

SIKKIM

GOVERNMENT



GAZETTE

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Dated, Gangtok the 18th October, 1993

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

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

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

AN
ACT

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

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

CHAPTER I
PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Sikkim Panchayat Act, 1993.
(2) It extends to the whole of Sikkim except the areas which may hereafter be declared as or included in the Nagar Panchayat.
(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas and for different provisions of the Act.

Definitions.

2. (1) In this Act, unless the context otherwise requires,-
(a) "Adhakshya" means an Adhakshya of a Zilla Panchayat elected under sub-section (1) of section 54;
(b) "Auditor" means an auditor appointed under sub-section (2) of section 48;
(c) "District Collector" means the Collector of the District;
(d) "District Development Officer-cum- Panchayat Officer" means the District - Development Officer -cum-Panchayat Officer of the District appointed by the State Government;
(e) "Governor" means the Governor of Sikkim;
(f) "Gram" means any village or part of a village or group of adjoining villages or parts thereof declared by the State Government to be a Gram under sub-section (1) of section 3;
(g) "Gram Panchayat" means a Gram Panchayat constituted under section 12;
(h) "Nagar Panchayat" means a Nagar Panchayat and includes a municipality, municipal committee or corporation or such other body by whatever name called constituted under the law relating to such Nagar Panchayats for the time being in force;
(i) "Notification" means the notification published in the Official Gazette;
(j) "Prescribed Authority" means an authority appointed by the State Government, by notification, for all or any of the purposes of this Act;
(k) "Sabhapati" means a Sabhapati of a Gram Panchayat elected under sub-section (1) of section 17;
(l) "Secretary" means the Secretary to the Government of Sikkim in the Rural Development Department and includes an Additional Secretary, Joint Secretary, Deputy Secretary and Under Secretary of that Department;
(m) "State Government" means the Government of the State of Sikkim;
(n) "Up-Adhakshya" means an Up-Adhakshya of a Zilla Panchayat elected under sub-section (1) of section 54;
(o) "Up-Sabhapati" means an Up-Sabhapati of a Gram Panchayat elected under sub-section (1) of section 17;
(p) "Zilla Panchayat" means a Zilla Panchayat of a district constituted under sub-section (1) of section 49;

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

CHAPTER II CONSTITUTION OF GRAM AND GRAM SABHA

Constitution of Gram, its name and jurisdiction.

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

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

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

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

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

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

Effect of alteration of the area of Gram.

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

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

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

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

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

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

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

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

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

Meetings of Gram Sabha.

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

Quorum for the meeting and resolution.

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

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

Convening of meetings of Gram Sabha.

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

Presiding Officer.

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

Matters for consideration of Gram Sabha.

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

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

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

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

(d) programme of adult education within the village;

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

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

Functions of Gram Sabha.

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

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

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

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

(c) rendering assistance in the implementation of developmental schemes

pertaining to the village.

CHAPTER III GRAM PANCHAYAT

*Constitution of
Gram Pan-
chayat.*

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

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

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

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

*Composition of
Gram Pan-
chayat.*

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

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

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

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

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

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

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

*Incorporation
of Gram Pan-
chayat.*

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

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

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

*Duration of
Gram Pan-
chayat.*

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

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

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

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

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

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

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

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

Disqualification of members of Gram Panchayat.

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

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

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

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

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

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

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

(f) if he is an undischarged insolvent; or

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

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

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

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

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

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

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

Sabhapati and Up-Sabhapati.

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

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

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

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

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

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

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

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

(4) When-

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

(b) the Sabhapati is, by reason of leave, illness or other cause, temporarily unable to act,

the Up-Sabhapati shall exercise the powers, perform the functions and discharge the duties of the Sabhapati until a new Sabhapati is elected and assumes office or until the Sabhapati resumes his duties, as the case may be.

(5) When-

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

(b) the Up-Sabhapati is, by reason of leave, illness or other cause, temporarily unable to act,

the Sabhapati shall exercise the powers, perform the functions and discharge the duties of the Up-Sabhapati until a new Up-Sabhapati is elected and assumes office or until the Up-Sabhapati resumes his duties, as the case may be.

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

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

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

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

First meeting of Gram Panchayat.

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

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

Meeting of Gram Panchayats.

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

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

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

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

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

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

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

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

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

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

Consideration of question disposed of by Gram Panchayat.

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

List of business to be transacted at a meeting.

22. (1) A list of the business to be transacted at every meeting of a Gram Panchayat except at an adjourned meeting, shall be sent to each member of the Gram Panchayat, 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 ensuring receipt of intimation of such emergency meeting by all

members.

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

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

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

Powers and duties of Sabhapati.

23. The Sabhapati shall-

(a) regulate the meetings of the Gram Panchayat;

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

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

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

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

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

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

Powers and duties of Up-Sabhapati.

24. The Up-Sabhapati shall-

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

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

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

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

Right of individual member.

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

Resignation of Sabhapati or Up-Sabhapati or member.

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

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

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

Removal of Sabhapati and Up-Sabhapati.

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

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

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

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

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

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

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

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

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

Removal of member of Gram Panchayat.

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

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

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

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

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

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

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

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

Filling of casual vacancy of member of Gram Panchayat.

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

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

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

Sachiva of Gram Panchayat.

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

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

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

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

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

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

Resignation of Sachiva.

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

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

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

Removal of Sachiva.

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

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

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

CHAPTER IV DUTIES OF GRAM PANCHAYAT

Obligatory duties of Gram Panchayat.

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

- (a) sanitation, conservancy and drainage and the prevention of public nuisance;
- (b) curative and preventive measures in respect of any infectious disease;
- (c) supply of drinking water and the cleaning and disinfecting the sources of supply and storage of water;
- (d) maintenance, repair and construction of village roads and protection thereof;
- (e) the removal of encroachments of village roads or public places;
- (f) the management of common grazing grounds, burning places and public graveyards;
- (g) the supply of any local information which the District Collector or District Development Officer-cum-Panchayat Officer or the Zilla Panchayat may require, within the limits of the jurisdiction of the Gram Panchayat;
- (h) organising voluntary labour for community work and works for the upliftment of its areas;
- (i) control and administration of the Gram Panchayat Fund established under this Act;

(j) the imposition, assessment and collection of taxes, fees or rates leviable under this Act;

(k) construction and maintenance of dharmasalas;

(l) regulating places for the disposal of dead bodies and carcasses and other offensive matters;

(m) assisting the development of agriculture, forestry, animal husbandry, poultry, fisheries, village and cottage industries and co-operative;

(n) registering births, deaths and marriages and annually submitting such records to the Zilla Panchayat;

(o) maintenance of such records relating to cattle census, population census, crop census and census of unemployed persons and such other statistics as may be required and annually submitting such records to the Zilla Panchayat;

(p) regulating inflow of animals within the area and their transfer;

(q) destruction and disposal of ownerless and rabid dogs and disposal of unclaimed animals;

(r) maintenance, upkeep and supervision of any building or other property which may be entrusted to it by the State Government for management;

(s) assisting the Zilla Panchayat in preparing development plan of its area;

(t) rendering assistance in extinguishing fire and protecting life and property when fire occurs;

(u) any other local work or service of public utility which is likely to promote the health, comfort, convenience or material prosperity of the public not otherwise provided for in this Act;

(v) such other duties as may be entrusted to it by the State Government from time to time.

*Other duties of
Gram Pan-
chayat.*

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

(a) primary, social, technical or vocational education;

(b) rural dispensaries, health centres, maternity and child welfare centres;

(c) minor irrigation;

(d) grow more food campaign;

(e) care of the infirm and destitute;

(f) rehabilitation of displaced persons;

(g) improved breeding of cattle, medical treatment of cattle and prevention of cattle diseases;

(h) its acting as a channel through which Government assistance should reach the residents of the Gram;

(i) bringing private waste land under cultivation;

(j) promotion of plantations in the Gram;

(k) arranging for cultivation of land lying fallow;

(l) arranging for co-operative management of resources of the Gram;

(m) implementation of such schemes as may be formulated or performance of such acts as may be entrusted to it by the State Government;

(n) field publicity of matters connected with development works and other welfare measures undertaken by the State Government;

(o) regulation of fairs, melas, hats and exhibition of local produce and products of local handicrafts and home industries;

(p) assisting and advising the residents of the Gram in the matter of obtaining state loan and its distribution and repayment;

(q) assisting in the implementation of land reform measure in its area;

(r) the promotion and encouragement of education including adult education;

(s) such other functions which the State Government may, from time to time,

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

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

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

CHAPTER V PROPERTY AND FUND

*Property and
Fund of Gram
Panchayat.*

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

*Allocation of
properties to
Gram Pan-
chayat.*

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

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

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

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

*Acquisition of
land for Gram
Panchayat.*

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

*Gram Pan-
chayat Fund.*

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

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

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

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

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

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

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

(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.*

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

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

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

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

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

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

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

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

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

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

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

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

(l) a tax on houses.

(2) The Gram Panchayat shall not levy taxes, rates or fees referred to in subsection (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.*

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

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

*Appeal against
taxation, fees
and rates.*

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

*Recovery of
arrears.*

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

- Action by District Collector.* 44. (1) The District Collector, on receipt of such communication of the sum recoverable under section 43 and on being satisfied with the demand, shall proceed to recover it.
- (2) Any sum so recovered shall be sent to the Gram Panchayat and shall be credited to the Gram Panchayat Fund.
- Power of State Government in regard to relief in taxes, rates and fees.* 45. (1) If on a complaint made to it or otherwise it appears to the State Government that any tax, rate or fee levied by a Gram Panchayat is excessive, it may, after calling for a report from the Gram Panchayat in this regard, abolish, suspend or reduce the amount of any such tax, rate or fee.
- (2) The State Government may, on its own motion or otherwise after giving the Gram Panchayat an opportunity of expressing its view in the matter, by order, exempt from the payment of any tax in whole or in part-
- (a) any person or class of persons; or
- (b) any property or description of properties; subject to such conditions as may be specified in such order.
- Budget of Gram Panchayat.* 46. (1) Every Gram Panchayat shall, at such time and in such manner as may be prescribed, prepare each year a budget of its estimated receipts and disbursements for the following year and shall submit the budget to the State Government for approval through the Zilla Panchayat of the District concerned.
- (2) No expenditure shall be incurred unless the budget is approved by the State Government.
- Supplementary Budget.* 47. A Gram Panchayat may prepare in each year supplementary estimate providing for any modification of its budget and submit it to the State Government for approval through the Zilla Panchayat of the District concerned within such time and in such manner as may be prescribed.
- Accounts and Audit.* 48. (1) Accounts of receipt and expenditure of every Gram Panchayat shall be maintained in such forms and in such manner as may be prescribed.
- (2) An Officer not below the rank of Chief Accounts Officer of the Sikkim State Finance and Accounts Service appointed by the State Government shall audit the accounts of the Gram Panchayat as soon as may be after the end of each financial year in the manner provided under Chapter IX of this Act.

CHAPTER VI CONSTITUTION OF ZILLA PANCHAYAT

- Zilla Panchayat and its constitution.* 49. (1) For every district the State Government shall, by notification constitute a Zilla Panchayat bearing the name of the district.
- (2) For the purpose of electing members as referred to in sub-section (1), the State Government may, by notification, divide the district into territorial constituencies and determine the number of members to be elected from each such constituency:
- Provided that the number of members to be elected in each constituency shall, as far as practicable, be in the same proportion to the total number of persons to be elected for the Zilla Panchayat as the population of the constituency bears to the total population of the Zilla Panchayat area.
- Composition of the Zilla Panchayat.* 50. (1) A Zilla Panchayat shall, subject to the provisions of sub-section (4), consist of the following members, namely:-
- (a) directly elected members from the territorial constituencies in the district;
- (b) Sabhapatis of the Gram Panchayats within the district;
- (c) Members of both the Houses of Parliament and the Legislative Assembly of the State elected from a constituency comprising the district or any part thereof.
- (2) Each constituency will elect one or more members through direct election in such manner as may be prescribed.
- (3) The term of office of the members of Zilla Panchayat shall, subject to the

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

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

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

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

*Incorporation
of Zilla Pan-
chayat.*

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

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

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

*Duration of
Zilla Pan-
chayats.*

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

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

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

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

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

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

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

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

*Disqualifica-
tion of mem-
bers of Zilla
Panchayat.*

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

*Adhakshya
and Up-
Adhakshya.*

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

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

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

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

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

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

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

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

(4) When-

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

(b) the Adhakshya is, by reason of leave, illness or other cause, temporarily unable to act,

the Up-Adhakshya shall exercise the powers, perform the functions and discharge the duties of the Adhakshya until a new Adhakshya is elected and assumes office or until the Adhakshya resumes his duties, as the case may be.

(5) When -

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

(b) the Up-Adhakshya is, by reason of leave, illness or other cause, temporarily unable to act,

the Adhakshya shall exercise the powers, perform the functions and discharge the duties of the Up-Adhakshya until a new Up-Adhakshya is elected and assumes office or until the Up-Adhakshya resumes his duties, as the case may be.

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

Notification of election, nomination, etc.

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

First meeting of the Zilla Panchayat.

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

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

Meeting of Zilla Panchayat.

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

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