram Panchayat shall be transacted in the language commonly spoken and understood by the members.

(3) Minutes of the proceedings at each meeting of the Gram Panchayat shall be recorded in a book to be kept for this purpose and shall be read and signed by the Sabhapati of the meeting before the meeting disperses.

(4) The Sachiva of the Gram Panchayat shall, within a week after a meeting of the Gram Panchayat is held, send copies of minutes of every such meeting to the Secretary of the Rural Development Department and the District Development Officer-cum-Panchayat Officer of the concerned district.

23. The Sabhapati shall-

(a) regulate the meetings of the Gram Panchayat;

(b) be responsible for the maintenance of records and registers of the Gram

Panchayat;

(c) exercise supervision and control over the acts done and action taken by the members of the Gram Panchayat and such officers and other employees whose services may be placed at the disposal of the Gram Panchayat by the State Government;

(d) operate jointly with the Sachiva of the Gram Panchayat the fund of the Gram Panchayat including authorisation of payment, issue of cheques and refunds;

(e) issue receipts under his signature for money received by him on behalf of the Gram Panchayat;

(f) cause preparation of all statements and reports required by or under this Act;

(g) exercise such other powers, perform such other functions and discharge such other duties as the Gram Panchayat may, by general or special resolution, direct or as the State Government may prescribe.

24. The Up-Sabhapati shall-

(a) in the absence of the Sabhapati regulate the meetings of the Gram Panchayat;

(b) exercise such of the powers and perform such other functions and discharge such of the duties of the Sabhapati as the Sabhapati may, from time to time, delegate to him by order in writing;

Provided that the Sabhapati may at any time withdraw all or any of the powers, functions and duties so delegated to the Up-Sabhapati;

(c) during the absence of the Sabhapati, exercise all the powers, perform all the functions and discharge all the duties of the Sabhapati.

25. The member of a Gram Panchayat at any of the meeting may move resolution and put questions to the Sabhapati or Up-Sabhapati or the Sachiva, as the case may be, on matters connected with the administration of the Gram Panchayat or execution of any work or scheme undertaken by or entrusted to such Gram Panchayat.

26. (1) A Sabhapati or an Up-Sabhapati or a member of a Gram Panchayat may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the Sabhapati or the Up-Sabhapati or the member shall vacate his office and the casual vacancy shall be deemed to have occurred in such office:

Provided that a person tendering resignation may withdraw his resignation before it is accepted by the prescribed authority.

(2) When the resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the Gram Panchayat within a period of thirty days of such acceptance.

27. A Sabhapati or an Up-Sabhapati of a Gram Panchayat may, at any time be removed from office by a resolution of the Gram Panchayat carried by the majority of the members of the Gram Panchayat present at a meeting specially convened for the

Powers and duties of Sabhapati.

Powers and duties of Up-Sabhapati.

Right of individual member.

Resignation of Sabhapati or Up-Sabhapati or member.

Removal of Sabhapati and Up-Sabhapati.

purpose. Notice of such meeting shall be given to the prescribed authority:

Provided that at any such meeting while any resolution for the removal of-

(i) the Sabhapati from his office is under consideration: or

(ii) the Up-Sabhapati from his office is under consideration,

he shall not, though present, preside at such meeting and the provisions of sub-section (4) of section 20 shall apply in relation to any such meeting as they apply in relation to a meeting from which the Sabhapati or, as the case may be, the Up-Sabhapati, is absent.

Filling of casual vacancy in the office of Sabhapati or Up-Sabhapati.

28. (1) In the event of removal of a Sabhapati or an Up-Sabhapati under section 27 or when a vacancy occurs in the office of a Sabhapati or an Up-Sabhapati by resignation, death or otherwise, the Gram Panchayat shall elect another Sabhapati or Up-Sabhapati and the person so elected shall take office forthwith and shall hold such office for the unexpired term of office of his predecessor.

(2) No person who has been removed from office under section 27 shall be eligible for re-election to the vacancy so caused.

29. (1) The prescribed authority may, after giving an opportunity, to a member of a Gram Panchayat to show cause against the action proposed to be taken against him, by order remove him from office if-

(a) after his election he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or

(b) he was disqualified to be a member of the Gram Panchayat at the time of his election; or

(c) he incurs any of the disqualifications mentioned in section 16, after his election as a member of the Gram Panchayat; or

(d) he is absent from three consecutive meetings of the Gram Panchayat without the leave of the Gram Panchayat.

(2) Any member of a Gram Panchayat who is removed from his office by the prescribed authority under sub-section (1) may, within a period of thirty days from the date of the order, appeal to the Secretary to the Government of Sikkim in the Rural Development Department who may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

Explanation :- For the purpose of this sub-section, the term "Secretary" will mean only the Secretary.

(3) The order passed by such authority on such appeal shall be final.

30. (1) If the office of a member of a Gram Panchayat becomes vacant by reason of his death, resignation, removal or otherwise, such vacancy shall be filled in by election of another person under this Act. The person elected shall take office forthwith and shall hold such office for the unexpired term of office of his predecessor:

Provided that no election for filling in of a casual vacancy shall be held if the vacancy occurs within a period of six months preceding the date on which the term of office of the person concerned expires.

(2) No person who has been removed from his office under section 29 shall be eligible for re-election to the vacancy so caused.

31. (1) Every Gram Panchayat shall, at its first meeting at which a quorum is present, elect one of its members to be Sachiva of the Gram Panchayat:

Provided that no member who is not able to read or write any of the official languages of the State shall be qualified to be elected as a Sachiva:

Provided further that where no such person as referred to in the first proviso is available, the Gram Panchayat may appoint Panchayat Assistant appointed by the Secretary to the Government in the Rural Development Department to look after the works of Sachiva.

Filling of casual vacancy of member of Gram Panchayat.

Sachiva of Gram Panchayat.

(2) The Sachiva of the Gram Panchayat so elected or as the case may be, appointed shall assist the Sabhapati or the Up-Sabhapati, as the case may be, of the Gram Panchayat in due maintenance of the Gram Panchayat office and for proper organisation and execution of rural development schemes and shall be directly answerable to the members of the Gram Panchayat.

(3) The Sachiva shall be in charge of office of the Gram Panchayat and shall exercise such powers and perform such other functions and discharge such other duties as the State Government may, by rules made in this behalf, prescribe.

(4) The term of office of the Sachiva shall, subject to the provisions of section 33 be co-terminus with the term of the Gram Panchayat.

Resignation of Sachiva.

32. A Sachiva of a Gram Panchayat may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the Sachiva shall vacate his office and the casual vacancy shall be deemed to have occurred in such office:

Provided that a person tendering resignation may withdraw his resignation before it is accepted.

(2) When the resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the Gram Panchayat within a period of thirty days of such acceptance.

Removal of Sachiva.

33. (1) A Sachiva may, at any time, be removed from office by a resolution of the Gram Panchayat carried by the majority of the members of the Gram Panchayat present at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority.

(2) In the event of removal of a Sachiva under sub-section (1) or when a vacancy occurs in the office of a Sachiva by resignation, death or otherwise, the Gram Panchayat shall elect one of its members to be the Sachiva and the person so elected shall take office forthwith and shall hold such office for the un-expired term of office of his predecessor.

(3) No person who has been removed from his office under sub-section (1) shall be eligible for re-election to the vacancy so caused.

CHAPTER IV

DUTIES OF GRAM PANCHAYAT

Obligatory duties of Gram Panchayat.

34. Subject to any general or special direction of the State Government, the duties of a Gram Panchayat shall be to provide within the area under its jurisdiction for-

(a) sanitation, conservancy and drainage and the prevention of public nuisance;

(b) curative and preventive measures in respect of any infectious disease;

(c) supply of drinking water and the cleaning and disinfecting the sources of supply and storage of water;

(d) maintenance, repair and construction of village roads and protection thereof;

(e) the removal of encroachments of village roads or public places;

(f) the management of common grazing grounds, burning places and public graveyards;

(g) the supply of any local information which the District Collector or District Development Officer-cum-Panchayat Officer or the Zilla Panchayat may require, within the limits of the jurisdiction of the Gram Panchayat;

(h) organising voluntary labour for community work and works for the upliftment of its areas;

(i) control and administration of the Gram Panchayat Fund established under this Act;

- (j) the imposition, assessment and collection of taxes, fees or rates leviable under this Act;
- (k) construction and maintenance of dharmasalas;
- (l) regulating places for the disposal of dead bodies and carcasses and other offensive matters;
- (m) assisting the development of agriculture, forestry, animal husbandry, poultry, fisheries, village and cottage industries and co-operative;
- (n) registering births, deaths and marriages and annually submitting such records to the Zilla Panchayat;
- (o) maintenance of such records relating to cattle census, population census, crop census and census of unemployed persons and such other statistics as may be required and annually submitting such records to the Zilla Panchayat;
- (p) regulating inflow of animals within the area and their transfer;
- (q) destruction and disposal of ownerless and rabid dogs and disposal of unclaimed animals;
- (r) maintenance, upkeep and supervision of any building or other property which may be entrusted to it by the State Government for management;
- (s) assisting the Zilla Panchayat in preparing development plan of its area;
- (t) rendering assistance in extinguishing fire and protecting life and property when fire occurs;
- (u) any other local work or service of public utility which is likely to promote the health, comfort, convenience or material prosperity of the public not otherwise provided for in this Act;
- (v) such other duties as may be entrusted to it by the State Government from time to time.

*Other duties of
Gram Pan-
chayat.*

35. (1) A Gram Panchayat shall also perform such other functions as the State Government may assign to it in respect of-

- (a) primary, social, technical or vocational education;
- (b) rural dispensaries, health centres, maternity and child welfare centres;
- (c) minor irrigation;
- (d) grow more food campaign;
- (e) care of the infirm and destitute;
- (f) rehabilitation of displaced persons;
- (g) improved breeding of cattle, medical treatment of cattle and prevention of cattle diseases;
- (h) its acting as a channel through which Government assistance should reach the residents of the Gram;
- (i) bringing private waste land under cultivation;
- (j) promotion of plantations in the Gram;
- (k) arranging for cultivation of land lying fallow;
- (l) arranging for co-operative management of resources of the Gram;
- (m) implementation of such schemes as may be formulated or performance of such acts as may be entrusted to it by the State Government;
- (n) field publicity of matters connected with development works and other welfare measures undertaken by the State Government;
- (o) regulation of fairs, melas, hats and exhibition of local produce and products of local handicrafts and home industries;
- (p) assisting and advising the residents of the Gram in the matter of obtaining state loan and its distribution and repayment;
- (q) assisting in the implementation of land reform measure in its area;
- (r) the promotion and encouragement of education including adult education;
- (s) such other functions which the State Government may, from time to time,

by order in writing, entrust to such Gram Panchayat which in its opinion to promote directly or indirectly the welfare of the public.

(2) If the State Government is of opinion that a Gram Panchayat has persistently made default in the performance of any of the functions assigned to it under sub-section (1), the State Government may, after recording its reasons, withdraw such functions from such Gram Panchayat.

(3) Where the State Government assigns any functions to a Gram Panchayat under sub-section (1), it shall place such funds at the disposal of the Gram Panchayat as may be determined by the State Government for the due performance of such function.

CHAPTER V PROPERTY AND FUND

Property and Fund of Gram Panchayat.

36. All property within the limits of the jurisdiction of a Gram Panchayat other than property maintained by the Central or the State Government or a local authority or any other Gram Panchayat shall vest in and belong to the Gram Panchayat and shall with all other property of whatsoever nature or kind which may become vested in the Gram Panchayat, be under its direction, management and control.

37. (1) The State Government may allocate to a Gram Panchayat any public property situated within its jurisdiction, and thereupon such property shall vest in and come under the control of the Gram Panchayat.

(2) No property vested in or belonging to a Gram Panchayat shall be transferred by way of sale, gift, mortgage, exchange or lease except with the previous sanction of the State Government.

(3) Where the State Government is of opinion that any property vested in or belonging to a Gram Panchayat is required for the purpose of any national or State development plan or for any other public purpose, the State Government may resume such property, and upon such resumption, the property shall cease to vest in the Gram Panchayat and shall re-vest in the State Government.

(4) No compensation other than the amount paid by the Gram Panchayat for such transfer and the market value of any building or works erected or executed on such property by the Gram Panchayat at the time of resumption shall be payable. Any sum so received shall be credited to the Gram Panchayat Fund.

38. Where a Gram Panchayat requires land for carrying out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the District Collector for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Sikkim Land (Requisition and Acquisition) Act, 1977 and such land shall, on acquisition, vest in the Gram Panchayat.

39. (1) For every Gram Panchayat there shall be constituted a Gram Panchayat Fund bearing the name of Gram Panchayat on the basis of the review and recommendations made by the State Finance Commission and there shall be placed to the credit thereof-

(a) contributions and grants, if any, made by the Central or the State Government;

(b) contributions and grants, if any, made by a Zilla Panchayat or any other local authority;

(c) loans, if any, granted by the Central Government or the State Government;

(d) all receipts on accounts of taxes, rates and fees levied by the Gram Panchayat;

(e) all sums received by way of gift or contribution;

(f) all other sums received by or on behalf of the Gram Panchayat;

Allocation of properties to Gram Panchayat.

Acquisition of land for Gram Panchayat.

Gram Panchayat Fund.

(g) such percentage of the land revenue collected by it as may be determined by the State Government.

(2) Every Gram Panchayat shall set apart and apply annually such sum as may be required to meet the cost of its administration including allowances payable to the members.

(3) Every Gram Panchayat shall have the power to spend such sums as the State Government may, by order, specify for carrying out the purposes of this Act.

(4) The Gram Panchayat Fund shall be vested in the Gram Panchayat and the balance to the credit of the Fund shall be kept in such custody as the State Government may direct.

(5) Subject to such general control as the Gram Panchayat may exercise from time to time, all orders and cheques for payment from the Gram Panchayat Fund shall be signed by the Sabhapati or in his absence by the Up-Sabhapati.

40. (1) Subject to the rates which may be fixed by the State Government, a Gram Panchayat may levy the following taxes, rates and fees, namely :-

(a) a tax on fairs, melas, hats and other entertainments;

(b) a general sanitation tax for the construction or maintenance or both the construction and maintenance of public latrines and for the removal and disposal of refuse;

(c) a water rate where arrangements for the supply of water for drinking, irrigation or any other purpose are made;

(d) a fee for temporary erection on, or putting up projections over, or temporary occupation of, any village road or place;

(e) a fee on private latrines, premises or compounds cleaned by the Gram Panchayat agency;

(f) a fee for grazing cattle on grazing lands vested in a Gram Panchayat;

(g) a fee on the registration of animals sold in any market or place belonging to or under the control of the Gram Panchayat;

(h) a market fee on persons exposing goods for sale in any market or on any place or any building or structure therein belonging to or under the control of the Gram Panchayat;

(i) a fee for the use of Dharmasalas and camping grounds;

(j) a fee for drainage where system of drainage has been introduced by the Gram Panchayat;

(k) a temporary tax for special works of public utility;

(l) a tax on houses.

(2) The Gram Panchayat shall not levy taxes, rates or fees referred to in sub-section (1) if such taxes, rates or fees have already been levied by any other authority under any law for the time being in force or by any other local authority.

41. (1) The State Government may, in the manner specified in the notification, regulate the imposition, assessment and collection of taxes, rates and fees under section 40.

(2) Subject to the provisions of this Act or rules made thereunder, no person shall object in respect of his liability to any assessment made or tax imposed under this Act.

Power of State Government to regulate taxes, rates and fees.

Appeal against taxation, fees and rates.

Recovery of arrears.

42. An appeal against the levy of any tax, rate or fee under section 40 may be preferred to the prescribed authority in such manner and within such time as may be prescribed and the decision of such authority shall be final.

43. Any arrear of tax, rate or fee levied under section 40 shall be recoverable as arrears of land revenue or public demand if the Gram Panchayat passes a resolution to that effect and communicates it to the District Collector.

Action by District Collector.

44. (1) The District Collector, on receipt of such communication of the sum recoverable under section 43 and on being satisfied with the demand, shall proceed to recover it.

(2) Any sum so recovered shall be sent to the Gram Panchayat and shall be credited to the Gram Panchayat Fund.

45. (1) If on a complaint made to it or otherwise it appears to the State Government that any tax, rate or fee levied by a Gram Panchayat is excessive, it may, after calling for a report from the Gram Panchayat in this regard, abolish, suspend or reduce the amount of any such tax, rate or fee.

(2) The State Government may, on its own motion or otherwise after giving the Gram Panchayat an opportunity of expressing its view in the matter, by order, exempt from the payment of any tax in whole or in part-

- (a) any person or class of persons; or
- (b) any property or description of properties;

subject to such conditions as may be specified in such order.

46. (1) Every Gram Panchayat shall, at such time and in such manner as may be prescribed, prepare each year a budget of its estimated receipts and disbursements for the following year and shall submit the budget to the State Government for approval through the Zilla Panchayat of the District concerned.

(2) No expenditure shall be incurred unless the budget is approved by the State Government.

47. A Gram Panchayat may prepare in each year supplementary estimate providing for any modification of its budget and submit it to the State Government for approval through the Zilla Panchayat of the District concerned within such time and in such manner as may be prescribed.

48. (1) Accounts of receipt and expenditure of every Gram Panchayat shall be maintained in such forms and in such manner as may be prescribed.

(2) An Officer not below the rank of Chief Accounts Officer of the Sikkim State Finance and Accounts Service appointed by the State Government shall audit the accounts of the Gram Panchayat as soon as may be after the end of each financial year in the manner provided under Chapter IX of this Act.

Power of State Government in regard to relief in taxes, rates and fees.

Budget of Gram Panchayat.

Supplementary Budget.

Accounts and Audit.

Zilla Panchayat and its constitution.

Composition of the Zilla Panchayat.

CHAPTER VI

CONSTITUTION OF ZILLA PANCHAYAT

49. (1) For every district the State Government shall, by notification constitute a Zilla Panchayat bearing the name of the district.

(2) For the purpose of electing members as referred to in sub-section (1), the State Government may, by notification, divide the district into territorial constituencies and determine the number of members to be elected from each such constituency:

Provided that the number of members to be elected in each constituency shall, as far as practicable, be in the same proportion to the total number of persons to be elected for the Zilla Panchayat as the population of the constituency bears to the total population of the Zilla Panchayat area.

50. (1) A Zilla Panchayat shall, subject to the provisions of sub-section (4), consist of the following members, namely:-

(a) directly elected members from the territorial constituencies in the district;

(b) Sabhapatis of the Gram Panchayats within the district;

(c) Members of both the Houses of Parliament and the Legislative Assembly of the State elected from a constituency comprising the district or any part thereof.

(2) Each constituency will elect one or more members through direct election in such manner as may be prescribed.

(3) The term of office of the members of Zilla Panchayat shall, subject to the

provisions of section 64, be co-terminus with the term of the Zilla Panchayat.

(4) The State Government shall, by notification, reserve seats for the Scheduled Castes and the Scheduled Tribes in every Zilla Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled up by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats shall be allotted by rotation to different constituencies in a Zilla Panchayat in such manner as may be prescribed.

(5) Not less than one third of the total number of seats reserved under sub-section (4) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(6) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled up by direct election in every Zilla Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Zilla Panchayat in such manner as may be prescribed.

51. (1) Every Zilla Panchayat shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

(2) A Zilla Panchayat shall have power to acquire, hold and dispose of property and to enter into contract:

Provided that in all cases of acquisition or disposal of immovable property, the Zilla Panchayat shall obtain the previous approval of the State Government.

52. (1) Every Zilla Panchayat, save as otherwise provided in this Act, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Zilla Panchayat, which is functioning immediately before such amendment, till the expiration of its duration specified in sub-section (1).

(3) An election to constitute a Zilla Panchayat shall be completed -

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

(b) in case of dissolution, before the expiration of a period of six months from the date of such dissolution:

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

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

(5) When a new Zilla Panchayat is thus duly constituted the old Zilla Panchayat shall stand dissolved.

53. The provisions of section 16 relating to disqualification of members of Gram Panchayat shall, mutatis-mutandis be applicable to the elected members of the Zilla Panchayat also.

54. (1) Every Zilla Panchayat shall, at its first meeting at which a quorum is present, elect in such manner as the State Government may, by notification specify, one of its members to be the Adhakshya and another member to be Up-Adhakshya of the Zilla Panchayat:

Provided that the members referred to in clause (c) of sub-section (1) of section 50 shall not be eligible for such election, nor shall they have any voting right thereof.

(2) The State Government shall, by notification, reserve-

Incorporation of Zilla Panchayat.

Duration of Zilla Panchayats.

Disqualification of members of Zilla Panchayat.

Adhakshya and Up-Adhakshya.

(a) such number of offices of Adhakshya and Up-Adhakshya of Zilla Panchayat in the State for the persons belonging to the Scheduled Castes and the Scheduled Tribes and the numbers of such offices bearing as nearly as may be the same proportion to the total number of offices in the State as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State;

(b) not less than one-third of the total number of offices of Adhakshya and Up-Adhakshya in the State from each category reserved for persons belonging to the Scheduled Castes, the Scheduled Tribes and those which are non-reserved, for women:

Provided that the Offices reserved under this sub-section shall be allotted by rotation to different Zilla Panchayat.

Explanation :- For the removal of doubts it is hereby declared that the principle of rotation for the purposes of reservation of offices under this sub-section shall commence from the first election to be held after the commencement of this Act.

(3) The Adhakshya and Up-Adhakshya shall, subject to the provisions of section 64 and to their continuing as members, hold office for a period of five years.

(4) When-

(a) the office of the Adhakshya falls vacant by reason of death, resignation, removal or otherwise; or

(b) the Adhakshya is, by reason of leave, illness or other cause, temporarily unable to act, the Up-Adhakshya shall exercise the powers, perform the functions and discharge the duties of the Adhakshya until a new Adhakshya is elected and assumes office or until the Adhakshya resumes his duties, as the case may be.

(5) When -

(a) the office of the Up-Adhakshya falls vacant by reason of death, resignation, removal or otherwise; or

(b) the Up-Adhakshya is, by reason of leave, illness or other cause, temporarily unable to act, the Adhakshya shall exercise the powers, perform the functions and discharge the duties of the Up-Adhakshya until a new Up-Adhakshya is elected and assumes office or until the Up-Adhakshya resumes his duties, as the case may be.

(6) When the offices of the Adhakshya and the Up-Adhakshya are both vacant or the Adhakshya and the Up-Adhakshya are temporarily unable to act, the prescribed authority may appoint an Adhakshya and an Up-Adhakshya from among the members of the Zilla Panchayat to act as such until an Adhakshya or an Up-Adhakshya are elected and assume office or resume his duties, as the case may be.

55. Every election or nomination of an Adhakshya, an Up-Adhakshya and members of a Zilla Panchayat shall be published by the State Government by notification and such persons shall enter upon their respective offices from the date of such publication.

56. (1) Notwithstanding any vacancy in the membership of the Zilla Panchayat, the prescribed authority shall as soon as may be (but before the expiration of thirty days from the date of publication of the notification under section 55) call a meeting of the members of a Zilla Panchayat at such place and at such time as he may fix for electing an Adhakshya and Up-Adhakshya.

(2) The meeting to be held under sub-section (1) shall be called the first meeting of the Zilla Panchayat and may be convened by the prescribed authority in such manner as may be prescribed.

57. (1) Every Zilla Panchayat shall hold a meeting for transaction of its business atleast once in every three months at the office of the Zilla Panchayat or at such place within the local limits of the district concerned and at such time as the Adhakshya of the Zilla Panchayat may fix.

(2) The Adhakshya may, whenever he thinks fit in the public interest or shall

Notification of election, nomination, etc.

First meeting of the Zilla Panchayat.

Meeting of Zilla Panchayat.

upon a written requisition of not less than one half of the total number of members of the Zilla Panchayat or if directed by the Secretary to the Government in the Rural Development Department call a special meeting of the Zilla Panchayat within a period of ten days from the date of receipt of the requisition or direction, as the case may be :

Provided that if the Adhakshya fails to call such special meeting within the specified period from the date of receipt of requisition or direction, as the case may be, the Secretary to the Government in the Rural Development Department may call such meeting which shall be held at such time and in such place within the local limits of the district concerned as he may fix.

(3) Two-third of the total number of members shall form a quorum for a meeting of the Zilla Panchayat:

Provided that no quorum shall be necessary for an adjourned meeting.

(4) The Adhakshya or in his absence, the Up-Adhakshya shall preside at the meeting of the Zilla Panchayat and in the absence of both, the members present shall elect one member from amongst themselves to preside at the meeting.

(5) All questions coming before a Zilla Panchayat shall, unless otherwise specifically provided under this Act, be decided by a majority of votes of the members present and voting:

Provided that in case of equality of votes the person presiding shall have a second or casting vote.

(6) No member shall vote on, and take part, in the discussion of any question coming up for consideration at a meeting of Zilla Panchayat if the question is one in which he has any direct or indirect pecuniary interest other than an interest as a member of the public.

(7) If it appears to any member present at a meeting that the person presiding at the meeting has any such pecuniary interest in any matter before the meeting for discussion or any question coming up for consideration as referred to in sub-section (6) and a motion brought by him to that effect is carried, such a person shall not preside at such meeting and shall not take part therein, and for the purposes of sub-section (4) such person shall be deemed to be absent during the discussion or consideration of the particular matter.

Reconsideration of questions disposed of by Zilla Panchayat.

List of business to be transacted at a meeting.

58. (1) A list of the business to be transacted at every meeting of a Zilla Panchayat except at an adjourned meeting, shall be sent to each member of the Zilla Panchayat at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting other than the business of which notice has been so given except with the approval of the majority of the members present at such meeting:

Provided that non-receipt of a notice by a member shall not vitiate the proceedings of a meeting:

Provided further that if the Adhakshya thinks that a situation has arisen for which an emergent meeting of the Zilla Panchayat should be called, he may call such meeting after giving three days notice to the members :

Provided also that not more than one matter shall be included in the list of business to be transacted at the meeting called under the second proviso.

(2) The business of the Zilla Panchayat shall be transacted in the language spoken and understood by the members.

(3) Minutes of the proceedings of each meeting of the Zilla Panchayat shall be recorded in a book to be kept for this purpose and shall be read out and signed by the

Adhakshya of the meeting before the meeting disperses.

(4) The Sachiva of a Zilla Panchayat shall, within a week after meeting of the Zilla Panchayat send copies of minutes of every such meeting to the District Development Officer-cum-Panchayat Officer and the Secretary.

Powers and duties of Adhakshya.

60. The Adhakshya shall-

(a) regulate the meetings of the Zilla Panchayat;

(b) be responsible for the maintenance of record and registers of the Zilla Panchayat;

(c) exercise supervision and control over the act done and action taken by the members of the Zilla Panchayat and such officers and such other employees whose services may be placed at the disposal of the Zilla Panchayat by the State Government;

(d) operate jointly with the Sachiva of the Zilla Panchayat the Fund of the Zilla Panchayat including authorisation of payment and refunds;

(e) cause to issue receipts under his signature or signature of Sachiva for sums of money received by him for and on behalf of the Zilla Panchayat;

(f) cause preparation of all statements and reports required by or under this Act;

(g) exercise such other powers, perform such other functions and discharge such other duties as the Zilla Panchayat may, by general or special resolution, direct or as the State Government may, by order specify :

Provided that the Adhakshya shall not exercise such powers, perform such functions or discharge such duties as may be required by the rules made under this Act to be exercised, performed or discharged by the Zilla Panchayat at a meeting.

Powers and duties of Up-Adhakshya.

61. The Up-Adhakshya shall -

(a) in the absence of the Adhakshya, preside over and regulate the meetings of the Zilla Panchayat ;

(b) exercise such of the powers, perform such of the functions and discharge such of the duties of the Adhakshya as the Adhakshya may, from time to time, delegate to him by order in writing:

Provided that the Adhakshya may at any time withdraw all or any of the powers, functions and duties so delegated to the Upadshakshya;

(c) during the absence of the Adhakshya, exercise all the powers, perform all the functions and discharge all the duties of the Adhakshya.

Right of individual members.

Resignation of Adhakshya or Up-Adhakshya or a member.

62. At a meeting of a Zilla Panchayat, a member may move any resolution and put questions to the Adhakshya or Upadshakshya, as the case may be, on matters connected with the administration of Zilla Panchayat or execution of rural works or schemes entrusted to or undertaken by such Zilla Panchayat.

63. (1) An Adhakshya, or an Up-Adhakshya or a member of a Zilla Panchayat may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the Adhakshya or the Up-Adhakshya or the member shall vacate his office and casual vacancy shall be deemed to have occurred in such office :

Provided that a person tendering resignation may withdraw his resignation before it is accepted.

(2) When the resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the Zilla Panchayat within thirty days of such acceptance.

Removal of Adhakshya and Up-Adhakshya.

64. (1) An Adhakshya or an Up-Adhakshya may, at any time, be removed from office by a resolution of the Zilla Panchayat passed by the majority of the members of the Zilla Panchayat present and voting at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority:

Provided that any such meeting while passing any resolution for the removal of-

(i) the Adhakshya from his office is under consideration ; or

(ii) the Up-Adhakshya from his office is under consideration,

he shall not, though he is present, preside at such meeting and the provisions of sub-section (4) of section 57 shall apply in relation to every such meeting as they apply in relation to a meeting from which the Adhakshya or, as the case may be, the Up-Adhakshya is absent.

(2) No person who has been removed from his office under sub-section (1) shall be eligible for re-election to the vacancy so caused.

65. In the event of removal of an Adhakshya or an Up-Adhakshya under section 64 or when a vacancy occurs in the office of the Adhakshya or Up-Adhakshya by resignation, death or otherwise, the Zilla Panchayat shall elect another Adhakshya or Up-Adhakshya, as the case may be. The person so elected shall take office forthwith and shall hold office for the unexpired term of office of his predecessor.

Filling of casual vacancy in the office of Adhakshya or Up-Adhakshya.

Removal of member of Panchayat.

66. (1) The prescribed authority may, after giving opportunity to a member of a Zilla Panchayat other than a member specified under clause (c) of sub-section (1) of section 50 to show cause against the action proposed to be taken against him, by order, remove him from office if -

(a) after his election he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or

(b) he was disqualified to be a member of the Zilla Panchayat at the time of his election; or

(c) he incurs any of the disqualifications specified in section 16 except clauses (e) and (f) after his election as a member of the Zilla Panchayat ; or

(d) he is absent from three consecutive meetings of the Zilla Panchayat without the leave of the Zilla Panchayat provided he is not an ex-officio member of the Zilla Panchayat under clause (c) of sub-section (1) of section 50.

(2) Any member of a Zilla Panchayat who is removed from his office by the prescribed authority under sub-section (1) may, within thirty days from the date of the order, appeal to the Secretary to the Government in the Rural Development Department, who may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

Explanation:- For the purpose of this sub-section, the term "Secretary" will mean only the Secretary.

(3) The order passed by such authority on such appeal shall be final.

(4) If a member of a Zilla Panchayat referred to in clause (c) of sub-section (1) of section 50 ceases to be the member of the Parliament or as the case may be, member of the Legislative Assembly of the State, he shall cease to be the member of the Zilla Panchayat and the newly elected person shall become the member of the Zilla Panchayat.

67. (1) If the office of a member of a Zilla Panchayat becomes vacant by reason of his death, resignation, removal or otherwise, such vacancy shall be filled in by election of another person under this Act. The person so elected shall take office forthwith and shall hold such office for the unexpired term of office of his predecessor :

Provided that no election for filling in of a casual vacancy shall be held if the vacancy occurs within a period of six months preceding the date on which the term of office of the person concerned expires.

(2) No person who has been removed from his office under section 66 shall be eligible for re-election to the vacancy so caused.

68. (1) There shall be a Sachiva for a Zilla Panchayat appointed by the State Government on such terms and conditions as may be prescribed.

Filling of casual vacancy of elected member of Zilla Panchayat.

Sachiva of Zilla Panchayat.

(2) The Sachiva shall have authority to supervise all records of every Gram Panchayat falling under the jurisdiction of a Zilla Panchayat of a concerned district.

(3) The Sachiva shall be in charge of the office of the Zilla Panchayat and shall discharge such duties and perform such functions as may be prescribed.

CHAPTER VII POWERS AND DUTIES OF ZILLA PANCHAYAT

Obligatory duties of Zilla Panchayat.

69. (1) Subject to any general or special directions of the State Government, a Zilla Panchayat shall have power in respect of -

- (a) regulating melas or hats within its local limits;
- (b) construction and maintenance of Panchayat Ghars, Dharmasalas and rest houses;
- (c) construction, repair and maintenance of such small irrigation projects of such class or types thereof, as may be specified by the State Government by general or special order in this behalf, and regulating of supply of water therefrom for irrigation purposes;
- (d) regulating supply of water for irrigation or drinking water supply schemes constructed by the Government and entrusted to it for maintenance and repairs;
- (e) regulating, maintaining and developing of lands vested in it by the State Government;
- (f) organising plantation programme in the public land, road sides and such other places as may be specified for promotion of social forestry and environmental conservation and maintaining and regulating of such forests;
- (g) establishing and maintaining primary schools and organising adult education centres;
- (h) establishing health centres and maternity and child welfare centres;
- (i) managing or maintaining any works of public utility and adopting measures for the relief of distress;
- (j) preparing plans for all round development of the district after obtaining previous approval of the State Government and with such technical assistance as may be made available by the State Government;
- (k) co-ordinating and integrating the development plans and schemes prepared by Gram Panchayats within its jurisdiction;
- (l) fulfilling any other obligation imposed by or under this Act or by any other law for the time being in force or by general or special order of the State Government in this behalf.

Other duties of Zilla Panchayat.

70. (1) Subject to such condition as may be imposed by the State Government, a Zilla Panchayat may, if the State Government so directs make provisions for -

- (a) the promotion of opportunity of employment through community farming by organising model agriculture or dairy farms and small scale village industries;
- (b) the organisation and maintenance of clubs and other places for recreation or games;
- (c) establishment and maintenance of library or reading rooms and public radio listening centres;
- (d) construction and maintenance of destitute homes, slaughter houses and encamping grounds;
- (e) rendering assistance in extinguishing fire and protecting life and property when fire occurs;
- (f) assisting in the prevention of burglary and dacoity;
- (g) the promotion of socio-cultural and communal harmony;
- (h) the promotion of agriculture and allied activities connected with it ;
- (i) any other local work or service of public utility which is likely to promote

the health, comfort, convenience or material prosperity of the public not otherwise provided for in this Act.

(2) Where the State Government directs a Zilla Panchayat to make provision for any of the items enumerated in sub-section (1), it shall place such funds at the disposal of the Zilla Panchayat as may be determined by the State Government for the purpose.

(3) A Zilla Panchayat shall have the power to advise the State Government on all matters relating to all round development of rural areas.

(4) Notwithstanding anything in sub-section (1), a Zilla Panchayat shall not undertake or execute any scheme confined to a Gram unless the implementation of such a scheme is beyond the competence of the Gram Panchayat concerned financially or otherwise. In the latter case the Zilla Panchayat may execute the scheme itself or entrust its execution to the Gram Panchayat and give such assistance as may be required:

Provided that a Zilla Panchayat shall undertake or execute any scheme if it extends to more than one Gram.

Joint execution of schemes by two or more Zilla Panchayats.

71. The Zilla Panchayats of two or more adjacent districts may jointly undertake and execute at common cost any development schemes or project on such terms and conditions as may be agreed upon, and in case of any difference as to the interpretation of such terms and conditions the matter shall be referred to the State Government whose decision shall be final.

Power of supervision by Zilla Panchayat over Gram Panchayats.

72. A Zilla Panchayat shall exercise general powers of supervision over Gram Panchayats in the district and it shall be the duty of Gram Panchayat to give effect to any direction of the Zilla Panchayat on matters of policy or planning for development.

CHAPTER VIII

PROPERTY AND FUND OF ZILLA PANCHAYAT

Works constructed by a Zilla Panchayat to vest in it.

73. All roads, buildings or other works constructed by a Zilla Panchayat with its own funds shall vest in it.

Allocation of properties to Zilla Panchayat.

74. (1) The State Government may allocate to a Zilla Panchayat any public property of whatsoever nature or kind situated within its local limits, and thereupon, such property shall vest in and come under the control of the Zilla Panchayat.

(2) No property vested in or belonging to a Zilla Panchayat shall be transferred by way of sale, gift, mortgage, exchange or lease without the previous sanction of the State Government.

(3) Where the State Government is of opinion that any property vested in or belonging to a Zilla Panchayat is required for the purpose of any National or State Development plan or for any other public purpose, the State Government may resume such property and upon such resumption the property shall cease to vest in the Zilla Panchayat and shall re-vest in the State Government.

(4) No compensation other than the amount paid by the Zilla Panchayat for such transfer and the market value of any building or works erected or executed on such property by the Zilla Panchayat at the time of such resumption shall be payable. Any sum so received shall be credited to the Zilla Panchayat Fund.

Acquisition of land for Zilla Panchayat.

75. Where a Zilla Panchayat requires land for carrying out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement it may make an application to the District Collector for

Zilla Panchayat Fund.

the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Sikkim Land (Requisition and Acquisition) Act, 1977.

76. (1) For every Zilla Panchayat there shall be constituted a Zilla Panchayat Fund bearing the name of the Zilla Panchayat and there shall be placed to the credit thereof-

(a) contribution and grants, if any, made by the Central or the State Government including such portion of land revenue collected within its jurisdiction as may be determined by the State Government;

(b) contribution and grants, if any, made by any other local authority;

(c) loans, if any, granted by the Central or State Government;

(d) proceeds of collection of revenues in respect of schemes, projects and other properties undertaken or vested in the Zilla Panchayat by the Government at such rates as may be determined by the State Government;

(e) such rates, fees, taxes, as may be imposed and realised under the provisions of this Act;

(f) such sums received from the Government for fulfilling duties and obligations entrusted to the Zilla Panchayat by the State Government;

(g) all other sums received by or on behalf of the Zilla Panchayat.

(2) Every Zilla Panchayat shall set apart and apply annually such sum as may be required to meet the cost of its administration including allowances payable to the members.

(3) Every Zilla Panchayat shall have the power to spend such sums as the State Government may, by order, specify for carrying out the purposes of this Act.

(4) The Zilla Panchayat Fund shall be vested in the Zilla Panchayat and the amount standing to the credit of the Fund shall be kept in such custody or invested in such manner as the State Government may, from time to time, direct.

(5) Notwithstanding anything contained in clause (d) of section 60 but subject to such general control as the Zilla Panchayat may exercise from time to time, orders and cheques for payment from the Zilla Panchayat Fund shall be signed by the Sachiva.

77. (1) Subject to the maximum rates which may be fixed by the State Government, a Zilla Panchayat may levy following taxes, rates and fees, namely :-

(a) a tax on fairs, melas and other entertainments;

(b) a general sanitation tax for the construction, maintenance, or both the construction and maintenance of public latrines and for the removal and disposal of refuse;

(c) a water rate where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the Zilla Panchayat within its jurisdiction;

(d) a fee for temporary erection on, or putting up projections over, or temporary occupation of any village road or place;

(e) a fee on private latrines, premises or compounds cleaned by the Zilla Panchayat agency;

(f) a fee for grazing cattle on the grazing lands vested in a Zilla Panchayat;

(g) a fee on the registration of animals sold in any market or place belonging to or under the control of the Zilla Panchayat;

(h) a market fee on persons exposing goods for sale in any market or at any place or in any building or structure therein belonging to or under the control of the Zilla Panchayat;

(i) a fee for the use of dharamsalas, rest houses, slaughter houses and encamping grounds;

(j) a fee for drainage where system of drainage has been introduced by the Zilla Panchayat;

(k) a temporary tax for special works of public utility.

(2) The Zilla Panchayat shall not levy taxes, rates or fees referred to in sub-

Imposition of taxes, rates and fees.

section (1) if such taxes, rates or fees have already been levied by the State Government or any other authority under any law for the time being in force or by any other local authority authorised by the State Government.

Power of State Government to regulate taxes.

Appeal against taxation, rate or fee.

Recovery of arrears.

Action by District Collector.

Power of State Government in regard to relief in taxes, rates and fees.

Budget of Zilla Panchayat.

Supplementary Budget.

Accounts.

Audit of accounts of fund.

Submission of accounts to audit.

Powers of Auditor.

78. (1) The State Government may make rules to regulate the imposition, assessment to, and collection of taxes, rates and fees under section 77.

(2) Subject to the provisions of this Act or rules made thereunder, no person shall object in respect of his liability to any assessment made or tax imposed under this Act.

79. An appeal against any tax, rate or fee under section 77 may be preferred to the prescribed authority in such manner and within such time as may be prescribed and the decision of such authority shall be final.

80. Any arrear of tax, rate or fee imposed under section 80 shall be recoverable as arrears of land revenue or public demand if the Zilla Panchayat passes a resolution to that effect and communicates it to the District Collector.

81. (1) The District Collector on receipt of communication under section 77 and on being satisfied with the demand shall proceed to recover it.

(2) Any sum so recovered shall be sent to the Zilla Panchayat and shall be credited to the Zilla Panchayat Fund.

82. (1) If on a complaint made to it or otherwise, it appears to the State Government that any tax, rate or fee imposed by a Zilla Panchayat, is excessive, it may, after calling a report from the Zilla Panchayat in this regard, abolish or suspend or reduce the amount of any tax, rate or fee, as the case may be.

(2) The State Government may, on its own motion or otherwise after giving the Zilla Panchayat an opportunity of expressing its view in the matter, by order, exempt-

(a) any person or class of persons; or

(b) any property or description of properties, from the payment of whole or part of any tax, rate or fees subject to such conditions as may be specified in such order.

83. (1) Every Zilla Panchayat shall at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and expenditure for the next financial year and submit it to the State Government for approval.

(2) No expenditure shall be incurred unless the budget is approved by the State Government.

84. A Zilla Panchayat may prepare in each year supplementary estimates providing for any modification of its budget and submit it to the State Government for approval within such time and in such manner as may be prescribed.

85. A Zilla Panchayat shall keep such accounts in such manner as may be prescribed.

CHAPTER IX

AUDIT OF ACCOUNT OF GRAM AND ZILLA PANCHAYAT FUNDS

86. The accounts of the fund of a Gram Panchayat or Zilla Panchayat shall be examined and audited by an auditor appointed under sub-section (2) of section 48 at such place and in such manner as may be prescribed.

87. The Sabhapati or, as the case may be, the Adhakshya shall produce, or cause to be produced to the auditor all such accounts of the Fund of the Gram Panchayat or the Zilla Panchayat concerned as may be required by the auditor.

88. For the purposes of an audit under this Act an auditor may-

(a) require in writing the production before him of any document or the supply of any information which he considers to be necessary for the proper conduct of the audit;

(b) require in writing the personal appearance before him of any person

accountable for, or having the custody or control of, any such document, or having, directly or indirectly, whether by himself or his partner, any share or interest in any contract made with, by or on behalf of, the members of the Gram Panchayat or the Zilla Panchayat concerned;

(c) require any person so appearing before him to make and sign a declaration in respect of any such document or to answer any question or prepare and submit any statement;

(d) in the event of an explanation being required from the Adhakshya or other member of the Zilla Panchayat, in writing, invite such person to meet him, and shall, in writing, specify the point on which the explanation is required.

Penalty.

89. Any person who neglects or refuses to comply with the requisition made by the auditor under section 88 within such time as may be specified, shall, on conviction by a court, be punishable with a fine which may extend to two thousand rupees in respect of each item included in the requisition.

Audit Report.

90. (1) Within two months from the date on which an audit under this Act is completed, the auditor shall prepare a report and send a copy of the report to the Sabhapati, the Adhakshya, as the case may be, of the Gram Panchayat or the Zilla Panchayat and to the State Government.

(2) The auditor shall append to his report a statement showing-

(a) the grants-in-aid received by the Gram Panchayats or the Zilla Panchayat and the expenditure incurred therefrom;

(b) any material improbity or irregularity which he may observe in the expenditure or in the recovery of money due to the Gram Panchayats or the Zilla Panchayat or in the account of the Gram Panchayats, or the Zilla Panchayat Fund;

(c) any loss or wastage of money or other property owned by or vested in the Gram Panchayat or the Zilla Panchayat.

Action on audit report.

91. (1) Within two months from the date of receipt of the report referred to in section 90, the Gram Panchayat or the Zilla Panchayat concerned shall, at a meeting, remove or cause to be removed any defect or irregularity pointed out in the report and shall also inform the auditor of the action taken by it. The Gram Panchayat or the Zilla Panchayat concerned shall give reasons or explanations if any defect or irregularity is not removed.

(2) If, within the period referred to in sub-section (1), no information is received by the auditor from the Gram Panchayat or the Zilla Panchayat concerned or if the reasons or explanations given by it for not removing any defect or irregularity pointed out in the report is not considered sufficient by the auditor, the auditor shall if he has not already exercised or does not propose to exercise the powers conferred upon him by section 92 refer the matter to the State Government within such time and in such manner as the State Government may prescribe.

(3) On receipt of the report under sub-section (2), it shall be competent for the State Government to pass such orders thereon as it may think fit. The orders of the State Government shall, save as provided in sections 92 and 93 be final and the Gram Panchayat or the Zilla Panchayat concerned shall take action in accordance with such orders.

(4) If the Gram Panchayat or the Zilla Panchayat concerned fails to comply with the order within the period specified therein, the State Government may empower any officer of the State Government to carry out the order.

(5) The officer empowered under sub-section (4) shall, for the purpose of carrying out the order, exercise any of the powers which might have been exercised by the Gram Panchayat or Zilla Panchayat concerned.

Power of auditor to surcharge etc.

92. (1) The auditor, after giving the person concerned an opportunity to submit an explanation within a time to be specified by him and after considering such explanation, shall disallow every item of account contrary to law and surcharge the same on the person

making or authorising the making of the illegal payments, and shall charge against any person responsible for the amount of any loss incurred by the negligence or misconduct of that person, and shall, in every such case, certify the amounts due from such person:

Provided that the Auditor may in his discretion waive the surcharge or charge in cases where the amount involved does not exceed fifty rupees.

(2) For the purposes of this section any member of Gram Panchayat or Zilla Panchayat, as the case may be, who is present at a meeting at which a motion or resolution is passed authorising any expenditure which is subsequently disallowed under sub-section (1) or authorising any action which results in any such expenditure, shall be deemed to be a person authorising such expenditure if dissent is not recorded in the proceedings. All such persons shall be held jointly and severally liable for such expenditure.

(3) The Auditor shall record in writing his reasons for every disallowance, surcharge and charge made under sub-section (1) and shall, in such manner as may be prescribed, send a certificate of the amount due and a copy of the reasons for his decision to the person in respect of whom the certificate is made, and shall also furnish copies thereof to the Sabhapati or Adhakshya, as the case may be, and the State Government.

(4) The State Government may, of its own motion and within one year from the receipt by it of the copy of the certificate, set aside or modify any disallowance, surcharge or charge and any certificate in respect thereof made by the auditor.

Appeal.

93. (1) Any person from whom any sum has been certified by the auditor to be due under section 92 may, within thirty days of the receipt by him of the certificate, appeal to the State Government to set aside or modify the disallowance, surcharge or charge in respect of which the certificate was made and the State Government may pass thereon such orders as it thinks fit, and such orders shall be final.

(2) Where a person referred to in sub-section (2) of section 92 who has been surcharged as authorising an illegal expenditure, appeals to the State Government under this section, the State Government shall set aside such surcharge if it is proved to its satisfaction that such person voted for the resolution or motion in good faith.

Payment of certified sums.

94. (1) The sum certified by the auditor to be due from any person under section 92 or when an appeal is made under sub-section (1) of section 93, such sum as may be ordered by the State Government to be due from such person shall, within two months of the date of certification, or order, as the case may be, be paid by such person to the Gram Panchayat or the Zilla Panchayat concerned which shall credit the sum to the Fund of the Gram Panchayat or the Zilla Panchayat concerned.

(2) Any sum not paid in accordance with the provisions of sub-section (1) shall be recoverable as arrears of land revenue if the Gram Panchayat or the Zilla Panchayat, as the case may, passes a resolution to that effect and communicates it to the District Collector.

(3) The District Collector on receipt of such communication under sub-section (2) and on being satisfied with the demand, shall proceed to recover it as soon as may be and the sum so recovered by him shall be sent to the Gram Panchayat or Zilla Panchayat concerned and the same shall be credited to the Fund of the Gram Panchayat and or the Zilla Panchayat concerned.

Certain costs and expenses payable out of Funds.

95. (1) All expenses incurred by the Gram Panchayat or the Zilla Panchayat concerned in complying with any requisition of the auditor under section 88 and in prosecuting an offender under section 89 shall be paid from the Fund of the Gram Panchayat or the Zilla Panchayat concerned.

(2) All expenses incurred by the District Collector in connection with the proceedings for recovery of any sum under sub-section (3) of section 94 from a person, if not recovered from the person, shall be paid from the Fund of the Gram Panchayat or the Zilla Panchayat concerned.

CHAPTER X

CONSTITUTION OF THE STATE FINANCE COMMISSION

Definition.

96. In this Chapter "Commission" means the State Finance Commission constituted by the Governor in pursuance of clause (1) of Article 243 I of the Constitution.

Qualifications for appointment as and the manner of selection of members of Commission.

97. The Chairman of the Commission shall be selected from among persons who have had experience in public affairs of the State and the two other members shall be selected from among persons who-

- (a) are, or have been or are qualified to be appointed as Judges of a High Court; or
- (b) have special knowledge of the finances and accounts of the State Government; or
- (c) have had wide experience in financial matters and in administration; or
- (d) have special knowledge of economics.

Personal interest to disqualify members.

98. Before appointing a person to be a member of the Commission, the Governor shall satisfy himself that the person will have no such financial or other interest as is likely to affect prejudicially his functions as a member of the Commission, and the Governor shall also satisfy himself from time to time with respect to every member of the Commission that he has no such interest and any person who is, or whom the Governor proposes to appoint to be a member of the Commission shall, whenever required by the Governor to do so, furnish to him such information as the Governor considers necessary for the performance by him of his duties under this section.

Disqualification for being a member of the Commission.

99. A person shall be disqualified for being appointed as or for being a member of the Commission if he -

- (a) is of unsound mind;
- (b) is an undischarged insolvent;
- (c) has been convicted of an offence involving moral turpitude;
- (d) has such financial or other interest as is likely to affect prejudicially his functions as a member of the Commission.

Term of office of the members and eligibility for re-appointment.

100. Every member of the Commission shall hold office for such period as may be specified in the order of the Governor appointing him, but shall be eligible for re-appointment:

Provided that he may, by a letter addressed to the Governor, resign his office.

Condition of service and salaries and allowances of members.

101. The members of the Commission shall render whole-time or part-time service to the Commission as the Governor may in each case specify, and there shall be paid to the members of the Commission such salaries and such allowances as may be prescribed.

Procedure and powers of the Commission.

102. The Commission shall determine their procedure and in the performance of their function shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, ^{5 of} 1908 namely:-

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the production of any documents;
- (c) requisitioning any public record from any Court or office.
- (d) such other powers as may be prescribed.

CHAPTER XI

STATE ELECTION COMMISSION

Constitution of State Election Commission.

103. (1) The superintendence, direction and control of the preparation of electoral rolls for and conduct of, all elections to the Gram Panchayat and Zilla Panchayat shall be vested in the State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) The conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule, determine:

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on it under sub-section (1).

CHAPTER XII
MISCELLANEOUS

Oath of affirmation.

104. Every member of a Gram Panchayat or of Zilla Panchayat other than a member referred to in clause (c) of sub-section (1) of section 50 shall before taking his office make and subscribe before such authority as may be specified by the State Government in this behalf an oath or affirmation according to the Form set out for the purpose in the Schedule.

Validation.

105. No act or proceeding of a Gram Panchayat or Zilla Panchayat shall be deemed to be invalid merely by reason of the existence of any vacancy in the Gram Panchayat or Zilla Panchayat, as the case may be, or any defect or irregularity in the constitution thereof.

Members and officers and employees to be public servants.

106. All members, officers and employees of the Gram Panchayat and Zilla Panchayat shall be deemed when acting or purporting to act in pursuance of the discharge of their duties, or in the exercise of their powers under this Act or under the rules made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code.

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Indemnity.

107. No suit or other legal proceedings shall lie against a Gram Panchayat or Zilla Panchayat or against any member thereof or any officer or any employee for anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Reference of dispute.

108. If any dispute arises between two or more Gram Panchayat, within the jurisdiction of the same Zilla Panahayat, it shall be referred to the Zilla Panchayat concerned by any party to the dispute and the decision of the Zilla Panchayat thereon shall be final.

(2) If any dispute arises-

(a) between a Gram Panchayat within a district on the one side and the Zilla Panchayat of the same district on the other; or
(b) between two or more Zilla Panchayats; or
(c) between one or more Gram Panchayats in one district on the one side and one or more Gram Panchayats in another district on the other; or

(d) between one or more Gram Panchayats in one district on the one side and the Zilla Panchayat of another district on the other; such dispute shall be referred to the State Government by any party to the dispute and the decision of the State Government thereon shall be final.

Inspection.

109. (1) The State Government shall empower the Secretary to the Government

in the Rural Development Department and such other officers as it may consider necessary for the purpose of inspection or superintending the works of all, or any class of, Gram Panchayats or Zilla Panchayats.

(2) An officer so empowered to inspect or superintend the works of a Gram Panchayat or Zilla Panchayat may at any time-

(a) inspect or cause to be inspected any immovable property used or occupied by the Gram Panchayat or Zilla Panchayat or any work in progress under the direction of Gram Panchayat or Zilla Panchayat;

(b) inspect or examine any work or thing under the control of the Gram Panchayat or Zilla Panchayat;

(c) require, for the purposes of inspection or examination, the Gram Panchayat-

(i) to produce any book, record, correspondence, plan or other document; or

(ii) to furnish any return, plan, estimate, statement, accounts or statistics; or

(iii) to furnish or obtain any report or information.

(3) When an inspection of a Gram Panchayat or Zilla Panchayat is undertaken by any officer referred to in sub-section (1), a report of such inspection shall be submitted by such officer to the State Government as soon as possible but not beyond a period of thirty days after the date of completion of inspection.

110. (1) The State Government may, by order in writing, rescind any resolution passed by a Gram Panchayat or Zilla Panchayat, if in its opinion such resolution-

(a) has not been legally passed; or

(b) is in excess or abuse of the powers conferred by or under this Act or any rules made thereunder; or

(c) is likely to cause, if executed, danger to human life, health, or safety or is likely to lead to breach of the peace.

(2) The State Government shall, before taking any action under sub-section (1) give the Gram Panchayat or Zilla Panchayat concerned an opportunity of making any representation against the proposed order.

111. Any officer of the State Government authorised by the State Government in this behalf, shall be entitled to attend meetings of the Gram Panchayat or the Zilla Panchayat, as the case may be, for the purpose of furnishing facts, information and technical advice but shall not be entitled to vote at any such meeting.

Power of State Government officers to attend meetings.

Direction by State Government.

Power to remove Sabhapati, Up-Sabhapati or Sachiva of Gram Panchayat and Adhakshya or Up-Adhakshya of Zilla Panchayat.

Power of State Government to supersede a

112. In the discharge of their functions the Gram Panchayat and the Zilla Panchayat shall be guided by such instructions or directions as may be given to them by the State Government from time to time in conformity with the provisions of this Act.

113. (1) The State Government may, notwithstanding anything contained in sub-section (2) of section 17; sub-section (4) of section 31 and sub-section (2) of section 54, by an order in writing remove with effect from a date to be specified in the order any Sabhapati or Up-Sabhapati or any Sachiva of Gram Panchayat, any Adhakshya or Up-Adhakshya of Zilla Panchayat from his office, if in its opinion, he wilfully omits or refuses to carry out the provisions of this Act or of any rules or orders made thereunder or abuses the powers vested in him under this Act.

(2) The State Government shall, before making any order under sub-section (1), give to the person concerned an opportunity of making a representation against the proposed order.

114. If, in the opinion of the State Government, any Gram Panchayat or Zilla Panchayat-

(a) has shown its incompetence to perform or has persistently made default

Gram Panchayat or Zilla Panchayat.

in the performance of the duties imposed on it by or under this Act or any other law; or

(b) has exceeded or abused its powers, the State Government may, by order, to be published in the Official Gazette stating the reasons therefor, supersede the Gram Panchayat or Zilla Panchayat, as the case may be, and direct that it be reconstituted within such period not exceeding the maximum period of one year as may be specified in the orders:

Provided that the State Government shall, before making any order give the Gram Panchayat or the Zilla Panchayat, as the case may be, an opportunity of making a representation against the proposed order.

115. (1) When an order of supersession has been passed under section 114 then with effect from the date of the order-

(a) all the members of the Gram Panchayat or the Zilla Panchayat, as the case may be, shall vacate their offices;

(b) all the powers, duties and functions which, under the provisions of this Act or any rule made thereunder or any law for the time being in force may be exercised, discharged or performed by the Gram Panchayat or Zilla Panchayat, as the case may be, shall be exercised, discharged or performed by such authority, person or persons as may be appointed by the State Government in this behalf;

(c) all properties vested in the Gram Panchayat or Zilla Panchayat, as the case may be, shall remain vested in the State Government until the reconstitution of such Gram Panchayat or Zilla Panchayat.

(2) On the reconstitution of the Gram Panchayat, or Zilla Panchayat, as the case may be, the authority, person or persons appointed under clause (b) of sub-section (1) shall cease to exercise his functions.

Effect of election of a member of Gram Panchayat to Houses of Parliament or Legislative Assembly.

116. If a Sabhapati or an Up-Sabhapati, or Sachiva or a member of a Gram Panchayat or an Adhakshya or an Up-Adhakshya or member of Zilla Panchayat becomes a member of either house of Parliament or a member of Legislative Assembly, he shall be deemed to have vacated his office as Sabhapati or Up-Sabhapati or Sachiva or member of a Gram Panchayat or Adhakshya or Up-Adhakshya or member of a Zilla Panchayat, as the case may be, with effect from the date of his becoming such member and a casual vacancy shall be deemed to have occurred in such office.

Electoral Offences.

117. Any act of commission or omission which is an electoral offence in relation to elections to the Legislative Assembly under Chapter VII of the Representation of the Peoples Act, 1951 or under any law for the time being in force shall be deemed to be an electoral offence in relation to the elections to the Gram Panchayats under this Act.

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118. The State Government shall have the same powers in the matter of requisition of premises, vehicles and animals for the purpose of the conduct of elections to the Gram Panchayats as in the case of elections to the Legislative Assembly.

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

119. (1) The election of a person as a member of a Gram Panchayat or Zilla Panchayat shall not be called in question except by an application presented to such authority within such time and in such manner as may be prescribed on the ground that-

(a) the election has not been a free election by reason that the corrupt practice of bribery or under influence has extensively prevailed at the election; or

(b) that the result of the election has been materially affected-

(i) by the improper acceptance or rejection of any nomination;

Application for questioning the election.

(ii) by gross failure to comply with the provisions of this Act or the rules framed thereunder.

(2) The following shall be deemed to be corrupt practices of bribery or undue influence for the purposes of this Act.

(1) Bribery, that is to say-

(A) any gift, offer or promise by a candidate or by any other person with the connivance of a candidate 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 from being a candidate at any election; or

(b) an elector to vote or refrain from voting at an election; or as a reward to-

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

(B) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or of any other person with the connivance of the candidate with the free exercise of any electoral right:

Provided that 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 any 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 rendered 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.

(3) The application under sub-section (1) may be presented by any candidate at the election or any elector and shall contain such particulars as may be prescribed.

Explanation :- Any person who filed a nomination paper at the election whether such nomination paper was accepted or rejected, shall be deemed to be a candidate at the election.

(4) The authority to whom the application under sub-section (1) is made shall, in the matter of-

(a) hearing of the application and the procedure to be followed at such hearing;

(b) setting aside the election or declaring the election to be void or declaring applicant to be duly elected or any other relief that may be granted to the petitioner, have such powers and authority as may be prescribed.

(5) The order passed by the authority upon an application under sub-section (1) shall be final and conclusive and shall not be questioned in any civil court.

(6) Notwithstanding anything in this Act, the validity of any law relating to the delimitation of wards in a Gram or territorial constituencies of a Zilla Panchayat or the allotment of seats to such wards in such Gram or Zilla made or purporting to be made under article 243K of the Constitution of India, shall not be called in question in any Court.

Decision on question as to disqualification.

120. If any question arises as to whether a person has become subject to any disqualification, the question shall be referred to the prescribed authority for his decision and his decision shall, subject to the result of any appeal as may be prescribed, be final:

Provided that no order shall be passed under this section unless the person so disqualified is given an opportunity of being heard.

Emergency power on outbreak of epidemic.

121. In the event of an outbreak of cholera or any other water borne infectious disease in any locality situated within the local limits of the jurisdiction of a Gram Panchayat or a Zilla Panchayat, the Sabhapati or Up-Sabhapati of a Gram Panchayat or

de-nic.

Adhakshaya or an Up-Adhakshya of a Zilla Panchayat may, during the continuance of the outbreak, without notice and at any time, inspect and disinfect any well or other place from which water is, or is likely to be, taken for the purpose of drinking and may further take such steps as he deems fit to prevent the drawing of water therefrom.

Report on the work of Gram Panchayat or Zilla Panchayat.

122. The Gram Panchayat or Zilla Panchayat concerned shall prepare and submit annually a report on work done during the previous year and the work proposed to be done during the following year to the prescribed authority within such period as may be specified by the State Government.

Placing of services of Government employees at the disposal of a Gram Panchayat or a Zilla Panchayat.

123. The State Government may, by notification, place at the disposal of a Gram Panchayat or Zilla Panchayat services of such officers or other employees serving under it on such terms and conditions as may be fixed by the State Government:

Provided that the State Government shall have disciplinary control over such officers and employees.

Power to settle disputes.

124. (1) Where parties to a dispute approach the Gram Panchayat or as the case may be, the Zilla Panchayat for settlement of dispute, then the Gram Panchayat or the Zilla Panchayat may settle such dispute if any law in force permits such settlement outside courts.

(2) Without prejudice to the powers conferred under sub-section (1), the dispute which a Gram Panchayat, or as the case may be, the Zilla Panchayat may take cognizance may be a dispute relating to -

- (a) irrigation channel in the Gram;
- (b) cattle trespass;
- (c) damages of crops caused by cattle trespass;
- (d) gambling;
- (e) encroachment of one's land by another;
- (f) theft of property where the value of such property does not exceed five hundred rupees; and
- (g) such other petty family and social disputes.

Delegation.

125. The State Government may, by notification, delegate, subject to such conditions as it may specify, all or any of its powers under this Act except the power under section 130 to any person or authority subordinate to it.

Allowances to members.

126. The members of the Gram Panchayat or the Zilla Panchayat shall be entitled to such sitting allowances for attending meetings of the Gram Panchayat or the Zilla Panchayat and travelling allowances that may from time to time be fixed by the State Government:

Provided that such sitting allowances and travelling allowances are paid from the Gram Panchayat Fund or Zilla Panchayat Fund.

Constitution of District Planning Committee.

127. (1) The State Government shall constitute in every district a Committee called the District Planning Committee.

(2) The District Planning Committee shall consist of the following members, namely:-

- (a) Adhakshya of the Zilla Panchayat;
- (b) Members of the Legislative Assembly of all the Assembly Constituencies comprised in the District;
- (c) 3 members of Zilla Panchayat besides the Adhakshya which shall include one from Nagar Panchayat,

(d) an economist/Senior administrator appointed by the State Government,
 (e) District Collector,

(f) the District Development Officer-cum-Panchayat Officer who shall be the Member Secretary.

(3) The Adhakshya of the Zilla Panchayat shall be the Chairman of the District Planning Committee.

(4) The District Planning Committee shall consolidate the plans prepared by the Gram Panchayats, the Zilla Panchayat and the Nagar Panchayats in the district and prepare a draft development plan for the district as a whole.

(5) Every District Planning Committee shall, in preparing the draft development plan :-

(a) have regard to-

(i) the matters of common interest between the Zilla Panchayats, Gram Panchayat and Nagar Panchayats in the district including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructures and environmental conservations;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the State Government may, by order specify.

(6) The Chairman of the District Planning Committee shall forward the development plan, as recommended by the Committee to the State Government.

Penalty.

128. (1) Any person who soon after the expiry of his term or resigning from the office or removal from the office of Sabhapati or Up-Sabhapati or Sachiva of Gram Panchayat or Adhakshya or Up-Adhakshya of Zilla Panchayat as the case may be, fails to hand over any document or, any money or other properties vested in or belonging to, the Gram Panchayat or Zilla Panchayat, as the case may be, which are in his possession or control, to his successor- in-office, shall on conviction, be punished with a fine which may extend to five hundred rupees and in the case of a continuing failure or contravention with an additional fine which may extend to fifty rupees for every day after the first conviction during which he has persisted in the failure or contravention.

(2) Any person who wilfully obstructs any member or office bearer or servant of all Gram Panchayat or a Zilla Panchayat, as the case may be, in the discharge of his duties or any thing which he is empowered to do shall, on conviction, be punished with a fine which may extend to five hundred rupees.

(3) Any person required by this Act or rules made thereunder to furnish any information fails to furnish such information or knowingly furnishes wrong information shall, on conviction, be punished with a fine which may extend to five hundred rupees.

(4) Any person who contravenes the provisions of this Act or rules made thereunder for which no penalty is provided for under this Act shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both.

Election not to be contested with the support of political party.

129. No person shall contest the election to any Panchayat with the support, direct or indirect, of any political party.

Power to make rules.

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

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

(i) the manner of convening and conducting the meeting of Gram Sabha;

(ii) manner of election of Sabhapati and Up-Sabhapati of Gram Panchayat under

sub-section (1) of section 17;

(iii) manner in which meeting of Gram Panchayat shall be convened under sub-section (2) of section 19;

(iv) powers, functions and duties of Sabhapati of Gram Panchayat;

(v) power, functions and duties of Sachiva of Gram Panchayat;

(vi) manner in which and time within which an appeal may be made under section 42;

(vii) manner in which and time within which the Budget shall be prepared by Gram Panchayat under section 46;

(viii) manner in which and time within which the supplementary Budget shall be submitted under section 47;

(ix) manner in which accounts shall be kept by Gram Panchayat;

(x) terms and conditions of appointment of Sachiva of Zilla Panchayat;

(xi) duties and functions of Sachiva of Zilla Panchayat;

(xii) manner in which and time within which appeal may be made under section 79;

(xiii) manner in which and time within which the Budget shall be prepared by Zilla Panchayat under sub-section (1) of section 83;

(xiv) manner in which and time within which, supplementary Budget shall be submitted under section 84;

(xv) manner in which accounts shall be kept by Zilla Panchayat;

(xvi) manner in which, time within which, place whereon and the extent to which accounts of the Gram Panchayat and Zilla Panchayat shall be examined and audited;

(xvii) manner in which and time within which the matter shall be referred to the State Government under sub-section (2) of section 91;

(xviii) manner in which a certificate of the amount due and a copy of reasons thereof shall be sent under sub-section (3) of section 92;

(xix) manner of superintendence, direction and control and the conduct of election of members of Gram Panchayat;

(xx) manner in which, time within which and the authority to whom the application for questioning the election shall be presented under sub-section (1) of section 119;

(xxi) particulars to be furnished under sub-section (3) of section 119;

(xxii) powers and authority that shall be exercised by the authority under sub-section (4) of section 119;

(xxiii) any other matters which are to be and may be, prescribed.

Power to remove difficulties.

131. If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the purpose of removing such difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

Repeal and Savings.

132. On and from the date of commencement of this Act, the Sikkim Panchayat Act, 1982 shall stand repealed and all assets and liabilities of the Gram Panchayats constituted under the repealed Act, 1982 shall stand repealed and all assets and liabilities of the Gram Panchayats or Zilla Panchayats constituted under the repealed Act shall continue to vest in the respective Gram or Zilla Panchayat, as the case may be:

Provided that such repeal shall not effect-

(a) the continuance of the existing Gram Panchayat or the Zilla Panchayat as the case may be, by virtue of the operation of the proviso to Article 243 N of the Constitution; or

(b) the previous operation of the repealed Act or anything duly done or suffered thereunder;

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

(d) any penalty, forfeiture or punishment incurred in respect of any offence

committed against the repealed Act; or

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

(f) any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed:

Provided further that subject to the preceding provision anything done or any action taken (including any appointment or delegation made, notification, notice, order, instructions or direction issued, rule, regulation, form or scheme framed, certificate obtained, permit or licence granted, tax imposed or fee or rates levied) under the repealed Act shall, in so far as it is in force immediately before commencement of this Act and is not inconsistent with the provisions of this Act be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly, unless and until they are repealed or amended or suspended.

THE SCHEDULE

Form of oath or affirmation to be made by a member of a Gram Panchayat or a Zilla Panchayat.

(See Section -104)

I, A.B., having been elected a member of Gram Panchayat/Zilla Panchayat do swear in the name of God or solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and that I shall faithfully discharge the duties upon which I am about to enter.

By Order of the Governor,

(B.R. Pradhan)
Secretary to the Government of Sikkim
Law Department.

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok Wednesday, 29th November, 1995

No. 194

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

NO. 10/LD/1995.

Dated: Gangtok, the 20th November, 1995.

The following Act of the Sikkim Legislative Assembly Secretariat having received the assent of the Governor on 11th day of October, 1995 is hereby published for general information:-

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 1995
(ACT NO. 10 OF 1995)
AN
ACT

to amend the Sikkim Panchayat Act, 1993

Be it enacted by the Legislature of Sikkim in the Forty-Sixth Year of the Republic of India as follows:-

Short title 1. (1) This Act may be called the Sikkim Panchayat (Amendment) Act, 1995.
and Commencement

(2) It shall come into force at once.

Amendment 2. In section 12 of the Sikkim Panchayat Act, 1993 (hereinafter referred to as **of Section 12** the principal Act), in sub section (1) the following proviso shall be inserted, namely:-

“Provided however, that in the case of the two villages of Lachen and Lachung in the North District of the State, the areas comprised in the two villages shall be deemed to be the Grams for the purpose of section 3 of the Act and the traditional institutions of Dzumsas existing in these two villages for many centuries shall be deemed to be Gram Panchayat constituted under this section.”

Amendment 3. In section 13 of the principal Act,
of section 13 (i) in sub-section (1) the following proviso shall be inserted namely:-

“Provided, however, that no person whose name does not appear in the electoral roll pertaining to the area comprised in the Gram as indicated above shall be eligible to contest the election for such Gram Panchayat.”

(ii) in sub-section (5), for the words “as may be prescribed,” the words “as the State Government may, by notification, from time to time specify” shall be substituted;

(iii) after sub-section (5), the following sub-section shall be inserted, namely:-

“(5a) The State Government shall, by notification, reserve such number of seats which as nearly as may be one-third of the total number of seats of the Gram Panchayat for the persons belonging to the Backward Classes”;

(iv) in sub-section (7), for the words “as may be prescribed”, the words “as the State Government may, by notification, from time to time, specify” shall be substituted.

Amendment 4. In section 17 of the principal Act, -
of section 17 (i) in sub-section (2), after clause (a), the following clause shall be inserted, namely:-

“(aa) such number of offices of Sabhapati and Up-Sabhapati of Gram Panchayats which shall as nearly as may be one-third of the total number of offices of Sabhapati and Up-Sabhapati in the State for the persons belonging to the Backward Classes”;

(ii) in sub-section (2), in the proviso to clause (b), for words “as may be prescribed”, the words “as the State Government may, by notification, from time to time, specify” shall be substituted.

Amendment 5. In section 27 of the principal Act, for the words “by the majority of the members of the Gram Panchayat present,” the words “by the two-third majority of the members of the Gram Panchayat” shall be substituted.

Amendment 6. In section 34 of the principal Act, in clause (v), for the words “as may be entrusted to it by the State Government from time to time”, the words “not enumerated specifically in the above clauses but enumerated in the Eleventh Schedule to the Constitution” shall be substituted.

Amendment 7. In section 49 of the principal Act, in sub-section (2), after the existing proviso, of section 49 the following proviso shall be inserted:-

“Provided further that if a person is elected to one or more seats in a Gram Panchayat and or a seat in a Zilla Panchayat than, unless within the prescribed time he resigns all but one of the seats by writing under his hand addressed to the State Election Commissioner, one but all seats in the Gram Panchayat or a seat or seats in the Gram Panchayat, as the case may be shall become vacant.”

Amendment 8. In section 50 of the principal Act, -
of section 50 (a) in sub section (1),

(i) for clause (a), the following clause shall be substituted, namely:-

“(a) directly elected members from amongst those whose names are included in the electoral roll of the Sikkim Legislative Assembly for the time being in force pertaining to the area comprised in the respective territorial constituency of the district;”

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

“(b) Twenty per cent of the Sabhapatis of the Gram Panchayats within the district by rotation annually to be specified by the State Government by notification;”

(iii) in clause (c), after the word “and” and before the word “the” the words “twenty per cent of the members of” and after the word “thereof and before the full stop the words “by rotation annually to be specified by the State Government by notification” shall be inserted;

(b) in sub section (4), for the words, “as may be prescribed” the words “as the State Government may, by notification, from time to time, specify” shall be substituted;

(c) after sub-section (4), the following sub-section shall be inserted, namely :-

“(4a) The State Government shall, by notification, reserve such number of seats which shall as nearly as may be one-third of the total number of seats in a Zilla Panchayat for the persons belonging to the Backward Classes;”

(d) in sub-section (6), for the words “as may be prescribed”, the words “as the State Government may, by notification, from time to time, specify” shall be substituted.

Amendment 9. In section 54 of the principal Act, -

of section 54 (i) for sub-section(1), the following sub-section shall be substituted, namely:-

“The directly elected members of every Zilla Panchayat shall, at its first meeting at which a quorum is present, elect in such manner as may be prescribed, from among themselves one of the directly elected members to be the Adhakshya and another to be the Up-Adhakshya of the Zilla Panchayat;”

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

“aa) such number of offices of Adhakshya and Up-Adhakshya in the State which shall as nearly as may be one-third of the total number of offices of Adhakshya and Up-Adhakshya in the State for the persons belonging to the Backward Classes”.

Amendment of section 64 10. In section 64 of the principal Act, in sub-section (1) for the words “by majority of the members of the Zilla Panchayat present and voting, “the words “by two-third majority of the directly elected members of the Zilla Panchayat” shall be substituted.

Amendment of section 69 11. In section 69 of the principal Act, after clause (1), the following clause shall be inserted, namely :-

“(m) such other duties not enumerated specifically in the above clauses but enumerated in the Eleventh Schedule to the Constitution”.

Amendment of section 114 12. In section 114 of the principal Act, in clause (b), for the words “the maximum period of one year as may be specified in the orders”, the words “six months” shall be substituted.

Amendment of section 119 13. In section 119 of the principal Act,-

(i) sub-section (5) shall be omitted;

(ii) the existing sub-section (6) shall be renumbered as sub-section (5).

Insertion of a new section 119A. 14. After section 119, the following section shall be inserted, namely :-

“Appeal. 119A. Any person aggrieved by an order of the Prescribed Authority under section 119 may appeal to the Appellate Authority to be appointed by the State Government within such time and in such manner as may be prescribed.”

15. After section 119 so inserted, the following section shall be inserted, namely:-

Insertion of new section 119B. “Bar to 1193. Save as otherwise provided, no suit or other proceeding shall suits and lie in any court, tribunal or before any other authority to challenge, other vary or to set-aside any order passed by the Prescribed Authority proceedings under section 119 or the Appellate Authority under section 119A under this Chapter”.

Amendment of section 127. 16. For section 127 of the principal Act, the following section shall be substituted, namely:-

“127. The District Planning Committee as provided under article 243 ZD of the Constitution read with Section 184 of the Sikkim Municipalities Act, 1995 shall be the District Planning Committee for the purposes of this Act.”

Amendment of section 130. 17. In section 130 of the principal Act, -

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

“(ixa) manner of election of the Adhakshya and Up-Adhakshya of Zilla Panchayat;”

(ii) after sub-section (2), the following sub-section shall be inserted, namely:-

"(3) Every rule made under this section shall immediately after it is made, be laid before the State Legislature if it is in session, and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two or more successive sessions, and if before the expiration of the session in which it is so laid, or the sessions immediately following, the House agrees in making any modification in the rules or in the annulment of the rules, the rules shall thereafter have effect only in such modified form or shall stand annulled, 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."

By Order of the Governor,

B. R. PRADHAN
Secretary to the Government of Sikkim
Law Department.

F. No. 16 (82)LD/79-95.

PRINTED AT THE SIKKIM GOVERNMENT PRESS, GANGTOK.

SIKKIM

GOVERNMENT

GAZETTE



EXTRAORDINARY PUBLISHED BY AUTHORITY

Dated Gangtok, Thursday, 15th May, 1997

No. 76

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK.

No. 5/LD/97

Dated: the 13th May, 1997.

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 9th day of May, 1997 is hereby published for general information:-

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 1997

(ACT NO. 5 OF 1997)

AN

ACT

further to amend the Sikkim Panchayat Act, 1993.

Be it enacted by the Legislature of Sikkim in the Forty-Eighth Year of the Republic of India as follows:-

Short title and 1. (1) This Act may be called the Sikkim Panchayat (Amendment) Act, commencement.

(2) It shall come into force at once.

Substitution of 2. For section 115 of the Sikkim Panchayat Act, 1993 No. 6 of 1993
section 115. (hereinafter referred to as the principal Act), the following section shall be substituted, namely:-

“Consequences of 115. (1) When an order of supersession has been passed under section
supersession or 114 or the proviso to article 243N of the Constitution has been
dissolution. invoked to dissolve all the Panchayats, then with effect from the date
of the order-

- (a) all the members of the Gram Panchayat or the Zilla Panchayat, as the case may be, shall vacate their offices;
- (b) all the powers, duties and functions which, under the provisions of this Act or any rule made thereunder or any law for the time being in force, may be exercised, discharged or performed by the Gram Panchayat or Zilla Panchayat, as the case may be, shall be exercised,

(c) all properties vested in the Gram Panchayat or Zilla Panchayat, as the case may be, shall remain vested in the State Government until the reconstitution of such Gram Panchayat or Zilla Panchayat."

Omission of
section 129.

3. Section 129 of the principal Act shall be omitted.

By Order of the Governor,

B. R. PRADHAN,
Secretary to the Government of Sikkim,
Law Department.

(F.No.16(269)LD/93-97)

PRINTED AT THE SIKKIM GOVERNMENT PRESS, GANGTOK.

SIKKIM
GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok, Monday, 12th November, 2001 No. 409

GOVERNMENT OF SIKKIM,
LAW DEPARTMENT
GANGTOK

No. 7 /LD/2001

Dated: 12.11.2001.

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 5th day of November, 2001 is hereby published for general information :-

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 2001
ACT NO. 7 OF 2001
AN
ACT

further to amend the Sikkim Panchayat Act, 1993

Be it enacted by the Legislature of Sikkim in the Fifty second year of the Republic of India as follows:-

Short title and commencement.

1. (1) This Act may be called the Sikkim Panchayat (Amendment) Act, 2001.
(2) It shall come into force at once.

Amendment of Section 12

2. In Section 12 of the Sikkim Panchayat Act, 1993, in sub-section (1), for the existing proviso the following proviso shall be substituted, namely:-

"Provided however, that the existing system of the Traditional Institutions of Dzumsas practiced in the two villages of the Lachen and Lachung in the North District of the State shall continue to exist in accordance with the traditional and customary Laws of the Dzumsas. Notwithstanding other provisions of the Sikkim Panchayat Act the traditional institutions of the Dzumsas existing in the villages of Lachen and Lachung shall exercise the Powers and Functions as provided under the Act in addition to the Powers and Functions exercised by them under the existing Traditional and customary law."

By Order.

T.D. Rinzing,
Secretary to the Govt. of Sikkim,
Law Department.
F.No. 16(82) LD/2001

SIKKIM
GOVERNMENT  **GAZETTE**

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok **Tuesday 26th October, 2004** **No. 408**

**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No. 3/LD/2004

Dated: 15.10.2004

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 4th day of October, 2004 is published for general information.

**THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 2004
(ACT NO. 3 OF 2004)**

further to amend the Sikkim Panchayat Act, 1993

Be it enacted by the legislature of Sikkim in the Fifty-fifth year of the Republic of India as follows:-

Short title and Commencement.	1. (1) This Act may be called the Sikkim Panchayat (Amendment) Act, 2004. (2) It shall come into force on the date of its publication in the Official Gazette.
Amendment of Section 48.	2. In the Sikkim Panchayat Act, 1993 (hereinafter referred to as the said Act), in section 48 after sub-section (2) the following sub-section shall be inserted, namely:- "(3) The Comptroller and Auditor General of India Shall audit the accounts of the Gram Panchayat as soon as may be after the end of each financial year in the manner provided under Chapter IX of this Act".
Amendment of Section 86.	3. In the said Act, for section 86, the following shall be substituted, namely:- "(86) The accounts of the fund of a Gram Panchayat or Zilla Panchayat shall be examined and audited by the auditors appointed under sub-section (2) and sub-section (3) of section 48 at such manner as may be prescribed".

By Order of the Governor.

Tashi Wangdi, SSJS
Legal Remembrancer-cum-Secretary Law.
(File No. 16(82) LD/97-2004)

SIKKIM



GOVERNMENT **GAZETTE**



EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Monday 21st March, 2005

No. 122

GOVERNMENT OF SIKKIM
LAW DEPARTMENT

No. 9/LD/P/2005

Dated : 19.3.2005.

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 9th day of March, 2005 is hereby published for general information:-

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 2005
(ACT NO. 9 OF 2005)
AN
ACT

further to amend the Sikkim Panchayat Act 1993 (6 of 1993).

Be it enacted by the Legislature of Sikkim in the Fifty-sixth Year of the Republic of India as follows:-

Short title and commencement.

1. (1) This Act may be called the Sikkim Panchayat (Amendment) Act, 2004.

(2) It shall come into force at once.

Amendment of Section 127. 2. In the Sikkim Panchayat Act, 1993, in clause (c), sub section (3) of section 127, for the words "District Development Officer-cum-Panchayat Officer", the words "District Planning Officer" shall be substituted.

By Order.

Tashi Wangdi, SSJS
Legal Remembrancer-cum-Secretary Law
F.No. 16(82)2005

SIKKIM
GOVERNMENT  **GAZETTE**

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Monday, 28th November, 2005

No. 442

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 17/ LD/2005

Date: 19.11.05

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 7th day of September 2005 is hereby published for general information:-

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 2005
(ACT NO. 17 OF 2005)
AN ACT

Further to amend the Sikkim Panchayat Act, 1993

Be it enacted by the Legislature of Sikkim in the Fifty- sixth Year of the Republic of India as follows:-

Short title and commencement. 1. (1) This Act may be called the Sikkim Panchayat (Amendment) Act, 2005.
(2) It shall come into force with immediate effect.

Insertion of reference to certain expressions. 2. In the Sikkim Panchayat Act, 1993 (herein referred to as the principle Act), through the principle Act, unless otherwise expressly provided, after the word "Gram Sabha", wherever they occur, the words "or Ward Sabha" shall be inserted.

Amendment of Section 7. 3. In the principle Act, in sub-section (1) of Section 7, the following provision shall be substituted, namely:-

"Quorum for a meeting of a Gram Sabha and Ward Sabha shall be fifth and one fourth of the total members of the Gram Sabha or Sabha, as the case may be, respectively.

Provided that one-third of the quorum shall comprise of women."

Amendment of Section 16. 4. In the principle Act, in Section 16, after clause (k), the following clauses shall be inserted, namely:-
(l) if, in the opinion of the Prescribed Authority, he is guilty of an act of falsification, willful negligence or omission in the discharge of the duties and functions delegated under this Act or by orders issued by the State Government from time to time;
(m) if he refuses to act or becomes incapable of discharging his duties and functions by reason of any physical, mental incapacity or other reasons or obligations; and

(n) if he is guilty of disgraceful conduct unbecoming of a public servant punishable by any law for time being in force; or
(o) if he does not possess a hygienic sanitary latrine for use of his family.

Amendment of Section 29. 5. After sub-section (3) of Section 29, the following sub-section shall be inserted namely:-
"(4) Any member of a Gram Panchayat who is removed from his office by the Prescribed Authority shall cease to function as a member of the Gram Panchayat."

Amendment of Section 57. 6. In the principal Act, after sub-section (7) of Section 57, the following sub-section shall be inserted, namely:-
"(8) The resolutions passed in a meeting of Zilla Panchayat shall be forwarded to the Rural Management & Development Department for confirmation within seven days of the meeting".

Amendment of Section 58. 7. In the principal Act, in Section 58, the following proviso shall be inserted, namely:-
"Provided that the Prescribed Authority may direct the Zilla Panchayat to consider such matter which, in his opinion, is beyond the authority of the Zilla Panchayat or not in conformity with the provisions of this Act or orders issued by the State Government from time to time."

Amendment of Section 66. 8. In the principal Act, after sub-section (3) of Section 66, the following sub-section shall be inserted, namely:-
1. "(4) any member of a Zilla Panchayat who is removed from his office by the Prescribed Authority shall cease to function as a member of the Zilla Panchayat."
2. The existing sub-section (4) shall be re-numbered as sub-section (5).

By Order.

R.K. Purkayastha (SSJS)
Legal Remembrancer –cum- Secretary,
Law Department
File no. 16 (82) LD/ 2005

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Wednesday

12th September, 2007

No. 402

LAW DEPARTMENT
GOVERNMENT OF SIKKIM
GANGTOK

No. 14/LD/P/2007

Date: 12.09.2007

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 2007
(ACT No. 14 of 2007)
AN

ACT

further to amend the Sikkim Panchayat Act, 1993

Be it enacted by the Legislature of Sikkim in the Fifty-eighth Year of the Republic of India as follows:-

Short title and commencement. 1. (1) This Act may be called the Sikkim Panchayat(Amendment) Act, 2007.
(2) It shall come into force at once.

Amendment of Section 13. 2. (1) In the Sikkim Panchayat Act, 1993 (hereinafter referred to as the said Act), for the existing sub-sections (5) (6) and (7) of section 13, the following shall be substituted, namely:-

"(5) The State Government shall, by notification, reserve seats for the Scheduled Castes, the Scheduled Tribes, the Most Backward Classes and Other Backward Classes in every Gram Panchayat and the number of seats reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population in that Panchayat area bears to the total population of that area and such seats shall be allotted by rotation to different wards in a Gram Panchayat in such manner as the State Government may, by notification specify.

(6) Not less than forty percent of the total number of seats reserved under sub-section (5) shall be reserved for women belonging to the Scheduled Caste, Scheduled Tribes, the Most Backward Classes and the Other Backward Classes.

(7) Not less than forty percent of the total number of seats (including the number of seats reserved for women belonging to the Scheduled Caste, Scheduled Tribes, the Most Backward Classes and the Other Backward Classes) to be filled by direct election in every Gram Panchayat shall be reserved for women and such seats shall be allotted by rotation to different wards in a Gram Panchayat in such manner, as the State Government may, by notification, specify."

(2) Sub-section (5 a) shall be omitted.

Amendment of Section 17. 3. (1) In the said Act, for the existing sub-section (2) of Section 17, the following shall be substituted, namely:-

"(2) The State Government shall, by notification reserve:-

- (a) such number of offices of Sabhapati and Up Sabhapati of Gram Panchayat in each district for the Scheduled Caste, Scheduled Tribes, the Most Backward Classes and the Other Backward Classes and the number of such offices shall bear as nearly as may be, the same proportion to the total number of offices in the district as their population in the district bears to the total population of the district.
- (b) Not less than forty percent of the total number of offices of Sabhapati and Up Sabhapati of the Gram Panchayat of the district reserved under clause (a) shall be reserved for women:

Provided that the offices reserved under this sub-section shall be allotted by rotation to different Gram Panchayats in such manner as the State Government may, by notification specify."

Amendment of Section 50. 4. (1) In the said Act, for the existing sub-sections (4) and (5) of Section 50, the following shall be substituted namely:-

"(4) The State Government shall by notification, reserve seats for the Scheduled Castes, the Scheduled Tribes, the Most Backward Classes and the Other Backward Classes in every Zilla Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in the Panchayat as their population in the Panchayat area bears to the total population of that area and such seats shall be allotted by rotation to different constituencies in a Zilla Panchayat in such manner as the State Government may, by notification, specify.

(5) Not less than forty percent of the total number of seats reserved under sub-section (4) shall be reserved for women and such seats shall be allotted by rotation to different constituencies in a Zilla Panchayat in such manner as the State Government may, by notification, specify."

(2) Sub-section (6) shall be omitted.

Amendment of Section 54. 5. (1) In the said Act, for the existing sub-section (2) of Section 54, the following shall be substituted, namely:-

"(2) The State Government, shall by notification, reserve:-

(a) such number of offices of Adhyaksha and Up – Adhyaksha of Zilla Panchayats in the State for persons belonging to Scheduled Castes, the Scheduled Tribes, the Most Backward Classes and the Other Backward Classes and the number of such offices shall bear as nearly as may be the same proportion to the total number of offices in the State as the population bears to the total population of the State.

(b) not less than forty percent of the total number of offices of Adhyaksha and Up-Adhyaksha in the state reserved under clause (a) shall be reserved for women:

Provided that the offices reserved under this sub-section shall be allotted by rotation to different Zilla Panchayat in such manner as the State Government may, by notification, specify."

(2) The existing sub-section (2) shall be renumbered as sub-section (3).

*Amendment of
Section 103.*

6. In the said Act, for the existing sub-section (1) of Section 103 the following shall be substituted, namely:-

"(1) The superintendence, direction and control of elections to the Gram Panchayat and Zilla Panchayat and conduct of election of Sabhapati, Up- Sabbhapat and Sachiva of Gram Panchayat and Adhyaksha and Up- Adhyaksha of Zilla Panchayat shall be vested with the State Election Commission consisting of the State Election Commissioner appointed by the Governor:

Provided that the conduct of delimitation of Gram Panchayat and Zilla Panchayat and reservation of seats in Gram Panchayat and Zilla Panchayat, in such manner as may be prescribed, shall be vested with the State Election Commission:

Provided further that for the purpose of conduct of election of Sabhapati and Up- Sabhapati and Sachiva of Gram Panchayat and Adhyaksha and Up- Adhyaksha of Zilla Panchayat, the prescribed authority shall be the State Election Commissioner.

By Order.

R.K. PURKAYASTHA (SSJS)
LR-cum-Secretary
Law Department

File No. 16 (82)/ LD/P/2007

SIKKIM
GOVERNMENT  **GAZETTE**

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok

Thursday 22nd April, 2010

No. 172

**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No. 6/LD/P/2010

Date: 21.4.2010

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on the 30th day of March, 2010 is hereby published for general information:-

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 2010

ACT NO. 6 OF 2010

AN ACT

further to amend the Sikkim Panchayat Act, 1993.

Be it enacted by the Legislature of Sikkim in the Sixty-first Year of the Republic of India as follows:-

Short title and commencement

1. (1) This Act may be called the Sikkim Panchayat (Amendment) Act, 2010.
(2) It shall come into force on the date of its publication in the Official Gazette.

Amendment of Section 29

2. In the Sikkim Panchayat Act, 1993 (herein referred to as the said Act), in Section 29, after sub-section (3), the following sub-section shall be inserted, namely:-
"(4) Any member of Gram Panchayat being a member of any political party, if he ceases to be the member of that political party shall cease to be the member of Gram Panchayat from the same day he ceases to be the member of that political party".

Amendment of Section 66

3. In the said Act, in section 66, after sub-section (4), the following sub-section shall be inserted, namely:-
"(5) Any member of Zilla Panchayat being a member of any political party, if he ceases to be the member of that political party shall cease to be the member of Zilla Panchayat from the same day he ceases to be the member of that political party."

**R.K. PURKAYASTHA (SSJS)
LR-cum-Secretary
Law & Parliamentary Affairs Department**

SIKKIM



GOVERNMENT **GAZETTE**



EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Sunday 18th December, 2011

No.652

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

NOTIFICATION

No 11/LD/P/11.

Dated: 17/12/2011

The following Act passed by the Sikkim Legislative Assembly and having received the assent of Governor on 3rd day of September, 2011 is hereby published for general information:-

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 2011
ACT NO. 11 OF 2011
AN
ACT

further to amend the Sikkim Panchayat Act, 1993

Be it enacted by the Legislature of Sikkim in the Sixty-second Year of the Republic of India as follows:-

Short title and commencement 1. (1) This Act may be called the Sikkim Panchayat (Amendment) Act, 2011.

(2) It shall come into force on the date of its publication in the Official Gazette.

Amendment of Section 13 2. In the Sikkim Panchayat Act, 1993 (hereinafter referred to as the said Act) for the existing sub-section (7) of section 13, the following shall be substituted, namely:-

“(7) Not less than half of the total number of seats (including the number of seats reserved for women belonging to the Scheduled Caste, Scheduled Tribes (Bhutia/Lepcha and Limboo/Tamang), Most Backward Classes and Other Backward Classes) to be filled by direct election in every Gram Panchayat shall be reserved for women and such seat shall be allotted by rotation to different wards in a Gram Panchayat in such manner, as the State Government may, by notification, specify.”

Amendment of Section 17. 3. In the said Act, for the existing clause (b) of sub- section (2) of Section 17, the following shall be substituted, namely:-

"(b) Not less than half of the total number of offices of Sabhapati and Up-Sabhapati of the Gram Panchayat of the district reserved under clause (a) shall be reserved for women:

Provided that the offices reserved under this sub-section shall be allotted by rotation to different Gram Panchayats in such manner as the State Government may, by notification specify."

*Amendment of
Section 50.*

4. In the said Act, for the existing sub-section (5) of section 50, the following shall be substituted, namely:-

"(5) Not less than half of the total number of seats reserved under sub-section (4) shall be reserved for women and such seats shall be allotted by rotation to different constituencies in a Zilla Panchayat in such manner as the State Government may, by notification specify."

*Amendment of
Section 54*

5. In the said Act, for the existing clause (b) of sub section (2) of section 54, the following shall be substituted, namely:-

"(b) Not less than half of the total number of offices of Adhakshya and Up-Adhakshya in the State reserved under clause (a) shall be reserved for women:

Provided that the offices reserved under this sub-section shall be allotted by rotation to different Zilla Panchayat in such manner as the State Government may, by notification specify."

R.K. Purkayastha, SSJS
L.R-cum-Secretary,
Law Department.
File No. 16 (82) LD/P/11

SIKKIM

GOVERNMENT **EXTRAORDINARY** **GAZETTE**
PUBLISHED BY AUTHORITY

Gangtok **Wednesday 14th June, 2017** **No. 221**

**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No. 10/LD/17

Dated: 5th June, 2017

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 27th day of May, 2017 is hereby published for general information :-

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 2017

(ACT NO. 10 OF 2017)

AN

ACT

further to amend the Sikkim Panchayat Act, 1993.

BE it enacted by the Legislature of Sikkim in the Sixty-eighth Year of the Republic of India as follows:-

Short title and commencement

1. (1). This Act may be called the Sikkim Panchayat (Amendment) Act, 2017.
- (2). It shall come into force on the date of its publication in the Official Gazette.

Amendment of section 11

2. In the Sikkim Panchayat Act, 1993 (hereinafter referred to as the "Principal Act"), in section 11, for clauses (a), (b) & (c) and the entries relating thereto, the following clauses shall be substituted namely:-
 - (a) to identify and approve the plans, programmes and projects for social and economic development in order to give priority from out of the plans, programmes and projects approved by the Ward Sabha before such plans, programmes and projects are taken up for implementation by the Village Panchayat;

- (b) to lay down the principles for identification of the schemes and their priority for economic development of the village;
- (c) to identify or selection of persons as beneficiaries under the poverty alleviation and other programmes, in order of priority, from amongst the local persons by the various Ward Sabha falling under its jurisdiction;
- (d) to ensure proper utilization and disbursement of funds or assets to the beneficiaries;
- (e) to ascertain and certify the proper utilization of funds for plans, programmes and projects by the Gram Panchayats referred to in clause (a);
- (f) to exercise social audit in respect of plots allotted to the weaker sections of the society;
- (g) to mobilize voluntary labour and contribution in kind or cash or both for the community welfare programmes;
- (h) to promote literacy, education, health and nutrition;
- (i) to promote unity and harmony among all sections of the society in such area;
- (j) to seek clarifications from the Chairperson and members of the Gram Panchayat about any particular activity, scheme, income and expenditure;
- (k) to lease out any minor water body within a specified area for the purpose of fishing and other commercial purposes;
- (l) to regulate the use of water of rivers, streams, minor water bodies for irrigation purposes;
- (m) to exercise the right of management over minor forest produce;
- (n) to exercise control over local plans and resources for such plans including tribal sub-plan;
- (o) to manage Village Markets;
- (p) to invoke the right to be consulted before making the acquisition of land in the area for development projects and before resettling or rehabilitating persons affected by such projects in the area;
- (q) to consider and approve the recommendations made by each Ward Sabha in the area of such Gram Panchayat;
- (r) to consider the Annual Budget of the Gram Panchayat, and make recommendations thereon;
- (s) to consider the report of audit and accounts of the Gram Panchayat;
- (t) to ensure active participation of people in implementation, maintenance and equitable distribution of benefits of development schemes in the Village;

- (u) to promote general awareness amongst the people;
- (v) to exercise control through the Gram Panchayat over institutions and functionaries in social sectors transferred to or appointed by that Panchayat;
- (w) to manage natural resources including land, water and forests within the area of the Village in accordance with provisions of the Constitution and other relevant laws for the time being in force;
- (x) to supervise sanitation, conservation and prevention and abatement of nuisance;
- (y) to supervise the construction, repair and maintenance of public wells, ponds and tanks and supply of water for domestic animals;
- (z) to supervise the construction and maintenance of sources of water for bathing and washing and supply of water for domestic animals;
- (aa) to supervise the construction and maintenance of Village roads, culverts, bridges, jhoras and other works and building of public utility;
- (bb) to supervise the construction, maintenance and clearing of public street, latrines, drains, tanks, wells and other public places;
- (cc) filling in of disused wells, unsanitary ponds, pools ditches and pits and conversion of step wells into sanitary wells;
- (dd) to supervise the lighting of Village streets and other public places;
- (ee) to assist in removal of hindrances and projections to public streets and places as well as the spaces which are not private properties or which are open for public use whether such places are vested in the Panchayat or belong to the State Government;
- (ff) to supervise recreations, games-shows, shops, eating houses and vendors of beverage, sweets, fruits, milk and similar other articles;
- (gg) to supervise the construction of houses, cess-pits urinals, drains and flush latrines;
- (hh) to manage public land, extension and development of Village site;
- (ii) to dispose off corpses, carcasses (including those unclaimed) and other obnoxious articles in such a way that the same may not be injurious to public health;
- (jj) to earmark places for dumping refuse;
- (kk) to regulate sale and preservation of meat;

- (ii) to maintain Gram Sabha-properties;
- (mm) to establish and manage cattle pounds, maintenance of records regarding cattle, maintaining grazing grounds and other lands lying within control of the Gram Sabha;
- (nn) to take care of ancient and historical monuments other than those which have been declared to be of national importance;
- (oo) to maintain the records of births, deaths and marriages;
- (pp) to assist in census or other surveys done by the Centre, State or other organizations constituted lawfully;
- (qq) to provide assistance in control of contagious diseases, vaccination work etc.;
- (rr) to help the differently abled and destitute;
- (ss) to strengthen youth welfare, family welfare and sports;
- (tt) to encourage afforestation and conservation of village forestry;
- (uu) to abolish social evils like dowry, child marriage & drug abuse etc.;
- (vv) to prepare schemes for basic amenities and making arrangements thereof;
- (ww) to execute work assigned by District Panchayat;
- (xx) to execute and supervise development schemes and construction work as per specified schemes within the Gram Sabha area;
- (yy) to control and monitor beneficiary oriented schemes and programmes;
- (zz) to exercise control over institutions and functionaries in all social sectors transferred to or appointed by the Gram Sabha;
- (aaa) to disseminate information regarding development land welfare activities;
- (bbb) to participate in and canvassing of programmes of Health and Literacy and such other time bound developmental programmes;
- (ccc) to collect essential socio-economic data;
- (ddd) to provide feedback on the performance of development programmes;
- (eee) to resort to moral sanction to pay taxes, repayment of loans, promote environmental cleanliness and to maintain social harmony;
- (fff) to mobilize local resources to augment resources of the Gram Panchayat;
- (ggg) to supervise development activities as volunteer teams;

Insertion of new
section 11A

(hhh) to make arrangements for reporting urgently incidence of epidemics, natural calamities, etc.

(iii) to exercise and discharge of powers and functions assigned by the State Government under this Act or any other law in force in the State for the time being."

3. In the Principal Act, after section 11, the following section shall be inserted namely:-

"11 A Function of Ward Sabha": The function of the Ward Sabha shall be:-

- (a) to render assistance to the Gram Panchayat in collection and compilation of details required for formulation of development plans;
- (b) to generate proposals and fixing priority of development schemes and programmes to be implemented in the area of the Ward Sabha;
- (c) to identify weaker section of the beneficiaries in order of priority, for the implementation of development schemes pertaining to the area of Ward Sabha;
- (d) to render assistance in effective implementation of development scheme;
- (e) to suggest the location of public utilities, amenities and services like street lights, community water taps, public wells, public sanitation units, irrigation facilities etc.;
- (f) to formulate schemes and imparting awareness on matters of public interest like cleanliness, preservation of environment, prevention of pollution, guarding against social evils etc;
- (g) to promote harmony and unity among various groups of people;
- (h) to verify the eligibility of persons getting various kinds of welfare assistance from State Government such as pensions and subsidies;
- (i) to obtain information on the detailed estimates of works proposed to be taken in the area of the Ward Sabha; exercise social audit in all works implemented in the area of the Ward Sabha and awarding utilization and completion certificate for such works;
- (j) to obtain information from the officials concerned as to the services they will render and the works they propose to do in the area of the Ward Sabha;
- (k) to assist the activities of parent-teacher associations in the area;
- (l) to promote literacy, education, health, child care and nutrition;
- (m) to monitor and render assistance to the beneficiary communities engaged in the developmental activities within the area of the Gram Panchayat;

- (n) to ascertain the rationale behind every decision taken by the Gram Panchayat regarding the area of the Ward Sabha;
- (o) to ascertain the follow up action taken on the decisions of the Ward Sabha and the detailed reasons for not implementing any of the decisions;
- (p) to co-operate with the employees of the Gram Panchayats in the sanitation processes and rendering voluntary service for the removal of garbage;
- (q) to find out the deficiencies in the arrangements for water supply, street lighting etc. within the area of the Ward Sabha and to suggest remedial measures;
- (r) to assist the public health activities especially the prevention of diseases and family welfare, within the area of the Ward Sabha;
- (s) to perform such other functions as may be prescribed from time to time".

Substitution of reference to certain expression by certain other expression

- 4. Throughout the Principal Act, unless otherwise expressly provided, for the word "Most Backward Classes and the Other Backward Classes", wherever this occur, the word "Other Backward Classes (Centre) and the Other Backward Classes (State)" shall be substituted.

Amendment of section 13

- 5. In the Principal Act, in section 13 after sub-section 7, the following proviso shall be inserted, namely:-

"Provided that the Office of the District Collector of respective District will issue Other Backward Classes (Centre) and Other Backward Classes (State) certificate for the purpose above only."

Amendment of section 16

- 6. In the Principal Act, in section 16 :-

(1) clause (g) shall be omitted;

(2) for clause (i), the following clause shall be substituted namely:- "(i) if he has been convicted by the Court of an offence involving moral turpitude or has been sentenced to imprisonment for a term exceeding six months for any other offence".

Insertion of new section 16 A

- 7. In the Principal Act, after section 16, the following new section shall be inserted namely:-"

16A. Self-Disclosure of Assets:

- (1) A member of the Panchayat shall, within 3 (three) months from the date of assuming office, file a statement of assets and liabilities of himself and of the members of his family, in the form prescribed before the competent authority authorized in this behalf by the State Government by notification in the Official 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 State Government to this effect.

- (2) Where a member of the Panchayat who filed a statement under sub-section (1) acquires any asset in his name or that of other members of his family or disposes or creates any liability thereafter on the assets specified in the statement, he shall file a statement in this regard to the Competent Authority within 3 (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 shall be taken to disqualify him from continuing as member of the Panchayat under Section 16.

Explanation 1. – For the purpose of this section “family” of a member of the Panchayat means spouse of that member and his parents, unmarried 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”.

8. In the Principal Act, in section 23 :-

- (i) for the existing marginal heading, the following shall be substituted namely:- “Powers, Functions and duties of Sabhapati and Up-Sabhapati”.
- (ii) for section 23 and the entries relating thereto, the following shall be substituted, namely :-

“23. (1) Save as otherwise expressly provided by or under this Act, the executive power for the purpose of carrying out the provisions of this Act and the resolution passed by a Panchayat shall vest in the Sabhapati thereof who shall be directly responsible for the due fulfillment of the duties imposed upon the Panchayat by or under this Act.

(2) When the office of the Sabhapati is vacant, the Up-Sabhapati shall exercise the functions of the Chairperson until a new Chairperson assumes office.

(3) If the Sabhapati of the Panchayat is continuously absent from territorial limit of the Panchayat for more than fifteen days or is incapacitated for any reason, the functions of Sabhapati, during such absence or incapacity shall, except in such circumstances as may be prescribed, vest on the Up-Sabhapati of that Panchayat.

(4) Where the offices of both the Sabhapati and Up-Sabhapati are vacant, the Chairperson of the Standing Committee in the order mentioned in sub-section (1) of Section 134, shall perform the functions of the Sabhapati of the Panchayat till a new Sabhapati or Up-Sabhapati of the Panchayat assumes office and where there is no Sabhapati or Up-Sabhapati of the Panchayat or Chairperson of Standing Committee to hold the office of the Chairperson, the eldest among the elected members shall perform the functions of the Sabhapati of the Panchayat until the Sabhapati or Up-Sabhapati of the Panchayat or Chairperson of any Standing Committee assumes office.

Explanation – The word “senior-most” within the meaning of this sub-section means the person who has been continuously holding the membership of the Panchayat for the maximum period. If more than one person become senior-most within the meaning of this Explanation, in the event, the person oldest in age among them will be the senior-most.

- (5) Without prejudice to the generality of the foregoing provisions, the Sabhapati of the Panchayat shall,
 - (a) preside over and regulate the meetings of the Panchayat and Gram Sabha of which he is the Sabhapati;
 - (b) to exercise supervision and control over the acts done and actions taken by all officers and employees of the Panchayat;
 - (c) incur contingent expenditure up to such limit as may be fixed by the State Government from time to time;
 - (d) authorize payment and refunds pertaining to the Panchayat;
 - (f) to prepare 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.
- (6) The Sabhapati may, in case of an emergency, direct the execution of any work or 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 next meeting and obtain its approval thereof.

(7) The Sabhapati of the Panchayat shall also have the following powers :-

- (a) to ensure the attendance of the employees under the control of the Panchayat including the employees of the State Government transferred to the Panchayat in the meetings of the Panchayat;
- (b) to report against if necessary, any employee or officer under the control of the Panchayat and State 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 to the Prescribed Authority.
- (c) to refer immediately to the State Government any resolution passed by the Panchayat, which, in his opinion has not been 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".

Amendment
of section 24

9. In the Principal Act, in section 24 :-

- (1) clauses(a) and (b) shall be omitted;
- (2) clause (c) shall be re-lettered as clause (a).

10. In the Principal Act, after section 27, the following new section 27A shall be inserted, namely :-

"27 A. The manner of removal of Sabhapati and Up-Sabhapati".

(1) Every Sabhapati or Up-Sabhapati of Gram Panchayat shall forthwith be deemed to have vacated his office if he is removed through a secret ballot by a simple majority of the total number of the members constituting the Gram Panchayat in accordance with the procedure, as may be prescribed:

Provide that no such process of removal shall be initiated unless a notice is signed by not less than one-third of the total number of the members of the Gram Panchayat in accordance with the procedure as may be prescribed.

(2) If such Sabhapati or Up-Sabhapati, as case may be, desires to challenge the validity of the act of removing him under the foregoing sub-section, he shall within 7 (seven) days from the date on which he is deemed to have vacated the office, refer the dispute to the Collector who shall decide within 30 (thirty) days from the date of receipt of such reference and his decision shall be final.

(3) If a motion for removal under sub-section (1) of this section is not carried by the majority of the total number of the Gram Panchayat or the meeting cannot be held for want of quorum, no notice of any subsequent motion of removal of the same office bearer shall be taken into cognizance within a period of 1 (one) year from the date appointed for such meeting.

“

(4) Notwithstanding anything contained in sub-section (1) of this section, no meeting for removal of Sabhapati or Up-Sabhapati under this section shall be convened within a period of 2 (two) years from the date of election of the Sabhapati or the Up-Sabhapati at the first meeting following reconstitution of the Gram Panchayat for filling casual vacancy in the said office”.

Amendment of section 29

11. In the Principal Act, in section 29:-

- (i) after clause (d), the following clause shall be inserted namely:-
- “(e) any member of Gram Panchayat being a member of any political party, if ceases to be the member of that political party, shall cease to be the member of Gram Panchayat from the same day he ceases to be the member of that political party”.
- (ii) sub-section “(4)” shall be omitted;

Amendment of section 31.

12. In the Principal Act, for section 31 and the entries relating thereto, the following shall be substituted, namely:-

- “(1) There shall be a Sachiva for a Gram Panchayat appointed by the State Government on such terms and conditions as may be prescribed.
- (2) The Sachiva shall have authority to supervise all records of every Gram Panchayat falling under the jurisdiction of the Gram Panchayat.
- (3) The Sachiva shall be in charge of the Gram Panchayat and shall discharge such duties and perform such functions as may be prescribed”.

Omission of section 32 & 33

13. In the Principal Act, section 32 and 33 shall be omitted.

Amendment of section 34

14. In the Principal Act, in section 34 :-

- (1) after clause (u), the following clause will be inserted:-
“(v) Nobody will be permitted to make any construction / building on his land within the territorial limit of the Gram Panchayat unless the proposed plan of such construction/ building is sanctioned by the Panchayat Authority:
Provided that if such proposed construction is near a forest area, the Panchayat Authority, before approving such sanction, shall be satisfied that a certificate has been given by the Competent Authority under the Sikkim Forest Water Courses, Road Reserved, Preservation and Protection Act, 1988 certifying that the proposed construction does not fall within the Forest Area.
- (2) the existing clause (v) shall be re-lettered as clause (w)

Amendment of section 35

15. In the Principal Act, in section 35, after the sub-section (3), the following sub-section shall be inserted, namely:-

"(4) The Gram Panchayat shall be endowed with the regulatory function of recording births and deaths taken place within their territorial limit and such information shall be communicated to the concerned authority immediately by the concerned near relations of the newly born or the deceased as the case may be".

Insertion of new sections 39 A and 39 B

16. In the Principal Act, after section 39, the following new sections shall be inserted, namely:-

"39 A. Transfer of Funds to the Panchayat :-

The State Government shall release funds to the Panchayats in such a manner that these institutions get adequate time to use the allocation during the year itself. The fund release could be in the form of equally spaced installments. It could be done in two installments, one at the beginning of the financial year and the other by the end of September of that year.

39 B. Grants and Shares of Taxes.-

- (1) The State 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 State Government shall be distributed among Panchayats at all levels in an equitable manner according to the formula fixed by the State Government to this effect".

Amendment of section 48

17. In the Principal Act, in section 48, for sub-section (3) the following shall be substituted, namely :-

- (3) The Directorate of Local Fund Audit, Finance Revenue and Expenditure Department, Government of Sikkim shall audit the accounts of Gram Panchayat/Zilla Panchayat/District Planning Committee, as soon as may be after the end of each financial year in the manner provided under the Sikkim Local Fund Audit Act, 2012, and submit the Annual Audit Report for placing it before State Legislature.

Whereas, the Comptroller and Auditor General of India shall provide Technical Guidance and Supervision (TG & S) over the audit of the Gram Panchayat and submit its Annual Technical Inspection Report for placing it before State Legislature".

Insertion of new section 48 A

18. In the principal Act, after section 48, the following section shall be inserted, namely :-

"48 A. Liabilities of Sabhapati, Up-Sabhapati and Member of Gram Panchayats .-

- (1) Every member of a Panchayat including the Sabhapati and Up-Sabhapati thereof shall be liable to the Panchayat of which they

are 'members or, as the case may be, Sabhapati and Up-Sabhapati, for the loss, waste or misappropriation of any money or other property belonging to such a Panchayat as direct consequence of his neglect or misconduct while in office.

- (2) If on appearance the member or, as the case may be, the Sabhapati and Up-Sabhapati admits his liability and its amount, the Prescribed Authority shall pass an order for the recovery of the amount of each liability from such member or, as the case may be, such as Sabhapati and Up-Sabhapati.
- (3) If the member or, as the case may be, the Sabhapati and Up-Sabhapati disputes their liabilities or its extent, the Prescribed Authority after recording evidence in support of the allegations and after giving the concerned office-bearer opportunity to cross-examine the witness and to adduce evidence in defense shall, by order, determine the extent and amount of liability of such office-bearer for such waste or misappropriation of money or property".

Amendment of
section 50

19. In the Principal Act, after sub-section (4) of section 50, the following proviso shall be inserted, namely :-

"Provided that Office of the District Collector of respective District will issue Other Backward Classes (Centre) and Other Backward Classes (State) certificate for the above purpose only"

Amendment of
section 60

20. In the Principal Act, the existing section 60 shall be renumbered as sub-section (1) of that section, after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :-

"(2) The provision of Section 23 relating to Power, Function and Duties of Sabhapati and Up-Sabhapati of Gram Panchayat shall mutatis-mutandis be applicable to the Adhakshya and Up-Adhakshya".

Omission of
section 61

21. In the Principal Act, section 61 shall be omitted.

Amendment of
section 66

22. In the Principal Act, in section 66 ,-

(i) after clause (d), the following clause shall be inserted namely :-

"(e) any member of Zilla Panchayat being a member of any political party, if he ceases to be the member of that political party, shall cease to be the member of Zilla Panchayat from the same day he ceases to be the member of that political party".

(ii) sub-section "(5)" shall be omitted".

Insertion of new
section 66 A

23. In the Principal Act, after section 66, the following section shall be inserted, namely :-

"66 A. Recalling of Adhakshya or Up-Adhakshya or Member of Zilla Panchayat :-

The provision of section 27 A relating to Recalling of Sabhapati or Up-Sabhapati or Member of Gram Panchayat shall mutatis-

Insertion of new sections 76 A and 76 B

mutandis be applicable to the Adhakshya or Up-Adhakshya or Member of Zilla Panchayat".

24. In the Principal Act, after section 76, the following new sections shall be inserted namely:-

"76 A. Transfer of Funds to the Panchayat.-

The State Government should release funds to the Panchayats in such a manner that these institutions get adequate time to use the allocation during the year itself. The fund release could be in the form of equally spaced installments. It could be done in two installments; one at the beginning of the financial year and the other by the end of September of that year.

76 B. Grants and Shares of Taxes.-

- (1) The State 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 State Government shall be distributed among Panchayats at all levels in an equitable manner according to the formula fixed by the State Government in this behalf".

Insertion of new section 85 A

25. In the Principal Act, after section 85, the following new section shall be inserted namely:-

"85 A. Liabilities of Sabhapati, Sachiva and Member of Zilla Panchayats :-

The provision of Section 48 A relating to Liabilities of Sabhapati or Sachiva or Member of Gram Panchayat shall mutatis-mutandis be applicable to the Adhakshya or Up-Adhakshya or Member of Zilla Panchayat".

Amendment of section 86

26. In the Principal Act, in the section 86, for the words "and sub-section (3)" the words "in a manner provided in sub-section (3)" shall be substituted.

Insertion of new section 123 A

27. In the Principal Act, after section 123, the following section shall be inserted namely:-

"123A. Pool of experts and specialists.- A pool of experts and specialists (e.g. Engineers, Planner, Accountants etc.) may be maintained by State Government or District Panchayat. This common pool could be then accessed by the Panchayats whenever required for specific tasks on payment".

Amendment of section 127

28. In the Principal Act, in section 127:-

- (i) in the marginal heading the word after "Constitution" and before the word "of" the words "Function" shall be inserted.



(ii) for section 127 and the entries relating thereto, the following shall be substituted, namely:-

"127. (1) The State Government shall constitute District Planning Committees (District Planning Committees) in every District within three months of completion of elections to Panchayats. The District Planning Committee shall have a planning office with a full time District Planning Officer. The District Planning Committees shall be constituted to consolidate the plans prepared by the Panchayats and the Municipalities in the District and to prepare a draft development plan for the District as a whole.

EXPLANATION – DPO means any substantive officer appointed by the State Government trained and monitored by the DPER & NECA Department.

(2) The District Planning Committee shall consist of such number of members as may be specified by the State Government from time to time by Notification in the Official Gazette and in so fixing the total number of members of the District Planning Committee, the State Government shall specify the number respectively of the nominated members and elected members:

Provided that not less than four-fifth of the total number of members of the District Planning Committee shall be elected by and from amongst, the elected members of the District Panchayat and the Municipalities in the District in proportion to the ratio between the population of the rural and urban area in the District.

(3) the nominated members may consist of :-

(a) persons representing the State Government;

(b) members of the Legislative Assembly who represent a constituency comprising the whole or part of the District.

(c) members representing such organizations and institutions as may be deemed necessary by the State Government.

(4) The District Planning Committee shall have-

a) such functions relating to District planning as may be assigned to it by the State Government;

(b) such powers as may be conferred on it by the State Government.

(5) The Chairperson of the District Planning Committee shall be the Chairperson of the District Panchayat concerned.

(6) Every District Planning Committee shall, in preparing the draft development plan, have regard to-

(i) Matters of common interest between the Panchayat and the Municipalities including spatial planning, sharing of water

and other physical and natural resources, the integrated development of the infrastructure and environmental conservation;

- (ii) The extent and type of available resources whether financial or otherwise, and
- (iii) Consult such institutions and organizations as the State Government may by order, specify.

(7) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by the District Planning Committee, to the State Government.

(8) There shall be a planning office headed by the District Planning Officer to assist the District Planning Committee.

The appointment of the staff and officers of the planning office shall be made according to the rules made by the State Government".

Insertion of new
section 133

29. In the Principal Act, after section 132, the following section shall be inserted, namely:-

"133 - Powers and responsibilities of police in respect of offences and assistance to the Panchayats.-

Every police officer posted within the territorial limit of the Panchayat shall give immediate information to the Panchayat of an offence coming to his knowledge which has been committed under this Act or any rule or by-law made thereunder and shall assist all the members, officers and servants of the Panchayat in the exercise of their lawful authority".

CHAPTER XIII

Insertion of new
Chapter XIII -
Standing Committees
and Insertion of new
sections.

30. In the Principal Act, after section 133, the following new sections shall be inserted, namely:-

1. **"134. Standing Committees of Panchayats.-**

- (1) In every Panchayat at all levels Sectoral Standing Committees as stated below shall be constituted:
 - (a) Standing Committee for Finance.
 - (b) Standing Committee for Economic Development and Planning.
 - (c) Standing Committee for Welfare and Social Justice.
 - (d) Standing Committee for Health, Nutrition, Sanitation and Drinking water.
 - (e) Standing Committee for Education and Skill Development.
 - (f) Standing Committee for Agriculture, Forestry, Watershed and Allied Activities.
- (2) In the District Panchayat a Standing Committee for Public Works shall also be constituted.

- (3) Every Standing Committee shall consist of such number of members, including its Adhakshya or Sabhapati, as decided by the Panchayat, so that all elected members except the Adhakshya and Up-Adhakshya or Sabhapati and Up-Sabhapati shall be members in one of the Standing Committees and the number of members to each Standing Committee shall, as far as possible, be equal.
- (4) 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.
- (5) In every Standing Committee there shall be members appointed in accordance with the procedure prescribed by the Panchayat itself. No Panchayat representative shall be a member of more than one Standing Committee at a time.
- (6) The Chairperson of every Standing Committee, except the Standing Committee for Finance, shall be elected by the members of the respective Standing Committee from among themselves.
- (7) The Up-Adhakshya or Up-Sabhapati of Panchayat shall be an ex-officio member and Chairperson of the Standing Committee for Finance and the Sabhapati of Panchayat shall be an ex-officio member of all Standing Committees without the right to vote.
- (8) A member other than an ex-officio member of a Standing Committee and the Chairperson 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 resignation to the Sachiva of the Panchayat in the prescribed form and the resignation shall take effect from the date on which it was received by the Sachiva and the Sachiva shall inform the Chairperson and the Panchayat immediately of the fact.
- (9) The person who intends to resign from the membership or Chairmanship of the Standing Committee shall personally present such resignation letter to the Secretary who shall acknowledge the receipt of the same.
- (10) Except as otherwise provided in this Act, the term of the Chairperson of a Standing Committee or its members shall co-exists with the term of that Panchayat.
- (11) An election to fill up a casual vacancy of a member of a 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 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.

- (12) If a casual vacancy of the Chairperson of a Standing Committee other than the Standing Committee for Finance arises, one of its members shall be elected as its Chairperson in the next meeting of the Standing Committee.
- (13) A motion of no-confidence against the Chairperson 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 Chairperson of that Standing Committee shall cease to hold office and shall be deemed to have vacated the office of the Chairperson of the Standing Committee immediately".

"135. Meetings of Standing Committees.-

In regard to conduct of business at its meetings, a Standing Committee will follow such procedure as may be prescribed".

"136. Subject to be dealt with by the Standing Committees.-

- (1) The following subjects shall be dealt with by the Standing Committees of the Panchayat:
 - (a) In a Gram Panchayat, -
 - (i) The Standing Committee for Finance shall deal with the subjects of finance, tax, accounts, audit, budget, general administration, appeals relating to tax and subjects not allotted to other Standing Committees;
 - (ii) The Standing Committee for Economic Development shall deal with the subjects of development planning, socio-economic planning, spatial planning, small-scale industry, housing, regulation of building construction, electricity, poverty alleviation programmes, slum improvement, food security including the public distribution system, markets etc;
 - (iii) The Standing Committee for Welfare and Social Justice shall deal with the subjects of economic, social, educational, cultural and other interests of Scheduled Caste-Scheduled Tribe, protection of such castes and classes from social injustice and any form of exploitation, development of women and children, social welfare, social security etc.
 - (iv) The Standing Committee for Health, Nutrition, Sanitation and Drinking Water shall deal with the subjects of public health, social hygiene, public works, sanitation, water supply, sewerage, environment etc;
 - (v) The Standing Committee for Education and Skill Development shall deal with the subjects of education, art & culture and entertainment;
 - (vi) The Standing Committee for Agriculture, Forestry, Watershed and Allied Activities shall deal with the subjects of agriculture,

soil conservation, social forestry, animal husbandry, diary development, minor irrigation, fisheries, and other matters connected with development of agriculture and live-stock.

(b) In the District Panchayat, -

- (i) The Standing Committee for Finance shall deal with the subjects like finance, accounts, audit, budget, general administration and subjects not allotted to other standing committee;
- (ii) The Standing Committee for Economic Development and Planning shall deal with the subjects like development planning, socio-economic planning, small scale industry, etc.
- (iii) The Standing Committee for Public Works shall deal with the subjects like public works, housing, spatial planning and environment;
- (iv) The Standing Committee for Health, Nutrition, Sanitation and Drinking Water shall deal with subjects like public health, rural water supply, sanitation and allied subjects.
- (v) The Standing Committee for Education and Skill Development shall deal with subjects like education;
- (vi) The Standing Committee for Welfare shall deal with subjects like social welfare, development of women and children and development of scheduled caste-scheduled tribe;
- (vii) The Standing Committee for Agriculture, Forestry, Watershed and Allied Activities shall deal with the subjects like agriculture, soil conservation, animal husbandry, minor irrigation, fisheries and allied subjects.

(2) The Standing Committees of the Panchayat may perform such other functions as may be entrusted to them by the Panchayat in addition to the powers and duties conferred on them by rules made in this behalf.

(3) 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 resolutions if considered necessary.

(4) Experts in relevant subject matter shall be invited to attend the meetings of the respective Standing Committee and render necessary assistance to the committee in the discharge of its functions".

"137. Power to call for records from standing Committees.-

A Panchayat may at any time call for any document including extracts from the proceedings of the meetings of any Standing Committee any return, account statement or report concerning or connected with any matter with which such Standing Committee has been authorized or directed to deal, and every such requisition shall be complied with by the Standing Committee".

"138. Power to revise decisions of Standing Committees.-

(1) A Panchayat may, on application made to it or otherwise, examine the record of any decision of any of its Standing Committees and may confirm, reverse or modify such decision:

Provided that no action under this sub-section shall be initiated after the expiry of three months from the date of the decision sought to be revised.

(2) The order of the Panchayat under sub-section (1) reversing or modifying a decision of its Standing Committee must be supported by a majority of the total number of its members, failing which the decision of the Standing Committee shall stand".

Jagat B. Rai (SSJS)
L. R-cum-Secretary,
Law Department.

SIKKIM

GOVERNMENT **GAZETTE**
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok **Thursday 14th June, 2018** **No. 321**

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No.11/LD/18

Dated: 13.06.2018

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 11th day of June, 2018 is hereby published for general information:-

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 2018
(ACT NO. 11 OF 2018)

AN

ACT

to amend the Sikkim Panchayat, Act 1993

Be it enacted by the Legislature of Sikkim in the Sixty-ninth Year of the Republic of India, as follows:-

Short title, extent and commencement	1 (1) This Act may be called the Sikkim Panchayat (Amendment) Act, 2018. (2) It shall extend to the whole of Sikkim. (3) It shall come into force at once.
Amendment of Section 13	2 In the Sikkim Panchayat Act, 1993 (hereinafter referred to as the said Act), in section 13, after sub-section (5), the following proviso shall be inserted, namely:-

"Provided that from the total number of seats reserved in the Gram Panchayat as a whole for the Tribal Community in Sikkim, the seats for the Bhutia-Lepcha Community who belong to Tribal Community shall be proportionate to their population:

Provided further that the seats so reserved for the Bhutia-Lepcha Community shall not be less than minimum of 20% of the seats for the Tribal Community".