

Gujarat Panchayats (Third Amendment) Act, 1963

GUJARAT

India

Gujarat Panchayats (Third Amendment) Act, 1963

Act 1 of 1964

- Published on 23 January 1964
- Not commenced
- [This is the version of this document from 23 January 1964.]
- [Note: The original publication document is not available and this content could not be verified.]

An Act further to amend the Gujarat Panchayats Act, 1961. It is hereby enacted in the Fourteenth year of the Republic of India as follows:-* Received the assent of the Governor on 23rd January, 1964 and published in the Gujarat Government Gazette on the 24th January 1964

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

2. Amendment section 53 Guj. VI 1962.- In the Gujarat Panchayats Act, 1961 (hereinafter referred to as "the principal Act"), in sub-section (1) of section 53, for the words beginning with the words "Any vacancy" and ending with the words "or a member of a panchayat" the following shall be substituted, namely:-

"Any vacancy in the office of a Sarpanch, Upa-Sarpanch, Chairman Vice-Chairman or member of a panchayat of which notice has been given to the competent authority in the prescribed manner."

3. Amendment section 65 Guj. VI 1962.- In section 65 of the principal Act, in sub-section (1), for the words beginning with the words "Any vacancy" and ending with the words "or member of a panchayat" the following shall be substituted, namely:-

"Any vacancy in the office of a President, Vice-President or a member of a panchayat of which notice has been given to the competent authority in the prescribed manner".

4. Amendment section 77 Guj. VI 1962.- In section 77 of the principal let, in sub-section (1), for the words beginning with the words "Any vacancy" and ending with the words "or a member of a panchayat" the following shall be substituted, namely:-

"Any vacancy in the office of a President, Vice-President or member of a panchayat of which notice has been given to the competent authority in the prescribed manner".

5. Amendment section 192 Guj. VI 1962.- In section 192 of the principal Act-

(1)for sub-section (2), the following sub-section shall be substituted, namely:-"(2) If any person fails to pay any tax or fee or any other sum due from to a panchayat under this Act or the rules of or before the specified date of payment, he shall pay to the panchayat by way of penalty in addition to the tax, fee or sum, as the case may be, an amount equal it one percent of the amount of the tax or fee or sum, as the case may be, for each Complete month during the he continues to make difficult of tax, fee or sum, as the case may be ???.(2A)In the case of a person who is a default under sub-section (2), the panchayat shall cause; a writ of demand in the Prescribed form to be served, on such person."(2)in sub-section (7), for the words "other sum" the words and brackets "other sum (including penalty)" shall be substituted.

6. Insertion of Chapter IXA Guj. VI of 2.- In the principal Act, after section 193, the following Chapter and sections shall be inserted namely:-

"CHAPTER IXA.Power to Evict Persons from Premises belonging to Panchayats.

193A.

(1)If a panchayat is satisfied-(a)Power certain sons panchayat permit.- that the person authorised to occupy any premises belonging to it (hereinafter referred to as "the panchayat premises") as tenant or otherwise has-(i)not paid rent lawfully due from him in respect of such premises for a period of more than two months, or(ii)sub-let, without the permission of the panchayat, the whole or any part of such premises, or(iii)acted in contravention of any of the terms, express or implied under which lie is authorised to occupy such premises, or(b)that any person is in unauthorised occupation of any panchayat premises, the panchayat may, notwithstanding anything contained in any law for the time being in force, by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, on (iii) in such other manner as may be prescribed, order that, that person as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of service of the notice.(2)Before an order under sub-section (1) is made against any person the panchayat shall inform the person by notice in writing of the grounds on which the proposed order is to be made and give him a reasonable opportunity of tendering an explanation and producing evidence, if any, and to show cause why such order should not be made, within a period to be specified in such notice. If such person makes an application to the panchayat for extension of the period specified in the notice

the panchayat may grant the same on such terms as to payment and recovery of the amount claimed in the notice as it deems fit. Any written statement put in by such person and documents; produced in pursuance of such notice shall be filed with the record of the case. And such person shall be entitled to appear before the panchayat by advocate, attorney or pleader. Such notice in writing, shall be served in the manner provided for service of notice under sub-section (1). (3) If any person refuses or fails to comply with an order made under sub-section (1), the officer authorised by the panchayat in this behalf may evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary. (4) If a person, who has been ordered to vacate any premises on the grounds mentioned in sub-clause (i) or (ii) of clause (a) of sub-section (1) within one month of the date of service of the notice or such longer time as the panchayat may allow, pays to the panchayat, the rent in arrears or carries out or otherwise complies with the terms contravened by him to the satisfaction of the panchayat, the panchayat shall, in lieu of evicting such person under sub-section (3), cancel its order made under sub-section (1) and thereupon such person shall hold the premises on the same terms on which he held them immediately before which notice was served on him. Explanation.-For the purposes of this section and section 193B, the expression "unauthorised occupation", in relation to any person authorised to occupy any panchayat premises, includes the continuance in occupation by him or by any person claiming through or under him of the premises after the authority under which he was allowed to occupy the premises has been duly determined.

193B. ??? to ??? rent damages arrears of revenue.- (1) Subject to any-rules made by the State Government in this behalf, without prejudice to the provisions of section 193A where any person is in arrears of rent payable in respect of any panchayat premises, the panchayat may, by notice served (i) by post, of (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises, or (iii) in such other manner as may be prescribed, order such person to pay the same within such time not being less than ten days as may be specified in the notice. If such person refuses or fails to pay the arrears of rent within the time specified, in the notice, such arrears may be recovered as arrears of land revenue.

(2) Where any person is in unauthorised occupation of any panchayat premises, the panchayat may, in the prescribed manner, assess such damages, on account of the use and occupation of the premises as it may deem fit, and may by notice served (i) by post, or (ii) by affixing a copy of it on the outer door or some other ??? part of such premises, or (iii) in such other manner as may be prescribed, order that person to pay the damages within such time as may be specified in the notice. If any person refuses or fails to pay the damages within the time specified in the notice, the damages may be recovered from him as arrears of land revenue. (3) No order shall be made under sub-section (2) until after the issue of a notice in writing to the person calling on him to show cause, within a reasonable period to be specified in such notice, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same have been considered by the panchayat.

193C. ??? of from or in cases.- (1) Without prejudice to the provisions of section 193A any person who has been allotted any panchayat premises and is an employee of the State Government or a local authority may execute an agreement in favour of the panchayat providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount as may be specified in the agreement and to pay the amount so deducted to the panchayat in satisfaction of the rent due by him in respect of the panchayat premises allotted to him.

(2)Notwithstanding anything ??? in any law for the time being force, on the execution of such agreement, the State Government or, as they case may be, the local ??? shall, if so required by the panchayat by a requisition in writing make the deduction of the amount specific in requisition from the salary or wages of the employee specified in the ??? in accordance with the requisition and pay the amount so deducted to the panchayat, as if it were a part of the salary or wages payable and paid to the employee.

193D.

(1)Any person aggrieved by an order of the panchayat under section 193A or section 193B may, within thirty days of the date of the service of the notice under sub-section (1) of section 193A or sub-section (1) of (2) of section 193B, as the case may be, prefer an appeal to the State Government. Provided that the State Government may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. (2)On receipt of an appeal under sub-section (1), the State Government may. After calling for a report from the panchayat and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the State Government shall be final. (3)Where an appeal is preferred under sub-section (1), the State Government may stay the enforcement of the order of the panchayat for such period and on such conditions as it thinks fit.

193E. Bar of jurisdiction of civil Courts.- No order made by the State Government or the panchayat in the exercise of any power conferred by or under this Chapter shall be called in question in any court and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter."

7. Amendment section 206 Guj. VI of 1962.- In section 206 of the principal Act, in clause (ii) of sub-section (1), the words "corresponding district" shall be and shall be deemed always to have been deleted.

8. Amendment of section 214 of Guj. VI of 1962.- In section 214 of the principal Act,-

(1)in the second proviso to sub-section (1), after the words "being so elected" the following shall be added at the end, namely:-"or for being continued as a member of the Gram Nyaya Panchayat or as a standing member of a conciliation panch"(2)in the first proviso to sub-section (2), after the words "being so elected" the following shall be added, namely:-"or for being continued as a member of the Nagar, Nyaya Panchayat or as a standing member of a conciliation panch"(3)in sub-section (3), after the words "for being elected" where they occur for the second time, the words "or for being continued" shall be inserted.

9. Amendment of section 215 of Guj. VI of 1962.- In section 215 of the principal Act,-

(1)after sub-section (1), the following shall be inserted, namely:-"(1A) A member of a Nyaya Panchayat or a standing member of a conciliation panch who has not been qualified for being elected or for being continued as a member of the Nyaya Panchayat or as a standing member of a conciliation panch shall cease to be such member and his office shall become vacant from such date as the competent authority may specify."

10. Amendment of section 216 of Guj. VI of 1962.- In section 216, of the principal Act, in sub-section (1)-

(1)for the words "as a member" the words "as a member or Chairman" shall be substituted;(2)after the words "which elected him" the words "as a member of the Nyaya Panchayat or, as the case may be, standing member of the conciliation panch" shall be inserted.

11. Amendment of section 219 of Guj. VI of 1962.- In section 219 of the principal Act,-

(1)in sub-section (1), after the words "Nyaya Panchayat" the words "and of a standing member of a conciliation panch" shall be inserted;(2)in sub-section (2), after the words "Nyaya Panchayat" the words "or of a standing member of a conciliation panch" shall be inserted, and after the figures "212" the words and figures "or 213, as the case may be" shall be inserted.

12. Amendment of section 223 of Guj. VI of 1962.- In section 223 of the principal Act, the following shall be added at the end, namely:-

"In the case of a Nagar Nyaya Panchayat, the Secretary of the Nagar Panchayat shall act as the judicial clerk of the Nyaya Panchayat for the purposes aforesaid."

13. Insertion of new section 224A in Guj. VI of 1962.- After section 227 of the principal Act, the following section shall be inserted, namely:-

"227A. Limitation for suits.- Every suit of the nature referred to in section 227 instituted before a Nyaya Panchayat after the expiry of the period specified in respect thereof in the Table below shall be dismissed although limitation has not been set up as a defence. TABLE

Description of suit.	Period of limitation	Time from which period begins to run.
1. For money due on contract.	Three years	When the money became due to the plaintiff.
2. For the recovery of movable property or the value thereof.	Three years	When the plaintiff became entitled to the delivery of the movable property.
3. For compensation for wrongfully taking or injuring any movable property.	Three years	When the movable property was wrongfully taken or when injury was done to it.
4. For damage by cattle trespass.	Three years	When the damage was caused by the cattle trespass."

14. Insertion of new section 231A in Guj. VI of 1962.- After section 231 of the principal Act, the following section shall be inserted namely:-

"231A. Limitation for cases.- No Nyaya Panchayat shall take cognizance of any offence specified in section 229 after the expiry of one year from the date on which the offence was committed."

15. Amendment of section 242 of Guj. VI of 1962.- In section 242 of the principal Act, the following shall be added at the end, namely:-

"or the Nyaya Panchayat is debarred from entertaining such suit or from taking cognizance of such offence under any provision of this Act".

16. Insertion of new section 270A in Guj. VI of 1962.- After section 270 of the principal Act, the following section shall be inserted, namely:-

"270A Power to transfer criminal proceedings and award compensation.- (1) If it is made to appear to a Sessions Court that in the interest of justice it is necessary so to do the Sessions Court may on an application made to it in this behalf transfer any case pending before a Nyaya Panchayat to another Nyaya Panchayat or to a Court subordinate to it.(2)Where any application under sub-section (1) is dismissed, the Sessions Court may, if it is of the opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to the person who opposed the application such sum not exceeding one hundred rupees as it may consider proper in the circumstances of the case."

17. Amendment of section 271 of Guj. VI of 1962.- In section 271 of the principal Act, after sub-section (3) the following sub-section shall be inserted, namely:-

"(3A) If in the opinion of the Court, the application made under sub-section (2) was frivolous or vexatious, it may order the applicant to pay by way of compensation to the person who opposed the application such sum not exceeding one hundred rupees as it may consider proper in the circumstances of the case."

18. Insertion of new section 322B in Guj. VI of 1962.- After section 322A of the principal Act, the following section shall be inserted, namely:-

"322B. Application of Judicial Officers, Protection Act, 1850.- The provisions of the Judicial Officers' Protection Act, 1850 (XVIII of 1850) shall of apply to members of a conciliation panch and to members of Nyaya Panchayat in the discharge of their official duties as they apply to judges and magistrates."