



The Sikkim Panchayat Act, 1982

Act 3 of 1982

Keyword(s):

Adhyakshya, Auditor, Gram, Gram Panchayat, Sabhapati, Upadhakshya, Up-Sabhapati, Zilla Panchayat, Panchayat

Amendments appended: 5 of 1983, 1 of 1991, 7 of 2001, 3 of 2004, 17 of 2005, 14 of 2007

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

"THE SIKKIM PANCHAYAT ACT 1982**ARRANGEMENT OF SECTIONS****CHAPTER I****Preliminary**

1. Short title, extent and commencement.
2. Definitions,

CHAPTER II**Constitution of Gram**

3. Constitution of Gram, its name and jurisdiction.
4. Effect of alteration of the area of a Gram.
5. Effect of inclusion of a Gram or part thereof in Municipal Corporation, etc.
6. Constitution of Gram Panchayat.
7. Incorporation of Gram Panchayat.
8. Term of members of Gram Panchayat.
9. Disqualifications of members of Gram Panchayat.
10. Sabhapati and Up-Sabhapati.
11. Notification of election of nomination etc.
12. First meeting of Gram Panchayat.
13. Meeting of Gram Panchayat.
14. Consideration of question disposed of by Gram Panchayat.
15. List of business to be transacted at a meeting.
16. Powers and duties of Sabhapati.
17. Powers and duties of Up-Sabhapati.
18. Right of individual member.
19. Resignation of Sabhapati, or Up-Sabhapati or member.
20. Removal of Sabhapati and Up-Sabhapati.
21. Filling of casual vacancy in the office of Sabhapati or Up-Sabhapati.
22. Removal of member of Gram Panchayat.

23. Filling of casual vacancy in place of member of Gram Panchayat.
24. Sachiva of Gram Panchayat.
25. Resignation of Sachiva.
26. Removal of Sachiva.

CHAPTER III

Duties of Gram Panchayat

27. Obligatory duties of Gram Panchayat.
28. Other duties of Gram Panchayat.

CHAPTER IV

Property and Fund

29. Property and Fund of Gram Panchayat.
30. Allocation of properties to Gram Panchayat.
31. Acquisition of land for Gram Panchayat.
32. Gram Panchayat Fund.
33. Levy of taxes, rates and fees.
34. Power of State Government to regulate taxes, rates and fees.
35. Appeal against taxation, fees and rates.
36. Recovery of arrears.
37. Action by District Collector.
38. Power of State Government in regard to relief in taxes, rates or fees. Budget of Gram
39. Panchayat.
40. Supplementary Budget.
41. Accounts.

CHAPTER V

Constitution of Zilla Panchayat

42. Zilla Panchayat and its constitution.
43. Term of members of Zilla Panchayat.
44. Incorporation of Zilla Panchayat.
45. Adhakshya and Upadhakshya.

46. Notification of election, nomination etc.
47. First meeting of the Zilla Panchayat.
48. Meetings of Zilla Panchayat.
49. Reconsideration of questions disposed of by Zilla Panchayat.
50. List of business to be transacted at a meeting.
51. Powers and duties of Adhakshya.
52. Powers and duties of Upadhakshya.
53. Right of individual members.
54. Resignation of Adhakshya and Upadhakshya or a member.
55. Removal of Adhakshya and Upadhakshya.
56. Filling of casual vacancy in the office of Adhakshya or Upadhakshya.
57. Removal of member of Zilla Panchayat.
58. Filling of casual vacancy in office of a member of Zilla Panchayat.
59. Sachiva of Zilla Panchayat.

CHAPTER IV

Powers and Duties of Zilla Panchayat

60. Obligatory duties of Zilla Panchayat.
61. Other duties of Zilla Panchayat.
62. Vesting of Zilla Panchayat with certain powers.
63. Joint execution of schemes by two or more Zilla Panchayats.
64. Power of supervision by Zilla Panchayat over Gram Panchayat.

CHAPTER VII

Property and Fund

- u5. Works constructed by a Zilla Panchayat to vest in it.
66. Allocation of properties to Zilla Panchayat.
67. Acquisition of land for Zilla Panchayat.
68. Zilla Panchayat Fund.
69. Imposition of taxes, rates and fees.
70. Power of State Government to regulate taxes.
71. Appeal against taxation, rate or fee.
72. Recovery of arrears.

- 73. Action by District Collector.
- 74. Power of State Government in regard to relief in taxes.
- 75. Budget of Zilla Panchayat.
- 76. Supplementary Budget.
- 77. Accounts.

CHAPTER' VIII

Audit

- 78. Audit of accounts of fund.
- 79. Submission of accounts to audit.
- 80. Powers of Auditors.
- 81. Penalty.
- 82. Audit report.
- 83. Action on audit report.
- 84. Power of auditor to surcharge etc.
- 85. Appeal.
- 86. Payment of certified sums.
- 87. Certain costs and expenses payable out of funds.

CHAPTER IX

Miscellaneous

- 88. Oath of affirmation.
- 89. Validation.
- 90. Members and Officers and employees to be public servants.
- 91. Indemnity.
- 92. Reference of dispute.
- 93. Inspection.
- 94. Power of State Government to rescind or suspend resolution of a Gram Panchayat or Zilla Panchayat.
- 95. Power of State Government officers to attend meetings.
- 96. Directions by State Government.
- 97. Power to remove Sabbapati, Up-Sabhapati, Sachiva, Adhakshya and Upadhaksya.
- 98. Power of State Government to supersede a Gram Panchayat or Zilla Panchayat.

99. Consequences of super session.
 100. Election of Sabhapati or Up-Sabhapati or Sachiva or member of Gram Panchayat or Adhakshya or Upadhakshya or member or Zilla Panchayat.
 101. Superintendence of election.
 - 101A. Electoral offences.
 - 101B. Requisition of premises, vehicles etc. for election purpose.
 102. Application for questioning the election.
 103. Decision on question as to disqualification.
 104. - Improvement of sanitation.
 105. Power of Gram Panchayat or Zilla Panchayat over village roads, waterways and other matters.
 106. Power of Gram Panchayat or Zilla Panchayat in respect of polluted water supply.
 107. Emergent power on outbreak of epidemic.
 108. Nomination of members by State Government.
 109. Report on the work of Gram Panchayat or Zilla Panchayat.
 110. Placing of services of Government employees at the disposal of a Gram Panchayat or a Zilla Panchayat.
- III. Power to settle disputes.
112. Delegation. .
 113. Allowance to members.
 114. Election not to be contested with the support of Political party.
 115. Penalty.
 116. Repeal and Savings.
 117. Power to remove difficulties.
 118. Power to make rules.

SCHEDULE

THE SIKKIM PANCHAYAT ACT 1982 ACT

NO.3 OF 1982

AN

ACT.

to provide for the reorganization of Panchayats with a view to ensuring efficient Panchayat administration in the State and to provide for matters connected therewith and incidental thereto.

[7th April, 1982)

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

CHAPTER I

Preliminary

1.

(1) This Act may be called the Sikkim Panchayat Act, 1982.

Short title, extent and commencement.

(2) It extends to the whole of Sikkim except the areas which have been or may hereafter be declared as, or included in, the Municipal Corporation under the provisions of the Gangtok Municipal Corporation Act, 1975 or as a cantonment under the provisions of the Cantonment Act, 1924 or as a Bazar Area under the provisions of the Sikkim Bazar Committees Act, 1969.

4 of 1975.

2 of 1924.

(3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different areas or different provisions of the Act and any reference to the commencement of any provision of this Act shall be construed as reference to the date on which such provision is brought into force in such areas:

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

(a) "Adhakshya" means an Adhakshya of a Zilla Panchayat elected under sub-section (1) of section 45;

Definitions.

- (b) "auditor" means an auditor appointed under section 78 and includes any officer authorised by him to perform all or any of the functions of an auditor.
- (c) "District Collector" means the Collector of the district;
- (d) "Deputy Development Officer-cum -Planning Officer" means the Deputy Development Officer-cum-Planning Officer of the district appointed by the State Government;
- (e) "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 subsection (1) of section 3;
- (f) "Gram Panchayat" means a Gram Panchayat constituted under sub-section (I) of section 6;
- (g) "notification" means a notification published in the Official Gazette;
- (h) "prescribed authority" means an authority appointed by the State Government by notification, for all or any of the purposes of this Act;
- (i) "Sabhapati" means a Sabhapati of a Gram Panchayat elected under sub-section (I) of section 10;
- (j) "Secretary" means the Secretary of the Rural Development Department and includes an Additional Secretary, Joint Secretary, Deputy Secretary and Under Secretary of that Department;
- (k) "Upadhakshya" means an Upadhakshya of a Zilla Panchayat elected under sub-section (1) of section 45;
- (l) "Up-Sabhapati" means an Up-Sabhapati of a Gram Panchayat elected under sub-section (I) of section 10;
- (m) "Zilla Panchayat" means a Zilla Panchayat of a district constituted under subsection. (1) of section 42.

CHAPTER II
Constitution of a Gram

3. (1) Subject to the consideration of local conditions, the State Government may, by notification, declare for the purposes of this Act any village or part of a village or a group of adjoining villages or parts thereof to be a Gram. *Constitution of Gram, its name and jurisdiction.*
- (2) As soon as may be after the constitution of a Gram under sub-section (I), 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 Revenue Block having regard to the number of voters in such Revenue Block and such other facts as the State Government may consider fit.
- (4) The notification under sub-section (I) 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 after obtaining the views of the Gram 'Panchayat' or Panchayats concerned by notification
- (a) exclude from any Gram any area comprised therein, or
- (b) include in any Gram any area adjoining to such Gram
- (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.

Effect of alteration of the area of Gram.

4. (1) When an area is excluded from a Gram under clause (a) of sub-section (3) 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 (3) 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 (3) 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 (3) 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 (3) 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.

- 4 of 1975.
5. (1) If, at any time, the whole of the area of a Gram is included within the Municipal Corporation under the provisions of the Gangtok Municipal Corporation Act, 1975 or in a Bazar Area under the Bazar Committees Act, 1969; or a Cantonment Area, 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 Municipal Corporation or on the Bazar Committee or on the Cantonment Authority or Board, as the case may be.

Effect of inclusion of a Gram or part thereof in Municipal Corporation, etc.

- 4 of 1975.
- (2) If, at any time, a part of the area of a Gram is included in a Municipal Corporation under the provisions of the Gangtok Municipal Corporation Act, 1975 or in a Bazar Area under the Bazar Committees Act, 1969; or a Cantonment Area, the area of the Gram shall be deemed to have been reduced to the extent of the part so included within the Municipal Corporation or in a Bazar Area or Cantonment Area, 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 Municipal Corporation or on the Bazar Committee or on the Cantonment Authority or Board, as the case may be, 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 Municipal Corporation, Bazar Area or Cantonment Area, as the case may be, shall apply to the part of the area of the area of the Gram so included.

*Constitution of
Gram Panchayat.*

6. (1) As soon as may be after the constitution of the Gram, the State Government may, by notification, constitute for every Gram a Panchayat bearing the name of the Gram.
- (2) 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 shall elect by secret ballot at such time and in such manner as may be notified by the State Government from among themselves such number of members not being less than five and not more than nine as may be determined by the State Government:

Provided that the total number of members of the Gram Panchayat including nominated members shall not exceed nine.

1 [(3) (* * * * *)

- (4) Where a Gram has failed to elect the full number of members as determined under sub-section (2) , it shall be called upon to elect the remaining member but if it again fails to elect. the full number, it shall be lawful for the State Government to fill up any seat remaining vacant by nomination from amongst the members of the Gram, and any person, so nominated shall, for the purposes of this Act, be deemed to have been duly elected.

- (5) The term of office of the members of -Gram Panchayat shall, subject to the provisions of section 22, be co-terminus with the term of the Gram Panchayat

1. Omitted by sec. 2 of the S. P. (Amd). Act No.5 of 1983. (w. e. f. 18 12. 1982).

7. (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. *Incorporation of Gram Panchayat.*

- (2) A Gram 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 Gram Panchayat shall obtain the previous approval of the State Government.

8. (1) The term of a Gram Panchayat, unless sooner dissolved, shall be five years from the date of its constitution as specified in the Official Gazette: *Term of Gram Panchayat.*

Provided that the term of a Gram panchayat which is constituted after the constitution of other Gram panchayats in a regular election, shall expire with the expiration of five year term of other Gram Panchayats:

Provided further that the State Government may, where it is not possible to hold elections for the constitution of new Gram panchayat immediately after the expiry of the term, by notification, extend the term for a period not exceeding six months at a time subject to a maximum period of one year or appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Gram panchayat, under this Act until the constitution of new Gram panchayat.

- (2) When a new Gram panchayat is thus duly constituted the old Gram panchayat shall stand dissolved.

9. (1) A person shall not be qualified to be a member of a Gram panchayat, if *Disqualification of members of Gram Panchayat.*
- (a) he is a member of a municipal corporation under the provisions of the Gangtok Municipal

Corporation Act, 1975, or of a Bazar Committee constituted under the Sikkim Bazar Committees Act, 1969;

- (b) holds any office of profit under the State Government or the Central Government or a local authority or a co-operative society or a Government, company or corporation owned or controlled by the Central or a State Government; or
- (c) 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 Corporation owned or controlled by the Central or a State Government for misconduct: or
- (d) is of unsound mind and stands so declared by a competent Court; or
- (e) is an undischarged insolvent; or
- (f) has been convicted by a Court of an offence involving
 - moral turpitude and sentenced to imprisonment for a term exceeding six months; or
- (g) is convicted of an election offence; or
- (h) is suffering from a variety of leprosy which is infectious; or
- (i) has not paid any arrears in respect of any tax or rate or fee payable to a Gram Panchayat or Zilla Panchayat or the State Government:
 Provided that the disqualification under this clause shall cease upon payment of the tax or rate or fee; or
- (j) has directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of Zilla Panchayat or a Gram Panchayat within the district:

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 contracts with or is employed by a Gram Panchayat or the Zilla Panchayat of the District.

- (2) Any disqualification under clauses (c), (e), (f) or (g) may be removed by the State Government by order in writing.

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

Sabhapati and Up-Sabhapati.

- (2) The Sabhapati and Up-Sabhapati shall, subject to the provisions of section 20 and to their continuing as members, hold office for a period of five years:

Provided that a Sabhapati or an Up-Sabhapati shall continue to hold office after the expiry of the said period until a new Sabhapati or Up-Sabhapati is elected and assumes office or until an authority, or a person or persons is or are appointed under the second proviso to sub-section (1) of section 8 .

- (3) 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 U p-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.

- (4') 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.
- (5) When the office of the Sabhapati and the Up-Sabhapati are both vacant, or the Sabhapati and the Up-Sabhapati are temporarily unable to act, the prescribed authority, may appoint a Sabhapati and an Up-Sabhapati from among the members of the Gram Panchayat to act as such until a Sabhapati and an Up..Sabhapati are elected and assume office.

Publication of notification of election or nomination etc.

11. 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 in the Official Gazette 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.

First meeting of Gram Panchayat.

12. (1) Notwithstanding of 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 11, call a 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 the prescribed manner.

13. (1) Every Gram Panchayat shall hold a meeting for transaction of its business at least once 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.

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 the Deputy Development Officer-cum-Planning 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 Deputy Development Officer cum-Planning 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 members 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, and 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 if 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.

Consideration of question disposed of by Gram Panchayat.

14. 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.

List of business to be transacted at a meeting.

15. (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 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 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 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 such meeting.

- (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 Deputy Development Officer-cum-Planning Officer of the concerned district.

16. The Sabhapati shall
 - (a) regulate the meetings of the Gram Panchayat;

*Powers and duties
of Sabhapati.*

- (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 authorization 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, by rules made in this behalf, prescribe.

*Powers and duties of
Up-Sabhapati.*

17.

- 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.

\

18. 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.
- Right of individual member.*

19. (I) A Sabhapati or an Up-Sabhapati or a member of a Gram Panchayat may resign his office 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:
- Resignation of Sabhapati or Up-Sabhapati or member.*

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 (I), the prescribed authority shall communicate it to the members of the Gram Panchayat within a period of thirty days of such acceptance.

20. 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 purpose. Notice of such meeting shall be given to the prescribed authority:
- Removal of Sabhapati and Up-Sabhapati.*

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 13 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.

21. (1) In the event of removal of a Sabhapati or an Up-Sabhapati under section 20 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. 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 20 shall be eligible for re-election to the vacancy so caused.

Removal of member of Gram Panchayat.

22. (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 clauses (b), (c), (d), (e), (f), (g), (h), (i) or (j) of section 9, 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 such authority as the State Government may appoint in this behalf,

and, thereupon, the authority so appointed 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.

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

23. (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 un-expired term of office of his predecessor:

Filling of casual vacancy in place of member of Gram Panchayat.

Provided that no election for filling in of a casual vacancy shall, be held if the vacancy occurs within a period of three 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 22, shall be eligible for re-election to the vacancy so caused.

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

Sachiva of 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 any person including persons in Government service with prior approval of the State Government and such person may be paid such honorarium as the State Government may determine.

- (2) The Sachiva of the Gram Panchayat so elected 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 organization 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 Gram Panchayat may, by general or special resolution, direct or 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 26, be co-terminus with the term of the Gram Panchayat.

Resignation of Sachiva.

25. A Sachiva of a Gram Panchayat may resign his office b.y 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.

26. (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. 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 subsection (-1) shall be eligible for re-election to the vacancy so caused.

CHAPTER III
Duties of Gram Panchayat

27. 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~ *Obligatory duties of Gram Panchayat.*
- (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 Deputy Development Officer-cum-Planning Officer or the Zilla Panchayat, within the local limits of whose jurisdiction the Gram Panchayat is situate, may require;

- (h) organizing 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.

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

*Other duties of
Gram Panchayat.*

- (a) primary, social, technical or vocational education;
- (b) rural dispensaries, health centers, and maternity child welfare centers;
- (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 disease;
- (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; arranging for
- (k) 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 performances 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 (I), it shall place such funds at the disposal of the Gram Panchayat as may be required for the due performance of such function.

CHAPTER IV

Property and Fund

Property and Fund of 29.
Gram Panchayat.

All property within the local 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.

30. (1) the State Government may allocate to a Gram Panchayat any public property situated within its local jurisdiction, and thereupon such property shall vest in and come under the control of the Gram Panchayat. *Allocation of properties to 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.
31. (1) 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. *Acquisition of land for Gram Panchayat.*
32. (1) For every Gram Panchayat there shall be constituted a Gram Panchayat Fund bearing the name of Gram Panchayat and there shall be placed to the credit thereof *Gram Panchayat Fund.*

- (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;
- (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.

Levy of taxes, rates and fees,

- 33. (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 sanitary 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 vesting 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 encamping 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.

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

34. (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 33.
- (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.

Appeal against taxation, fees and rates.

35. An appeal against the levy of. any tax, rate or fee under section 33 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.

Recovery of arrears.

36. Any arrear of tax, rate or fee levied under section 33 shall be recoverable as arrears of land revenue or public demand. or if the Gram Panchayat passes a resolution to that effect and communicates it to the District Collector.

Action by District Collector.

37. (1) The District Collector, on receipt of such communication of the sum recoverable under section 36 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.

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

38. (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.

39. (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.

Budget of Gram Panchayat.

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

40. 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.

Supplementary Budget.

41. A gram Panchayat shall keep such accounts in such manner as may be prescribed.

Accounts.

CHAPTER V

Constitution of Zilla Panchayat

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

Zilla Panchayat and its constitution.

(2) A Zilla Panchayat shall consist of the following members, namely:

- (a) Sabhapati of the Gram Panchayat within the district, ex-officio;
- (b) Chairmen of the Municipal Corporations;
- (c) Members of the Legislative Assembly of the State elected from a constituency comprising the district or any part thereof, ex-officio;

- (d) A member elected by each Bazaar Committee declared as such under the provisions of the Bazar Committees Act, 1969.

Term of members of Zilla Panchayat.

43. (1) The term of Zilla Panchayat, unless sooner dissolved, shall be five: years from the date of its constitution:

Provided that the term of a Zilla Panchayat which is constituted after the constitution of other Zilla Panchayat in a regular election, shall expire with the expiration of five year term of other Zilla Panchayats:

Provided further that the State Government may, where it is not possible to hold elections for the constitution of new Zilla Panchayats immediately after the expiry of the term, by notification, extend the said term for a period not exceeding six months at a time subject to a maximum period of one year or appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Zilla Panchayats under this Act until the constitution of new Zilla Panchayats.

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

Incorporation of Zilla Panchayat.

44. (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.

45. (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 the Upadhakshya of the Zilla Panchayat:

*Adhakshya and
Upadhakshya.*

Provided that the members referred to in clauses (b) and (c) of sub-section (2) of section 42 shall not be eligible for such election.

- (2) The Adhakshya and Upadhakshya shall, subject to the provisions of section 55 and to their continuing as members, hold office for a period of five years:

Provided that an Adhakshya or an Upadhakshya shall continue in office after the expiry of the said period until a new Adhakshya or Upadhakshya is elected and assumes office or until an authority or a person or persons is or are appointed under the second proviso to sub-section (1) of section 43.

- (3) 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 Upadhakshya 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.

- (4) When

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

- (b) the Upadhakshya 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 Upadhakshya until a new Upadhakshya is elected and assumes office or until the Upadhakshya resumes his duties, as the case may be.

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

Notification of election, nomination etc.

46. Every election or nomination of an Adhakshya or an Upadhakshya and members of a Zilla Panchayat, as the case may be, shall be published by the State Government in the Official Gazette and such persons shall enter upon their respective offices from the date of such publication.

First meeting of the Zilla Panchayat.

47. (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 46) 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 Upadhakshya.
- (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 it may determine.

Meetings of Zilla Panchayat.

48. (1) Every Zilla Panchayat shall hold a meeting for transaction of its business at least once in every two 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 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 of the Rural Development Department or the Deputy Development Officer-cum-Planning Officer of the concerned district, 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 of the Rural Development Department or the Deputy Development Officer-cum-Planning Officer of the concerned district may direct any member of the Zilla Panchayat to call such meeting which shall be held at such time and in such place within the local limits of the district concerned as the member of the Zilla Panchayat directed to call the meeting 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 Upadhakshya 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 a 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.

49. No subject once finally disposed of by the Zilla Panchayat shall be reconsidered by it within six months unless the recorded consent of not less than one half of members has been obtained there for.

List of business to be transacted at a meeting.

50. (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 then 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 a meeting of the Zilla Panchayat send copies of minutes of every such meeting to the Deputy Development Officer-cum-Planning Officer and the Secretary.

51.

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 authorization of payment, issue of cheques and refunds;

*Powers and duties
of Adhakshya.*

- (e) issue receipts under his signature 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 Upadhakshya.

52.

The Upadhakshya 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 Upadhakshya;
- (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.

53.

At a meeting of a Zilla Panchayat, a member may move any resolution and put questions to the Adhakshya or Upadhakshya, 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.

54. (1) An Adhakshya, or an Upadhakshya 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 Upadhakshya or the member shall vacate his office and casual vacancy shall be deemed to have occurred ,in such office:

Resignation of Adhakshya and Upadhakshya or a member.

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.

55. (1) An Adhakshya or an Upadhakshya 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:

Removal of Adhakshya and Upadhakshya.

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

- (i) the Adhakshya from his office is under consideration; or
(ii) the Upadhakshya 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 48 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 Upadhakshya 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.

Filling of casual vacancy in the office of Adhakshya or Upadhakshya.

56. In the event of removal of an Adhashya or an Upadhakshya under section 55 or when a vacancy occurs in the office of the Adhakshya or Upadhakshya by resignation, death or otherwise the Zilla Panchayat shall elect another Adhakshya or Upadhakshya, as the case may be. The person so elected shall take office forthwith and shall hold office for the an expired term of office of his predecessor.

Removal of member of Zilla Panchayat.

57. (1) The prescribed authority may, after giving opportunity to a member of a Zilla Panchayat other than an ex-officio member 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 mentioned in clauses (b), (c), (d), (e), (g), (h), or (j) of section 9 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.
- (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 such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed 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.

- (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 (2) of section 42 ceases to be the 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.

58. 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:

*Filling of casual vacancy
in office of a member of
Zilla Panchayat.*

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

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

*Sachiva of Zilla Pa-
nchayat.*

Provided that any person so appointed shall be recalled by the State Government if a resolution to that effect is passed by the Zilla Panchayat, at a meeting specially convened for the purpose, by a majority of the total number of members holding office for the time being.

- (2) The Sachiva shall also 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 VI

Powers and Duties of Zilla Panchayat

Obligatory duties of Zilla Panchayat. 60. (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 :haats within its local limits;
- (b) construction and maintenance of Panchayat Ghars, Dharamsalas 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 there from for irrigation purposes;
- (d) regulating supply by water for irrigation or drinking water supply schemes constructed by the Government and - entrusted to it for maintenance and repair;
- (e) regulating, maintaining and developing of lands vested in it by the Government;
- (f) organizing 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 organizing adult education centers;
- (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 .Government. and with such technical assistance as .may be made available by the Government;
- (k) coordinating and integrating development plans and schemes prepared by Gram Panchayat 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 .Government in this behalf.
61. (1) ,Subject to such conditions as may be imposed by the State Government, Zilla Panchayat , may if the State government so directs, make provisions for *Other duties of Zilla Panchayat.*
- (a) the promotion of opportunity of employment through community 'farming by organizing model agriculture or dairy farms and, small scale village industries;
- (b) the organization 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 required for making such provision.
- (3) A Zilla Panchayat shall have the power to advise the State Government on all matters relating to the development works in the Gram Panchayats.
- (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.

Vesting of Zilla Panchayat with certain powers.

- 62. (1) A Zilla Panchayat may be vested by the State Government with such powers under any local or special Act as the State Government may think fit.
- (2) A Zilla Panchayat shall exercise such other powers, perform such other functions or discharge such other duties as the State Government may, by general or special order, direct.

Joint execution of schemes by two or more Zilla Panchayat.

- 63. The Zilla Panchayats of two or more adjacent districts may jointly undertake and execute at common cost any development scheme 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.

64. 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.

Power of supervision by Zilla Panchayat over Gram Panchayats.

CHAPTER VII

Property and Fund

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

Works constructed by a Zilla Panchayat to vest in it.

66. (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.

Allocation of properties to 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.

67.

Where a Zilla Panchayat requires land for carrying out any of the purpose of the 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 take 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.

1 of 1971

Zilla Panchayat Fund.

68. (1)

For every Zilla Panchayat there shall be constituted a Zilla Panchayat Fund bearing the name of the Zilla Panchayat there shall be placed to the credit thereof

- (a) contributions and grants, if any, made by the Central OF the State Government including such portion' of land revenue collected within it jurisdiction as may be determined by the State Government;
- (b) contributions 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 realized 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) 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 Adhakshya.
69. Subject to the maximum rates which may be fixed by the State Government, a Zilla Panchayat may levy following taxes, rates and fees, namely:
- Imposition of taxes, rates and fees.*
- (a) a tax on fairs, melas and other entertainments;
- (b) a general sanitary 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 dharmasalas, 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-section (I) if such taxes, rates or fees are already been levied by any other authority under any law for the time being in force or by any other local authority.

Power of State Government to regulate taxes.

- 70. (I) The State Government may make rules to regulate the imposition, assessment to, and collection of taxes, rates and fees under section 69.
- (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.

Appeal against taxation, rate or fee.

- 71. An appeal against any tax, rate or fee under section 69 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. Any arrear of tax, rate or fee imposed under section 69 shall be recoverable as . arrears of

Recovery of arrears.

- 72. land revenue or public demand if the Zilla Panchayat passes a resolution to that effect and communicates it to the District Collector.

73. (1) The District Collector on receipt of communication under section 72 and on being satisfied with the demand shall proceed to recover it. *Action by District Collector.*
- (2) Any sum's so recovered shall be sent to the Zilla Panchayat and shall be credited to the Zilla Panchayat Fund.
74. (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. *Power of State Government in regard to relief in taxes.*
- (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.
75. (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. *Budget of Zilla Panchayat.*
- (2) No expenditure shall be incurred unless the budget is approved by the State Government.
76. 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. *Supplementary Budget.*
77. A Zilla Panchayat shall keep such accounts in such manner as may be prescribed. *Accounts.*

CHAPTER VIII

Audit

- Audit of accounts of fund* 78. The accounts of the Fund of a Gram, Panchayat or 'Zilla Panchayat shall be examined and audited by. an auditor appointed in that behalf by the State Government at such time and place and in such manner as the State Government :may prescribe.
- Submission of accounts to audit.* 79. 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.
- Powers of Auditors.* 80. For the purposes of an audit under this Act an auditor may
- (i) 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;
 - (ii) 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;
 - (iii) 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.
- Penalty.* 81. Any person who neglects or refuses to comply with the requisition made by the auditor under .section 80 within such time as may be specified, shall, on conviction by a Court, be punishable with a fine which may extend to fifty rupees in respect of each item included in the requisition.

82. (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, or Adhakshya, as the case may be, of the Gram Panchayat or the Zilla Panchayat and to the State Government. *Audit report.*
- (2) The auditor shall append to his report a statement showing:
- (a) the grants-in-aid received by the Gram Panchayat or the Zilla Panchayat and the expenditure incurred there from ;
- (b) any material impropriety or irregularity which he may observe in the expenditure or in the recovery of money due to the Gram Panchayat or the Zilla Panchayat or in the accounts of the Gram Panchayat 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.
83. (1) Within two months from the date of receipt of the report referred to in section 82, 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. *Action on audit report.*
- (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 84 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 84 and 85, 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) 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. 84. (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 authorizing 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 20 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 authorizing any expenditure which is subsequently disallowed under sub-section

(1) or authorizing any action which results in any such expenditure, shall be deemed to be a person authorizing 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.

85. (1) Any person from whom any sum has been certified by the auditor to be due under section 84 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.

Appeal.

- (2) Where a person referred to in sub-section (2) of section 84, who has been surcharged as authorizing 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.*
86. (1) The sum certified by the auditor to be due from any person under section 84 or when an appeal is made under sub-section (1) of section 85, 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 provision of sub-section (1) shall be recoverable as arrears of land revenue if the Gram Panchayat or the Zilla Panchayat, as the case may be, 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 or Zilla Panchayat concerned.
- Certain costs and expenses payable out of Funds.*
87. (1) All expenses incurred by the Gram Panchayat or the Zilla Panchayat concerned in complying with any requisition of the auditor under section 80 and in prosecuting an offender under section 81 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 86 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 IX

Miscellaneous

88. Every member of a Gram Panchayat or Zilla Panchayat other than a member referred to in clause (c) of sub-section (2) of section 42 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. *Oath of affirmation.*
89. 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. *Validation.*
90. 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. *Members and officers and employees to be public servants.*
91. 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. *Indemnity.*
92. (1) If any dispute arises between two or more Gram Panchayats, within the jurisdiction of the same Zilla Panchayat, 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. *Reference of dispute.*
- (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.

93. (1) The State Government shall empower the Secretary and such other officers as it may consider necessary for the purpose of inspecting 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~
 - (e) 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.

94. (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.

Power of State Government to rescind or suspend resolution of a Gram Panchayat or Zilla Panchayat.

95. 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.

96. 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.

Directions by State Government.

- fJ7. The State Government may, notwithstanding anything contained in sub-section (2) of section 10, subsection (4) of section 24 and sub-section (2) of section 45, by an order in writing, remove with effect

Power to remove Sabhapati, Up-Sabhapati, Sachiva of Gram Panchayat.

Adhakshya Upadhakshya of Zilla Panchayat.

from a date to be specified in the order any Sabhapati or Up-Sabhapati or any Sachiva of Gram Panchayat, any Adhakshya, or Updhakshya 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.

Powers of State Government to supersede a Gram Panchayat or Zilla Panchayat.

98.

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 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 therefore, 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 order:

Provided that the State Government shall, before making any order under sub-section (1), give the Gram Panchayat or the Zillah Panchayat, as the case may be, an opportunity of making a representation against the proposed order.

Consequences of super session.

of

99.

- (1) When an order of super session has been passed under section 98 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 the 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.

100. If a Sabhapati or an Up-Sabhapati, or Sachiva or a member of a Gram Panchayat or an Adhakshya or an Upadhakshya or member of a 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 Upadhakshya 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.

Election of Sabhapati or Up-Sabhapati for Sachiva or member of Gram Panchayat or Adhakshya or Upadhakshya or member of Zilla Panchayat.

101. (1) Subject to the provisions of this Act and rules made thereunder, the superintendence, direction and control and the conduct of election of members of a Gram Panchayat shall be vested in such authority as may be prescribed.

Superintendence of election.

- (2) For the performance of his duties and functions such authority shall be assisted by such other officers and staff as may be appointed by the State Government in this behalf.

- Electoral Offences.* 2 [101 A. Any act of commission Of omission which is an electoral offence in relation to elections to the Legislative Assembly of Sikkim under Chapter VII of the Representation of the People 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. 43of 1951
- Requisition of premises, vehicles etc., for election purpose.* 101B. 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 Sikkim Legislative Assembly".]
- Application for questioning the election.* 102. (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 undue 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; .
 - (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 he conniva

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

*Decision on question
as to disqualification.* 103.

If any question arises as to whether a person has become subject to any disqualification under subsection (1) of section 9, 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.

*Improvement of san-
itation.* 104.

For the improvement of sanitation a Gram Panchayat or Zilla Panchayat may, by order, require the owner or occupier of any land or building, within such reasonable period as *may* be specified in the notice served *upon* him and after taking into consideration his financial position.

- (a) to close, remove, alter, repair, cleanse, disinfect or put in *good* order any latrine, urinal, water closet, drain, cesspool, or 'other receptacle for filth,

rubbish or refuse pertaining to such land or building, or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water closet which opens on to a street or drain or to shut off such latrine, urinal or water closet by a sufficient roof or wall or fence from the view of persons passing by or dwelling in the neighborhood;

- (b) to cleanse, repair, cover, fill up, drain off or remove water from, a private well, tank, reservoir, pool, pit, depression or excavation therein which may be injurious to health or offensive to the neighborhood;
- (c) to clear off any vegetation, undergrowth, prickly pear or scrub jungle there from;
- (d) to remove any dirt, dung, night soil, manure or any obnoxious or offensive matter there from and to cleanse the land or building.

105. (1) A Gram Panchayat or Zilla Panchayat shall have control over all village roads and waterways within its local limits and may do all things necessary for the maintenance and repair thereof, and may

Power of Gram Panchayat or Zilla Panchayat over village roads, water ways and other matters.

- (a) construct new bridges and culverts;
- (b) direct or close any such village road, bridge or culvert;
- (c) widen, open, enlarge or otherwise improve any such village road, bridge or culvert and with minimum damage to the neighboring fields, plant and preserve trees on the sides of such road;
- (d) deepen or otherwise improve such waterways;
- (e) trim hedges and branches of trees projecting on roads;
- (f) set a partly public notice any public source of water supply for drinking or culinary purpose and likewise prohibit all bathing, washing or other acts likely to pollute the source so set apart.

- (2) A Gram Panchayat or Zilla Panchayat, as the case may be, by a notice in writing, require any person who has caused obstruction or encroachment on or damage to any village road or drain or other property under the control and management of the said Gram Panchayat or Zilla Panchayat, to remove such obstruction or encroachment or repair such damage, as the case may be, within the time specified in the notice.
- (3) If the obstruction or encroachment is not removed or damage is not repaired within the time so specified, the Gram Panchayat or the Zilla Panchayat concerned may cause such obstruction or encroachment to be removed or such damage to be repaired and the expenses of such removal or repair shall be recoverable from such person as arrears of land revenue or public demand.
- (4) For the purpose of removal of obstruction or encroachment under sub-section (3), the Gram Panchayat or the Zilla Panchayat concerned may apply to the District Collector and the District Collector shall, on such application, provide such help as may be necessary for the removal of such, obstruction or encroachment.

Power of Gram Panchayat or Zilla Panchayat in respect of polluted water supply.

106. A Gram Panchayat or a Zilla Panchayat may, by written notice, require the owner of or the person having control over, a private water source, spring, well, or other place, the water of which is used for drinking or culinary purposes, after taking into consideration his financial position, to take all or any of the following steps within a reasonable period to be specified in such notice, namely
- (a) to keep and maintain the same in good repair;
 - (b) to clean the same, from time to time by removing any silt, refuse or decaying vegetation;
 - (c) to protect it from pollution;
 - (d) to prevent its use, if it has become so polluted as to be prejudicial to public health.

107. 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 Adhakshya or Upadhakshya 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 there from.
- Emergent power on outbreak of epid.emic.*
108. (1) The State Government may nominate one member of the Scheduled Castes or Scheduled Tribes and one woman to be members of any Gram Panchayat:
- Nomination of members by State Government.*
- Provided that no such nomination shall be made if one or more members of the Scheduled Castes or Scheduled Tribes or one woman has been elected to such Gram Panchayat, as the case may be, under the provisions of this Act.
- (2) Where no member of a minority community having a population of ten per cent or more of the total population within an area comprised in a Gram is elected to the Gram Panchayat, the State Government shall have the power to nominate one member for a population up to twenty per cent and two members for a population up to forty per cent to such Gram Panchayat:
- Provided that no such nomination shall be made if the population of such minority community exceeds forty per cent of the total population within an area comprised in a Gram'
- Provided further that no such nomination shall be made if one or more member or such minority community has been elected to such Gram Panchayat.

- (3) Every member nominated under sub-section (1) or sub-section (2) shall exercise the same powers and functions and perform the same duties as are conferred upon the elected members under this Act.

Report on the work of Gram Panchayat or Zilla Panchayat.

109. 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.

110. 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 condition 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

111. 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.

Delegation.

112. 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 to make rules mentioned in section 118 to any person or authority subordinate to it.

Allowance to members.

113. 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.

114. No person shall contest the election to any Panchayat with the support, direct or indirect, of any political party. *Election not to be contested with the support of political party.*
- 115.. (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 Upadhakshya of Zilla Panchayat, as the case may be, fails to hand over any document of, 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 fifty rupees and in the case of a continuing failure or contravention with an additional fine which may extend to twenty rupees for every day after the first conviction during which he has persisted in the failure or contravention. *Penalty.*
- (2) Any person who wilfully obstructs any member or office bearer or servant of a 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 **.one** 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 one hundred rupees.
- 3 ["(4) Any person who contravenes the provisions of this Act or rules made thereunder for which no penalty is provided for under this Ac~ 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"].
3. Inst. by sec. 4 of the S. P. (Amd.) Act No.5 of 1983 (w. e. f. 18. 12. 1982).

Repeal and Savings.

116. On and from the date of commencement of this Act, the Sikkim Panchayat Act, 1965 shall stand repealed and all assets and liabilities of the Block Panchayats constituted 'under the repealed Act (including the unspent amounts in the Block Panchayat Fund) shall stand transferred to and revest in the State Government:

Provided that such repeal shall not affect

- (a) the previous operation of the repealed Act or anything duly done or suffered thereunder;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed Act; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege obligation, liability, penalty forfeiture or punishment as "aforesaid;

and 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.

117. 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:
- Power to remove difficulties.*

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.

118. (1) The State Government may by notification, make rules for carrying out the purposes of this Act.
- Power to make rules.*

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

- (i) manner of election of Sabhapati and Up-Sabhapati of Gram Panchayat under sub-section (1) of section 10;
- (ii) manner in which meeting of Gram Panchayat shall be convened under sub-section (2) of section 12;
- (iii) powers, functions and duties of Sabhapati of Gram Panchayat;
- (iv) power, functions and duties of Sachiva of Gram Panchayat;
- (v) manner in which and time within which an appeal may be made under section 35;
- (vi) manner in which and time within which the Budget shall be prepared by Gram Panchayat under sub-section (1) of section 39;
- (vii) manner in which and time within which the supplementary Budget shall be submitted under section 40;
- (viii) manner in which accounts shall be kept by Gram. Panchayat;

- (xi) terms' and conditions of appointment of Sachiva of Zilla Panchayat;
- (x) duties and functions of Sachiva of Zilla Panchayat;
- (xi) manner in which and time within which appeal may be made under section 71;
- (xii) manner in which and time within which the Budget shall be prepared by Zilla Panchayat under sub-section (1) of section 75;
 - (xiii) manner in which and time within which supplementary Budget shall be submitted under section 76;
 - (xiv) manner in which accounts shall be kept by Zilla Panchayat,;
- (xv) 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;
- (xvi) manner in 'which and time within which the matter shall be referred to the State Government under sub-section (2) of section 83;
- (xvii) manner in which a certificate of the amount due and a copy of reasons thereof shall be sent under sub-section (3) of section 84;
- (xviii) manner of superintendence, direction and control and the conduct of election of members of Gram Panchayat;
- (xix) 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 102;
- (YX) particulars to, be furnished under sub-section (3) of section 102;
- (xxi) powers arid authority that shall be exercised by the authority under sub-section (4) of section 102,;
 - matters which are to be and may be prescribed,
- (x-ii)

SCHEDULE

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

(See section 88)

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.

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 1983

(ACT No5 of 1983)

AN
ACT

[31.3.1983]

to amend the Sikkim Panchayat Act, 1982.

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

1. (1) This Act may be called the Sikkim Panchayat (Amendment) Act, 1983. *Short title and commencement*

(2) It shall be deemed to have come into force on the 18th day of December, 1982. .
2. In the Sikkim Panchayat Act, 1982 (hereinafter referred to as the principal Act), section 6, clause (3) shall be omitted. *Amendment of section 6.*
3. In the principal Act, after section 101, the following sections shall be inserted, namely:- *Insertion of new sections 101A and 101B.*
"101 A. Any act of commission or omission which is an electoral offence in relation to elections to the Legislative *" Electoral Offences"*

Assembly of Sikkim under Chapter VII of the Representation of 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.

43 of 1951.

101 B. 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 Sikkim Legislative Assembly."

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

4. In the principal Act, in section 101, after sub-section (3), the following sub-section shall be inserted, namely:

Amendment of section 101.

"(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."

5. (1) The Sikkim Panchayat (Amendment) Ordinance, 1982 is hereby repealed.

Ordinance 3 of 1982.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Repeal and saving.

THE SIKKIM PANCHAYAT (AMENDMENT) ACT, 1991

(ACT NO.1 of 1991)

AN ACT

[30. 3. 1991]

further to amend the Sikkim Panchayat Act, 1982.

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

1. This Act may be called the Sikkim Panchayat (Amendment) Act, 1991. *Short title.*

2. In section 2 of the Sikkim Panchayat Act, 1982 (hereinafter referred to as the "Principal Act"), for clause (d), the following clause shall be substituted, namely: *Amendment of section 2.*

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

3. Throughout the Principal Act, unless otherwise expressly provided, for the words "Deputy Development Officer-cum Planning Officer" wherever they occur, the words "District Development Officer-cum-Panchayat Officer" shall be substituted. *Substitution of reference to certain expression by certain other expression.*

4. In section 42 of the Principal Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely: *Amendment of section 42.*

*(e) one senior Pipon each from Lachen and Lachung Dzumsas in case of Zilla Panchayat, North District.

5. In section 45 of the Principal Act, for proviso to sub. section (1), the following proviso shall be substituted, namely: *Amendment of ,section 45.*

"Provided that the members referred to in clauses (b), (c) and (e) of sub-section (2) of section 42 shall not be eligible for such election nor shall they have any voting right thereof."

6. (1) The Sikkim Panchayat (Amendment) Ordinance, '1991 (Ordinance No.1 of 1991) and Sikkim Panchayat (Amendment) Ordinance, 1991 (Ordinance No 2 of 1991) are here-by repealed.

*Ordinance, No.1
and 2.*

(2) Notwithstanding such repeal, any thing done or any action taken under the Ordinances so repealed shall be deemed to have been taken under the corresponding provisions of this Act.

*Repeal and
Saving.*

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

Amendment of Section 48. Amendment of Section 86.

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".

"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 subsection (2) and subsection (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

EXTRA ORDINARY
PUBLISHED BY AUTHORITY

Gangtok, Monday 28th November, 2005

No. 442

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No.17/LD/2005

Date: 19/11/05

NOTIFICATION

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 be 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 after referred to as the principal Act), through the principal 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 principal Act, in sub-section (1) of Section 7, the following provision shall be substituted, namely:-

Amendment of Section 16.

4. In the principal Act, in Section 16, after the 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 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 provision shall be inserted, namely:-

“Provided that the Prescribed Authority may direct the Zilla Panchayat to consider such matters 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:-

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

- (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.

- (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 office 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.”

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.

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-Adhayaasha 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).

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- Sabhapati 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

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.7OF 2001
AN
ACT**

Further to amend the Sikkim Commission for Backward Classes Act,1993.

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

Short title and

1.(1)This Act may-be called the Sikkim Panchayat(Amendment)Act,2001.

Commencement.

(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 provision the following provision shall be substituted, namely:

“Provided however, that the existing system of the traditional institutions of Dzumsa 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