

# Gujarat Panchayats Laws (Amendment) Act, 1963

GUJARAT

India

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### Act 16 of 1963

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An Act to provide for the cancellation of the suspension of the provisions of the Gujarat Panchayats Act, 1961, and to amend that Act to provide for an interim constitution of district panchayats and to provide for certain other matters. It is hereby enacted in the Fourteenth Year of the Republic of India as follows:—\* (Received the assent of the Governor on 5th April, 1963 and published in the "Gujarat Government Gazette" on the 5th April 1963)

**1. Short title.- This Act may be called the Gujarat Panchayats Laws (Amendment) Act, 1963.**

**2. Repeal of section 3 of Guj. IX of 1963.- With effect on and from the date of the commencement of the Gujarat Panchayats Laws (Amendment) Ordinance, 1963 (Guj. Ord. I of 1963)-**

(1) section 3 of the Gujarat Panchayats (Suspension of Provisions and Reconversion of certain local areas into Municipal Districts) Act, 1962 shall stand repealed, and (Guj. IX of 1963)(2) those provisions of the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act") the operation of which was suspended under the said section 3, shall be operative (Guj. VI of 1962).

**3. Amendment of Guj. VI of 1962.- The principal Act shall be amended in the manner and to the extent specified in the Schedule appended hereto.**

**4. Amendment of Bom. III of 1959.- In section 146 of the Bombay Village Panchayats Act, 1958, in sub-section (3), for the words "one year" the words "three years" shall be substituted (Bom. III of 1959).**

**5. Repeal of Guj. Ord. I of 1963.- The Gujarat Panchayats Laws (Amendment) Ordinance, 1963 (Guj. Ord. I of 1963) is hereby repealed and the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904 (Bom. I of 1904) shall apply to such repeal as if that Ordinance were an enactment.**

## **Schedule**

### **Schedule 2**

(See section 3.)Amendments to the Gujarat Panchayats Act, 1961.

#### **1. In section 2 after clause 24, the following clause shall be inserted, namely:-**

"(24A) 'revenue district' or 'revenue taluka' means a district or, as the case may be, a taluka or mahal constituted under the Land Revenue Code;"

#### **2. In section 14-**

(1)in sub-section (1), under the heading "(C) Co-opted members" after clause (vii) the following proviso shall be inserted, namely:-"Provided that no person shall be eligible for being co-opted under clause (iv), (v), (vi) or (vii) unless his name is in the electoral roll of the Gujarat Legislative Assembly pertaining to the area of the taluka.";(2)in sub-section (2), under the heading "(D) Associate members" in clause (x), for the words "within the taluka" the words "within the revenue taluka" shall be substituted;(3)for sub-section (6), the following sub-section shall be substituted, namely:-"(6) An associate member of the panchayat shall have the right to speak or otherwise to take part in the proceedings of the panchayat but shall not be entitled to vote. He may also speak or otherwise take part in the proceedings of any committee of the panchayat as may be prescribed by rules but he shall not be entitled to vote."

#### **3. In section 15,**

(A)in sub-section (1)-(1)in clause (vi) for the words "in the area within the jurisdiction of the district panchayat" the words "in the revenue district" shall be substituted;(2)in clause (vii) after the words "district panchayat" the words "or part thereof" shall be inserted;(3)in clause (vii) and in clause (ix) for the word "district" the words "revenue district" shall be substituted;(B)for Sub-section (5), the following shall be substituted; namely:-"(5) An associate member of the panchayat shall have the right to speak or otherwise to take part in the proceedings of the panchayat but shall not be entitled to vote. He may also speak or otherwise take part in the proceedings of any committee of the panchayat as may be prescribed by rules but he shall not be entitled to vote."

#### 4. After section 15 the following section shall be inserted, namely:-

"15A. Constitution of interim district panchayat and consequential provisions.- (1) Notwithstanding anything contained in section 15, or any other provisions of this Act, where a district panchayat is to be constituted for the first time at any time during the period during which the Proclamation of Emergency is in force and thereafter during such period not exceeding six months as the State Government may by notification in the Official Gazette specify, the following provisions of this section shall apply thereto.(2)Such district panchayat shall consist of the following members, namely:- (A)Elected members(i)such members of the district local board constituted for the district under the Bombay Local Boards Act, 1923 and functioning on the date of the coming into force of the Gujarat Panchayats Laws (Amendment) Ordinance, 1963 as are holding office on such date as the State Government may by order specify in this behalf;(B)Ex-Officio members(ii)the Presidents and Vice-Presidents of all the taluka panchayats in the district:Provided that in the absence of any such ex-officio member or where any such ex-officio member becomes an associate member under sub-section (5), such member as the taluka panchayat may in the prescribed manner elect shall act as an ex-officio member in his place;(C)Co-opted members(iii)two representatives of the district school board of the district recommended by that board from amongst its members by passing a resolution in that behalf before such date as the State Government may by order specify:Provided that in the absence of a district school board or where a district school board fails to so recommend its representatives, the State Government may nominate two persons from amongst the members of the district school board or from amongst the persons residing in the district;(D)Associate members(iv)members of the Council of States residing in the revenue district;(v)members of the House of the People elected from the areas within the jurisdiction of the district panchayat or part thereof;(vi)members of the Gujarat Legislative Assembly elected from the area within the jurisdiction of the district panchayat or part thereof;(vii)the Collector of the revenue district;(viii)Presidents of all the municipalities situate within the revenue district.(3)The district panchayat shall have, a President and Vice-President elected by its elected, ex-officio and co-opted members from amongst themselves.(4)A President of a taluka panchayat, if elected as the President of the district panchayat under sub-section (3), shall vacate his office of the President of the taluka panchayat but shall continue to be an ex-officio member of the district panchayat.(5)Where any elected, ex-officio or co-opted member of such district panchayat is or becomes a member of the Gujarat Legislative Assembly or of Parliament, he shall cease to be such member of the panchayat at shall continue as an associate member thereof.(6)An associate member of the panchayat shall have the right) to speak or otherwise to take part in the proceedings of the panchayat but shall not be entitled to vote. He may also speak or otherwise take part in the proceedings of any committee of the panchayat as may be prescribed by rules but he shall not be entitled to vote.(7)In a district for which a district panchayat is constituted under this section, the members specified in clause (i) of sub-section (2) shall, in addition to their being members of the district panchayat, continue to be members of the district local board until its dissolution under section 326, and on such dissolution shall continue to be members of the district panchayat, notwithstanding their vacating office as members of the district local board under clause (a) of that section.(8)The term of a district panchayat constituted under this section shall be such period, not exceeding two years in the aggregate from the date of its first meeting, as the State Government may from time to time by notification in the Official Gazette specify.(9)Any vacancy in the office of a member holding office

under clause (i) or (iii) of sub-section (2) shall be filled by nomination by the State Government and the person so nominated shall hold office so long only as the member in whose place he has been nominated would have held office had the vacancy not occurred.(10)Section 43 shall have effect as if the words "or a district panchayat, as the case may be", the words "or district panchayat" where they occur at two places and the word "relevant" had been deleted therefrom.(11)Section 67 shall have effect as if for sub-section (2) thereof the following sub-section had been substituted, namely:-"(2) The meeting shall be on such day as may be fixed by the competent authority.".(12)Nothing in this section shall affect the operation of the provisions of this Act in respect of a district panchayat constituted under this section in so far as they are not inconsistent with this section.Explanation.- In this section "Proclamation of Emergency" means the Proclamation of Emergency issued under clause (i) of article 362 of the Constitution on the 26th October 1962."

**5. In section 44, in sub-section (6), after the words "shall be referred" the words "within a period of thirty days from the date of the declaration of the result of the election" shall be inserted.**

**6. After section 44, the following section shall be inserted, namely:-**

"44A. Duty of retiring Sarpanch etc. to hand over charge of office.- (1) On the election of a new Sarpanch or Upa-Sarpanch or a new Chairman or Vice-Chairman, it shall be the duty of the retiring Sarpanch or, as the case may be, Upa-Sarpanch, Chairman or Vice-Chairman to hand over to him charge of his office and deliver to him the record and property belonging to the panchayat and in his custody.(2)The provisions of sub-section (1) shall apply mutatis mutandis to a retiring member in the matter of handing over charge of the office."

**7. In section 55, in sub-section (6), after the words "shall be referred" the words "within a period of thirty days from the date of the declaration of the result of the election" shall be inserted.**

**8. After section 55, the following section shall be inserted, namely:-**

"55A. Duty of retiring President etc. to hand over charge of office.- (i) On the election of a new President or Vice-President, it shall be the duty of the retiring President or, as the case may be, Vice-President to hand over to him charge of his office and deliver to him the record and property belonging to the panchayat and in his custody.(2)The provisions of sub-section (1) shall apply mutatis mutandis to a retiring member in the matter of handing over charge of his office."

**9. In section 67, in sub-section (6), after the words "shall be referred" the words "within a period of thirty days from the date of the declaration of the result of the election" shall be inserted.**

**10. After section 67, the following section shall be inserted, namely:-**

"67A. Duty of retiring President etc. to hand over charge of office.- (1) On the election of a new President or Vice-President, it shall be the duty of the retiring President or, as the case may be, Vice-President to hand over to him charge of his office and to deliver to him the record and properly belonging to the panchayat and in his custody.(2)The provisions of sub-section (1) shall apply mutatis mutandis to a retiring member in the matter of handing over charge of his office."

**11. In section 131, in clause (i) of sub-section (1), for the words and figures "Part II of Schedule II" the words and figures "Part II of Schedule III" shall be substituted.**

**12. In section 158, in sub-section (1), for the words "of this Act" the words "of this section" shall be substituted.**

**13. In section 206, in sub-section (1),**

(1)in clause (i), for the figures and word "155, 157 and 325" the figures and word "157, 158 and 325" shall be substituted;(2)in clause (ii) for the figures "158" the figures "155" shall be substituted

**14. In section 214 after sub-section (3) the following shall be inserted, namely:-**

"(4) In the event of a dispute arising as to the validity of an election under the foregoing provisions of this section the dispute shall be referred within a period of thirty days from the date of the declaration of the result of the election, to the competent authority for decision. The decision of the competent authority shall be final and no suit or other proceeding shall lie against it in any court."

**15. In section 246, in sub-section (1) for the words "administrative panch" the words "Chairman of the Nyaya Panchayat" shall be substituted.**

**16. In section 281, for the words and figures "section 232 or section 233" the words and figures "section 234 or section 235" and for the figures and word "230 and 231" the figures and word "232 and 233" shall be substituted.**

**17. In section 306, in clause (c) for the figures "216" the figures "219" shall be substituted.**

**18. In section 307-**

(1)for the words and figures beginning with the words "When any local Area" and ending with the words and figure "to be a gram or nagar under section 9" the following shall be substituted, namely:-"Where any local area is declared to be a gram or nagar under section 9 and, immediately before such declaration, the local area was co-extensive with the limits of a municipal district or a municipal borough or included an area comprising a municipal-district or municipal borough as well as any other area,".(2)in clause (a) for the words "of such local area" the words "functioning in such local area or part thereof" shall be substituted;(3)to clause (b) the following proviso shall be added, gamely:-"Provided that if immediately before the municipality so ceasing to exist, there be a person or persons appointed under section 179 or, as the case may be, 219 of the relevant municipal law referred to in clause (c) of section 806 to exercise the powers and perform the duties of the municipality, there shall be an interim gram panchayat or, as the case may be, an interim nagar panchayat for the local area and the person or persons so appointed shall be deemed to be a person or persons appointed under clause (a) of sub-section (4) of section 297 to exercise all the powers and perform all the duties of such interim gram panchayat or, as the case may be, interim nagar panchayat;"(4)after clause (j), the following clause shall be inserted, namely:-"(k) any law (other than the municipal law) or any rule, bye-law, notification or order issued under such law, which was applicable to and in force in the local area immediately before it was declared as a gram or nagar under section 9, shall continue to apply to and to be in force in the local area until it is superseded by or under a law."

**19. In section 318-**

(1)in sub-section (1),(a)for the words "from panchayat" the words "from a panchayat" shall be substituted;(b)for the words "any record or money" the words "any record, money or other property" shall be substituted;(e)for the words "after his removal" the words "after his retirement, removal" shall be substituted;(d)for the words "such record" the words "such record or property" shall be substituted, and(e)for the words "the record or money" the words "the record, property or money" shall be substituted;(2)in sub-section (2),(a)for the words "deliver the record" the words "deliver the record of property" shall be substituted; and(b)for the words "delivers up the record" the words "delivers the record or property" shall be substituted;(3)in sub-section (3), in clause (b), for the words "such record" the words "such record or property" shall be substituted;-(4)after sub-section (4) the following Explanation shall be inserted, namely:-"Explanation.-In this section the word "member" includes a Sarpanch, Upa-Sarpanch, Chairman, Vice-Chairman, President and Vice-President of a panchayat."

**20. In section 325, in sub-section (2),**

(1)in clause (i), for the words "coming into force of this Act" the words "date of the" coming into force of this section", (2)in clause (viii), for the words "the date of the commencement of this Act" the words "the said date", and (3)in clause (ix), for the words "before the commencement of this Act" the words "before the said date" shall be substituted.

**21. In section 326,-**

(1)in clause (1), after the words "the said Act" the words "or any authority constituted, elected or appointed thereunder", and after the words "of this Act" the words "or as the case may be, to the corresponding authority constituted, elected or appointed under this Act" shall be inserted;(2)in clause (n), the word "existing" shall be deleted where it occurs for the second and third times, and for the words "above paragraph" the words "foregoing paragraphs" shall be substituted.

**22. In section 327, for the words "commencement of this Act" where they occur at two places the words "commencement of this section" shall be substituted.**

**23. After section 329, the following heading and section shall be inserted, namely:-**

"(3) Temporary provisions,

**330. Vacancy to be filled by nomination.- (1) Notwithstanding anything contained in this Act, during the period during which the Proclamation of Emergency, issued under clause (1) of article 352 of the Constitution on the 26th October 1962, is in force and thereafter during such period not exceeding six months as the State Government may, by notification in the Official Gazette, appoint in this behalf, no vacancy in the office of a member of a panchayat, which according to the provisions of this Act has to be filled by election shall be so filled and the competent authority may fill such vacancy by appointing thereto a person from amongst the persons qualified to be elected under this Act.**

(2)Any person appointed under sub-Section (1) shall hold office so long only as the member in whose place he has been appointed would have held office had the vacancy not occurred."