

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act V of 1989

THE DARJEELING GORKHA HILL COUNCIL (AMENDMENT) ACT, 1989.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 8th April, 1989.]

[8th April, 1989.]

An Act to amend the Darjeeling Gorkha Hill Council Act, 1988.

WHEREAS it is expedient to amend the Darjeeling Gorkha Hill Council Act, 1988, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Fortieth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the Darjeeling Gorkha Hill Council (Amendment) Act, 1989.

Short title
and
commen-
cement.

(2) Sections 5, 6, 9 and 10 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 4th day of November, 1988.

2. In sub-section (3) of section 5 of the Darjeeling Gorkha Hill Council Act, 1988 (hereinafter referred to as the principal Act), for the words “of the non-Nepali communities” the words “for minority communities” shall be substituted.

Amendment
of section 5
of West Ben.
Act XIII of
1988.

3. In section 8 of the principal Act, for the words, letter, figure and brackets “as defined in clause (d) of section 2.”, the words and figure “from any one of the constituencies referred to in section 6.” shall be substituted.

Amendment
of section 8.

4. In clause (b) of sub-section (1) of section 9 of the principal Act, the words “on such date as may be fixed by the Government” shall be omitted.

Amendment
of section 9.

5. In section 13 of the principal Act, after sub-section (3), the following sub-sections shall be inserted:—

Amendment
of section
13.

“(4) If a person is elected to more than one seat in the General Council, then, unless within a period of thirty days from the

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[West Ben. Act

(Sections 6-8.)

last of the dates of election of such person he resigns all but one of the seats by writing under his hand addressed to the election authority referred to in clause (b) of section 19, all the seats shall become vacant.

- (5) For the purposes of sub-section (4) of this section and sub-sections (2) and (3) of section 16, the date on which a person is declared by the returning officer to be elected to the General Council, shall be the date of his election.”.

Amendment
of section
16.

6. Section 16 of the principal Act shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-sections shall be inserted:—

“(2) If any member fails to make and subscribe within three months from the date of his election or nomination to the General Council an oath or affirmation in accordance with the provisions of section 21, then, at the expiration of the said period, the seat of such member in the General Council shall become vacant.

- (3) If a person who is already nominated to the General Council and has taken his seat in the General Council is elected to the General Council, his seat in the General Council as a nominated member shall, on the date of his election, become vacant.”.

Amendment
of section
19.

7. In section 19 of the principal Act,—

- (a) for clause (b), the following clause shall be substituted:—

“(b) the appointment of election authority, election officer, returning officers, presiding officers and polling officers for election and their powers, functions and duties;”;

- (b) after clause (j), the following clause shall be inserted:—

“(jj) the requisitioning of vehicles and premises in connection with the conduct of elections and the penalty for contravention of any order regarding such requisitioning;”.

Insertion of
new section
19A.

8. After section 19 of the principal Act, the following section shall be inserted:—

“Electoral offences. 19A. (1) For the purposes of this Act, the electoral offences provided for in sections 125 to 136 of the Representation of the People Act, 1951, shall be the electoral offences at or in connection with the election under this Act.

(2) Any person who is guilty of an electoral offence as aforesaid shall be punishable in the same manner as is provided for in the said Act.”.

43 of 1951.

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V of 1989.]

(Sections 9, 10.)

9. For section 21 of the principal Act, the following section shall be substituted:—

Amendment
of section 21.

“Oath or affirmation by members. 21. Every member shall, before taking his seat, make and subscribe before such person as may be appointed by the Government in this behalf, an oath or affirmation, and shall be given a certificate of receipt of the form of oath or affirmation as so made and subscribed, according to the form set out for the purpose in the Schedule.”.

10. After section 71 of the principal Act, the following Schedule shall be added:—

Addition of
Schedule.

“SCHEDULE

(See section 21.)

Form of Oath or Affirmation

[Section 21 of the Darjeeling Gorkha Hill Council Act, 1988
(West Bengal Act XIII of 1988)]

I, A. B., having been elected (or nominated) a member of the Darjeeling Gorkha Hill Council, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India.

.....
(Signature and name of the member in block letters)

Sworn in the name of God/solemnly affirmed by Shri/Shrimati

.....
at (place) at (hour)

on this the day of, before me.

(Signature)
(Name, designation and seal)

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(Section 11.)

Certificate of receipt of form of oath or affirmation

Certified that (name),
who has been elected to the Darjeeling Gorkha Hill Council from
..... Constituency/nominated to the Darjeeling
Gorkha Hill Council has made and subscribed the oath/affirmation
as required by section 21 of the Darjeeling Gorkha Hill Council
Act, 1988 (West Bengal Act XIII of 1988), before me at my office at
..... (hour) on the (date).

Repeal and
saving.

11. (1) The Darjeeling Gorkha Hill Council (Amendment)
Ordinance, 1988, is hereby repealed.

West Ben.
Ord. III of
1988.

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