

Provided that a person who has not completed the age of twenty-one years shall not be qualified to be elected as a member or office-bearer of the Gram Panchayat].

**10. Removal of difficulty in the establishment of [Gram Sabha] and in the working of a Gram Panchayat** – If, in establishing a [Gram Sabha] or in the working of a [Gram Panchayat], and any dispute of difficulty arises regarding the interpretation of any provision of this Act or any rule made thereunder or any matter arising out of or relating to such interpretation or any matter not provided in this Act, the same shall be referred to the State Government whose decision thereon shall be final and conclusive.

### CHAPTER III

#### <sup>1</sup>[The Gram Sabha : Its Meetings and Functions

**11. Meeting and functions of the Gram Sabha** – (1) Every [Gram Sabha] shall hold two general meeting in each year, one soon after harvesting of the Kharif Crop (hereinafter called the Kharif meeting) and the other soon after harvesting of the Rabi Crop (hereinafter called the Rabi meeting) [which shall be presided over the Pradhan of the concerned Gram Panchayat].

Provided that the Pradhan at any time may, or upon a requisition in writing by the prescribed authority or by not less than one-fifth of the members shall, within 30 days from the receipt of such requisition, call an extraordinary general meeting. The time and place of all the meetings of the [Gram Sabha] shall be published in the prescribed manner;

Provided further that where the Pradhan fails to call a meeting as aforesaid, the prescribed authority may do so within a period to be prescribed.

(2) For any meeting of Gram Sabha one-fifth of the number of members shall form the quorum; provided that no quorum shall be necessary for a meeting adjourned for want of quorum.

<sup>2</sup>[(3) The Gram Sabha shall consider the following matters and may make recommendations and suggestions to the Gram Panchayat –

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

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<sup>1</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>2</sup> Subs. by U.P. Act No. 9 of 1994.

- (b) the annual statement of accounts of the Gram Panchayat relating to the proceedings year and the development programmes proposed to be undertaken during the current financial year;
- (c) the promotion of unity and harmony among all sections of society in the village;
- (d) programmes of adult education within the village;
- (e) such other matters as may be prescribed.

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

(5) The Gram Sabha shall perform the following functions namely –

- (a) Mobilising voluntary labour and contributions for the community welfare programmes;
- (b) Identification of beneficiaries for the implementation of development schemes pertaining to the village;
- (c) Rendering assistance in the implementation of development schemes pertaining to the village.]

### <sup>1</sup>[CHAPTER III-A

#### **Gram Panchayat**

<sup>2</sup>[11-A. **Pradhan and Up-Pradhan of Gram Panchayat** – <sup>3</sup>[(1) There shall be a Pradhan of the Gram Panchayat, who shall be the Chairperson thereof.

(2) The State Government shall, by order, reserve offices of Pradhans for the Scheduled Castes, the Scheduled Tribes, and the backward classes;

Provided that the number of offices of Pradhans reserved for the Scheduled Castes, the Scheduled Tribes and the backward classes in the State shall bear, as nearly as may be, the same proportion to the total number of such offices as the

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<sup>1</sup> After Section 11 Chapter III-A has been inserted and Sections 11-A and 11-B has been substituted by U.P. Act No. 9 of 1994.

<sup>2</sup> After Section 11 Chapter III-A has been inserted and Sections 11-A and 11-B has been substituted by U.P. Act No. 9 of 1994.

<sup>3</sup> Sub-section (1) subs. by U.P. Act No. 44 of 2007 published in U.P. Gazette Extra Part I Section (Ka) dated 10<sup>th</sup> December, 2007 (w.e.f. 20 August, 2007)

population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or of the backward classes in the State bears to the total population of the State.

Provided that the reservation for the backward classes shall not exceed<sup>1</sup>[twenty-seven] percent of the total number of offices of Pradhans.

<sup>2</sup>[Provided also that if the figures of population of the backward classes are not available, their population may be determined by carrying out a survey in the prescribed manner.]

(3) Not less than one-third of the total number of offices of Pradhans reserve under sub-section (2) shall be reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the backward classes.

(4) Not less than one-third of the total number of offices of Pradhans, including the number of offices of Pradhans reserved under sub-section (3), shall be reserved for women.

(5) The offices of the Pradhans reserved under this section shall be allotted by rotation to different Gram Panchayats in such order as may be prescribed.

(6) The reservation of the offices of Pradhans for the Scheduled Castes and Scheduled Tribes under the section shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.

*Explanation* – It is clarified that nothing in this section shall prevent persons belonging to the Scheduled Castes, the Scheduled Tribes, the backward classes and the women from contesting election to unreserved seats.]

**11-B. Election of Pradhan** – (1) The Pradhan of the Gram Panchayat shall be elected by the persons registered in the electoral rolls for the territorial constituencies of the Panchayat area from amongst themselves.

(2) If at any general election to a Gram Panchayat, the Pradhan is not elected, and less than two-thirds of the total number of members of Gram Panchayat are elected, the State Government or an officer authorized by it in this behalf may, by order, either appoint –

- (i) an Administrative Committee consisting of such number of persons qualified to be elected as members of the Gram Panchayat, as it may consider proper; or
- (ii) an Administrator.

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<sup>1</sup> The word “twenty seven” read the word “Fourteen” by Uttaranchal Act No. 30 of 2005. Published in Uttaranchal Gazette Extra Part I Section (Ka) dated 11 November, 2005.

<sup>2</sup> Ins. by U.P. Act No. 21 of 1995.

(3) The members of the Administrative Committee or the Administrator shall hold office for such period not exceeding six months as the State Government may specify in the order referred to in sub-section (2).

(4) On the appointment of an Administrative Committee or and Administrator under sub-section (2), the person, if any, chosen as Pradhan or member of the Gram Panchayat before such appointment shall cease to be such Pradhan or member, as the case may be, and all powers, functions and duties of the Gram Panchayat, its Pradhan and Committees shall vest in and be exercised, performed and discharged by such administrative committee or the Administrator, as the case may be.

(5) The Administrative Committee or the Administrator shall be deemed to be duly constituted Gram Panchayat for the purposes of this Act :

Provided that if at any time after the appointment of the Administrative Committee or the Administrator under sub-section (2) the State Government is satisfied that there is no difficulty in duly constituting the Gram Panchayat, the State Government may, notwithstanding that the period for which the Administrative Committee or the Administrator had been appointed has not expired, direct the State Election Commission for holding the elections for constituting the Gram Panchayat.

(6) Except as otherwise provide in this Act, the term of office of Pradhan shall be coterminus with the term of the Gram Panchayat.

<sup>1</sup>[11-C **Election of Up-Pradhan and his term** – The Up-Pradhan shall be elected by the members of the Gram Panchayat from amongst themselves in such manner as may be prescribed.

Provided that if a Gram Panchayat fails to so elect and Up-Pradhan within the time fixed by or under the rules in that behalf, the Prescribed Authority may nominate as Up-Pradhan any member; of the Gram Panchayat, and the person so nominated shall be deemed to have been duly elected.

(2) The term of office of the Up-Pradhan whether elected or nominated before or after the commencement of the Uttar Pradesh Rural Local Self-Government Laws (Amendment) Act, 1972 shall commence from the date of his election or nomination, as the case may be, and unless otherwise determined under the provisions of the Act, shall expire with the term of the Gram Panchayat.

<sup>2</sup>[(3) The provisions of Section 14 shall *Mutatis Mutandis* apply to the removal of Up-Pradhan as they apply to the removal of Pradhan.]

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<sup>1</sup> Section 11-C omitted by U.P. Act No. 44 of 2007 published in U.P. Gazette Extra Part I Section (Ka) dated 10<sup>th</sup> December, 2007 (w.e.f. 20 August, 2007).

<sup>2</sup> Sub-section (3) substituted by U.P. Act No. 9 of 1994. Now omitted by U.P. Act No. 24 of 2001 Published in U.P. Gazette Extra Part 1 Section (Ka) dated 6 October 2001.J

<sup>1</sup>[11-D **Prohibition of holding certain offices simultaneously** – No person shall simultaneously –

- (a) be the Pradhan of a Gram Panchayat and a Panch of the Nyaya Pachayat, or
- (b) be a member of a Gram Panchayat for more than one territorial constituency, or
- (c) be a member of a Gram Panchayat and a Panch of Nyaya Panchayat, or
- (d) hold any office in more than one Gram Panchayat or Nyaya Panchayat,

and the rules may provide for the vacation of all but one office by any person chosen to fill offices which he cannot hold simultaneously.

11-E **Further bar on holding two offices simultaneously** – (1) A person shall be disqualified for being elected to or holding the office of Pradhan or member of Gram Panchayat or a Panch of a Nyaya Panchayat, if he is –

- (a) a member of Parliament or of the State Legislature, or
- <sup>2</sup>(b) member, Pramukh or Up-Pramukh of a Kshetra Panchayat, or
- <sup>3</sup>(c) member, Adhyaksha or Up-Adhyaksha of a Zila Panchayat, or
- (d) Adhyaksha or Up-Adhyaksha of any co-operative society.

(2) A person shall cease to hold the office of Pradhan or member of the Gram Pradhan or Panch of a Nyaya Panchayat, as the case may be, if subsequently he is elected to any of the offices mentioned in Clauses (a) to (d) of sub-section (1) with effect from the date of such subsequent election and a casual vacancy shall thereupon occur in the office of such Pradhan or member of Panch, as the case may be.

<sup>4</sup>[(3) Notwithstanding anything in this Act, if in the first elections held after the commencement of the Uttar Pradesh Panchayat Laws (Amendment) Act, 1994 to constitute Panchayats at the village, khand and district levels, a person is chosen member of Panchayats at two or more levels, he shall submit his resignation from all but one of these seats within sixty days of the date of the declaration of the results of elections, or if the declaration of the results of elections in respect of the Panchayats at

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<sup>1</sup> Sections 11-D, 11-E, 11-F and 12 has been substituted by U.P. Act No. 9 of 1994.

<sup>2</sup> Subs by U.P. Act No. 29 of 1995 (Second Amendment) (w.e.f. 20.5.1995).

<sup>3</sup> Subs by U.P. Act No. 29 of 1995 (w.e.f. 20.5.1995).

<sup>4</sup> Subs by U.P. Act No. 29 of 1995 (Second Amendment) (w.e.f. 20.5.1995).

the said two or more levels has been made on different dates, within sixty days of the last of such dates and in the event of failure to so resigns seats in all the Panchayats except the seat in the highest level amongst the Panchayats to which he has been elected shall be deemed vacated.]

**11-F Declaration of Panchayat area** – (1) The State Government may, by notification, declare any area comprising a village or group of villages, having, so far as practicable, a population of one thousand, to be a Panchayat area for the purposes of this Act by such name as may be specified;

Provided that for the purposes of declaration of a Panchayat area no revenue village or any hamlet thereof shall be divided;

<sup>1</sup>[Provided further that in the hill districts of Nainital, Almora, Pithoragarh, Tehri, Pauri, Dehradun, Chamoli or Uttarkashi, the State Government may declare the area of a Gram Sabha established under Section 3 of this Act as it stood before the commencement of the Uttar Pradesh Panchayat Land (Amendment) Act, 1994, to be a Panchayat area through such area may have a population of less than one thousand.]

(2) The State Government may, on the request of the Gram Panchayat concerned or otherwise, and after previous publication of the proposal, by notification at any time –

- (a) modify the area of any Panchayat area by including therein or excluding therefrom any area of a village or group of villages;
- (b) alter the name of the Panchayat area; or
- (c) declare that any area shall cease to be a Panchayat area.

#### **STATE AMENDMENT (UTTARANCHAL)**

<sup>2</sup>[11-F. *Declaration of Panchayat area.* – (1) For the purposes of this Act the State Government may by notification declare any area comprising a village or group of villages, having, so far as practicable, a population of 300 in hill area and 1000 in plane area to be a Panchayat area for the purpose of this Act by such name as may be specified :

Provided that the population shall not exceed 1000 in hill area and 5000 in plane area of the state as far as practicable :

Further provided that for the purpose of declaration of a Panchayat area no revenue village or any hamlet thereof shall be divided :

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<sup>1</sup> Subs. by U.P. Act No. 21 of 1995.

<sup>2</sup> Amendment by Uttaranchal Act No. 8 of 2002. Published in Uttaranchal Gazette Extra Part I Section (Ka) dated 19<sup>th</sup> June, 2002.

Also provided that if it is not practically possible to follow the above provisions then the State Government may relax the aforesaid restrictions by order in specific and unavoidable circumstances.

(2) The State Government may, on the request of the Gram Panchayat concerned or otherwise, and after previous publication of the proposal, by notification at any time –

- (a) modify the area of any Panchayat area by including therein or excluding therefrom any area of a village or group of villages;
- (b) alter the name of the Panchayat area; or
- (c) declare that any area shall cease to be a Panchayat area”.

12. **Gram Panchayat.** –(1) (a) There shall be <sup>1</sup>[constituted] for every Panchayat area, a Gram Panchayat bearing the name of the Panchayat area.

(b) Every Gram Panchayat shall be a body corporate.

(c) A Gram Panchayat shall consist of a Pradhan and in the case of a Panchayat area having a population of –

- (i) <sup>2</sup>[upto one thousand ] nine members;
- (ii) more than two thousand but not more than two thousand, eleven members;
- (iii) more than two thousand but not more than three thousand, thirteen members; or
- (iv) more than three thousand, fifteen members.

#### STATE AMENDMENT (UTTARANCHAL)

<sup>3</sup>[(c)A Gram Panchayat shall consist of a Pradhan and in the case of Panchayat area having a population of :-

(1)	Up to 500	:	5 members
(2)	501 to 1000	:	7 members
(3)	1001 to 2000	:	9 members
(4)	2001 to 3000	:	11 members
(5)	3001 to 5000	:	13 members
(6)	5001 and above	:	15 members

<sup>1</sup> Subs. by U.P. Act No. 29 of 1995 (Second Amendment).

<sup>2</sup> Subs. by U.P. Act No. 21 of 1995.

<sup>3</sup> Amendment by Uttaranchal Act No. 8 of 2002.

(d) For the purpose of election of members of Gram Panchayat every Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as a practicable, be the same throughout the Panchayat area.

(e) Each territorial constituency of a Gram Panchayat shall be represented by one member in the Gram Panchayat.

<sup>1</sup>[(f) The territorial constituencies of a Gram Panchayat may be delimited in the prescribed manner and, if necessary, rules in this regard may be made with retrospective effect from a date not earlier than the date of commencement of the Uttar Pradesh Panchayat Laws (Amendment) Act, 1994.]

(2) <sup>2</sup>[\* \* \*]

(3) (a) A Gram Panchayat shall, unless sooner dissolved under Clause (f) of sub-section (1) of Section 95, continue for five years from the date appointed for its first meeting and no longer.

(b) An election to constitute a Gram Panchayat shall be completed –

- (i) before the expiry of its duration specified in Clause (a);
- (ii) before the expiration of a period of six months from the date of its dissolution :

Provided that were 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 sub-section for constituting the Gram Panchayat.

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

(d) The constitution of a Gram Panchayat shall be notified in such manner as may be prescribed and thereupon the Gram Panchayat shall be deemed to have been duly constituted, any vacancy therein notwithstanding :

Provided that the constitution of a Gram Panchayat shall not be so notified till the Pradhan and at least two-thirds of the members of the Gram Panchayat have been elected.

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<sup>1</sup> Ins. by U.P. Act No. 21 of 1995.

<sup>2</sup> Omitted by U.P. Act No. 21 of 1995.



<sup>1</sup>[(3-A) However, anything contained in the other provisions of this Act, where, due to unavailable circumstances or in the public interest. It is not possible to conduct the election for constituting any village Panchayat before expiry of its terms, State Government or any authority authorized for this purpose by it, by order, may appoint an administrative committee including such number of persons, which may be considered sufficient, having eligibility to be elected as member of village Panchayat or an administrator and the members of administrative committee or administrator shall hold the office for the period, which may be specified in the aforesaid order, not more than six months and all the powers, functions and duties of the village panchayat, its Pradhan and committees, as may be, shall be vested in such administrative committee or administrator and shall be used, exercised and done by him.]

#### STATE AMENDMENT (UTTARANCHAL)

<sup>2</sup>[(3-A) Notwithstanding anything contained in any other provisions of this Act, where due to unavoidable circumstances or in public interest, it is not practicable to hold an election to constitute a Gram Panchayat before the expiry of its duration, the State Government or an officer authorized by it in this behalf may, by order, appoint an administrator, who shall hold office for such period not exceeding six months as may be specified in the said order and all powers, functions and duties of the Gram Panchayat its Pradhan and Committees shall vest in and be exercised, performed and discharged by such administrator.

(4) The term of a member of Gram Panchayat shall, unless otherwise determined under the provisions of this Act, expire with the term of the Gram Panchayat.

(5) (a) In every Gram Panchayat, seats shall be reserved for the Scheduled Castes, the Scheduled Tribes and the backward classes and the number of seats so reserved shall, as nearly as may be, bear the same proportion to the total number of seats in the Gram Panchayat, as the population of the Scheduled Castes in the Panchayat area or of the Scheduled Tribes in the Panchayat area or of the backward classes in the Panchayat area bears to the total population of such area and such seats may be allotted by rotation to different territorial constituencies in a Gram Panchayat in such order as may be prescribed :

Provided that the reservation for the backward classes shall not exceed <sup>3</sup>[twenty-seven] percent of the total number of seats in the Gram Panchayat;

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<sup>1</sup> Added by U.P. Act No. 22 of 2000 (w.e.f. 18.3.2000).

<sup>2</sup> Notification No. 217/Vidhaye Evam Sansadi Karya/2002 dated 19 June 2002.

<sup>3</sup> The word "twenty seven" read the word "Fourteen" by Uttaranchal Act No. 30 of 2005. Published in Uttaranchal Gazette Extra Part I Section (Ka) dated 11 November, 2005.

<sup>1</sup>[Provided further that if the figures of population of the backward classes are not available, their population may be determined by carrying out a survey in the prescribed manner.]

b) Not less than one-third of the seats reserved under Clause (a) shall be reserved for the women belonging respectively to the Scheduled Castes, the Scheduled Tribes and the backward classes.

c) Not less than one-third of the total number of seats in the Gram Panchayat, including the number of seats reserved for women under Clause (b), shall be reserved for women and such seats may be allotted by rotation to different territorial constituencies in a Gram Panchayat in such order as may be prescribed.

d) The reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.

*Explanation* – It is clarified that nothing in this section shall prevent the persons belonging to the Scheduled Castes, the Scheduled Tribes and the backward classes and the women from contesting election to unreserved seats.

(6) The Pradhan shall be deemed a member of the Gram Panchayat.]

12-A. **Manner of election** – The election to the office of a Pradhan or Up-Pradhan <sup>2</sup>[\* \* \*] or a member of a Gram Panchayat shall be held to secret ballot in the manner prescribed.

<sup>3</sup>[12-AA **Allowances to Pradhan, Up-Pradhan and members** – (1) The Pradhan and Up-Pradhan of the Gram Panchayat shall receive such allowances and honoraria as may be prescribed.

(2) The member of a Gram Panchayat, other than Pradhan and Up-Pradhan shall receive such allowances as may be prescribed.]

<sup>4</sup>["12-B **Meetings of Gram Panchayats** – <sup>5</sup>[(1) A Gram Panchayats shall ordinarily meet for the transaction of business at least once every month but two months shall not intervene between two consecutive meetings;

Provided that the date to be appointed for the first meeting of a Gram Panchayat shall be within thirty days from the date of its constitution.

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<sup>1</sup> Ins. by U.P. Act No. 21 of 1995 (w.e.f. 22.4.1995).

<sup>2</sup> Omitted by U.P. Act No. 9 of 1994.

<sup>3</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>4</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>5</sup> Subs. by U.P. Act No. 24 of 2001 Published in U.P. Gazette Extra Part I Section (Ka) dated 6 October, 2001.

(2) The meetings of the Gram Panchayat shall be held at such place and in such manner as may be prescribed.”

<sup>1</sup>[12-BB. **Superintendence, etc. of the election** – <sup>2</sup>[(1) The Superintendence, direction and control of the conduct of the election to the office of the Pradhan, Up-Pradhan or a member of a Gram Panchayat shall be vested in the State Election Commission.]

<sup>3</sup>[(2) Subject to Superintendence, direction and control of the State Election Commission, the Mukhya Nirvachan Adhikari (Panchayat) shall supervise and perform all functions relating to the conduct of election to the office of Pradhan, Up-Pradhan or a member of a Gram Panchayat in the State.

<sup>4</sup>[(3) State Government with consultation of State Election Commission, by notification, shall appoint the date or dated for the general election or by election of Pradhan, Up-Pradhan or members of any village.]

12-BC. **Other provisions relating to holding of elections** – <sup>5</sup>[(1) Subject to the supervision and control of the State Election Commission, the District Magistrate shall supervise the conduct of all of elections of the Pradhans, the Up-Pradhans and the members of Gram Panchayats in the District.]

(2) Every local authority and the management of every educational institution receiving grant-in-aid from the State Government in the district shall, when so required by the District Magistrate make available to him or to any other officer appointed by the District Magistrate as Nirvachan Adhikari such staff as may be necessary for the performance of any duties in connection with such election.

(3) The State Election Commission may likewise require all or any of the local authorities and the managements of all or any of such institutions as aforesaid in the State to make available to any officer referred to in sub-section (2) such staff as may be necessary for the performance of any duties in connection with such election, and they shall comply with every such requisition.

(4) Where any employees of any local authority or institution referred to in sub-section (2) or sub-section (3) is appointed to perform any duty in connection with such elections he shall be bound to perform such duty.

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<sup>1</sup> .Subs. by U.P. Act No. 9 of 1994.

<sup>2</sup> Renumbered as sub section (1) by U.P. Act No. 21 of 1995 (w.e.f. 22.4.1994).

<sup>3</sup> Ins. by U.P. Act No. 21 of 1995.

<sup>4</sup> Ins. by Noti. No. 1246/17-V-1-1(A)-12-2000, dated 5.5.2000.

<sup>5</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>1</sup>[12-BCA. **Requisitions of premises vehicles, etc. for election purposes**

– (1) If it appear the District Magistrate that in connection with an elections under this Act to be held within the district –

- (a) any premises are needed or are likely to be needed for the purpose of being used as a polling place or for the storage of ballot boxes after a poll has been taken, or
- (b) any vehicle, vessel or animal is needed or is likely to be needed for the purpose for the purpose of transport of ballot boxes to or from any place, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performances of any duties in connection with such election, he may, by order in writing, requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further order as may appear to it to be necessary or expedient in connection with the requisitioning;]

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under his sub-section until the completion of the poll at the election.

(2) The requisition shall be affected by an order in writing addressed to the person deemed by the District Magistrate to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-sections (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

(4) In this section –

- (a) ‘premises’ means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;
- (b) ‘vehicle’ means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

12-BCB. **Payment of compensation** – (1) Whenever in pursuance of Section 12-BCA the District Magistrate requisitions any premises, there shall be paid

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<sup>1</sup> New Section 12-BCA, 12-BCB, 12-BCC, 12-BCD, 12-BCE and 12-BCF inserted by U.P. Act No. 29 of 1995 (Second Amendment).

to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely :

- i- The rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the legality;
- ii- If in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the District Magistrate for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the District Magistrate any determine;

Provided further that where there is any dispute as to the title to receive the compensation or as the apportionment of the amount of compensation it shall be referred by the District Magistrate to an arbitrator appointed in this behalf by him for determination and shall be determined in accordance with the decision of such arbitrator.

*Explanation* – In this sub-section, the expression ‘person interested’ means the person who was in actual possession of, the premises requisitioned under Section 12-BCA immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of Section 12-BCA the District Magistrate requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the District Magistrate on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal;

Provided that whether the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the District Magistrate for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the District Magistrate may determine;

Provided further that where immediately before the requisitioning, the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of

agreement, in such manner as an arbitrator appointed by the District Magistrate in this behalf may decide.

**12-BCC. Power to obtain information** – The District Magistrate may, with a view to requisitioning any property under Section 12-BCA or determining the compensation payable under Section 12-BCB by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

**12-BCD. Power of entry into and inspection of premises, etc.** – (1) Any person authorized in this behalf by the District Magistrate may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so what manner, an order under Section 12-BCA should be made in relation to such premises vehicle, vessel or animal, or with a view to securing compliance with any order made under that section.

(2) In this section the expressions ‘premises’ and ‘vehicle’ have the same meanings as in Section 12-BCA.

**12-BCE. Eviction from requisitioned premises** – (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under Section 12-BCA may be summarily evicted from the premises by any Officer empowered by the District Magistrate in this behalf.

(2) Any Officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

**12-BCF. Release of premises from requisition** – (1) When any premises requisitioned under Section 12-BCA are to be released from requisition, the possession thereof shall be delivered to the person from whom possession thereof shall be delivered to the person from possession was taken at the time when the premises were requisitioned, or if there were no such person to the person deemed by the District Magistrate to be the owner of such premises, and such delivery of possession shall be a full discharge of the District Magistrate from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession to the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under Section 12-BCA is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the District Magistrate shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official *Gazette*.

(3) When a notice referred to in sub-section (2) is published in the *Official Gazette*, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the District Magistrate shall not be liable for any compensation of other claim in respect of such premises for any period after the said date.]

<sup>1</sup>[12-BD. **Breaches of official duty in connection with elections** – (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

(2) An offence punishable under sub-section (1) shall be cognizable.

(3) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(4) The persons to whom this section applies are the Nirvachan Adhikaris, Sahayak Nirvachan Adhikaris, Matdan Adhyakshas, Matdan Adhikaris and any other person appointed to perform any duty in connection with the receipt of nomination or withdrawal of candidature or the recording or counting of votes at an election, and the expression ‘official duty’ shall for the purpose of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

12-C. **Application for questioning the elections** – (1) The election of a person as Pradhan <sup>2</sup>[\* \* \*] or as member of a Gram Panchayat including the election of a person appointed as the Panch of the Nyaya Panchayat under Section 43 shall not be called in question except by an application presented to such authority within such time and in such manner as may be prescribed on the ground that –

- (a) the election has not been a free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election, or
- (b) that the result of the election has been materially affected –
  - i- by the improper acceptance or rejection of any nomination or;
  - ii- by gross failure to comply with the provisions of this Act or the rules framed thereunder.

(2) The following shall be deemed to be corrupt practices of bribery or undue influence for the purposes of this Act.

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<sup>1</sup> Subs. by U.P. Act No. 37 of 1978.

<sup>2</sup> Omitted by U.P. Act No. 9 of 1994.

- (A) Bribery, that is to say, any gift, offer or promise by a candidate or by any other person with the connivance of a candidate of any gratification of any person whomsoever, with the object, directly, or indirectly of including –
- (a) a person to stand or not to stand as, or withdraw from being, a candidate at any election; or
  - (b) an elector to vote or refrain from voting at an election; or as a reward to –
    - i- a person for having so stood or not stood or having withdrawn his candidature; or
    - ii- an elector for having voted or refrained from voting.
- (B) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or of any other person with the connivance of the candidate with the free exercise of any electoral right;

Provided that without prejudice to the generality of the provisions of this clause any such person as is referred to therein who –

- i- threatens any candidate, or any elector, or any person in whom a candidate or any elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or
- ii- induces or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause.

(3) This application under sub-section (1) may be presented by any candidate at the election or any elector and shall contain such particulars as may be prescribed.

*Explanation* – Any person who filed a nomination paper at the election whether such nomination paper was accepted or rejected, shall be deemed to be a candidates at the election.

(4) The authority to whom the application under sub-section (1) is made shall in the matter of –

- i- hearing of the application and the procedure to be followed at such hearing;



- ii- setting aside the election, or declaring the election to be void or declaring the applicant to be duly elected or any other relief that may be granted to the petitioner,

have such powers and authority as may be prescribed.

(5) Without prejudice to generality of the powers to be prescribed under sub-section (4) the rules may provide for summary hearing and disposal of an application under sub-section (1).

<sup>1</sup>[(6) Any party aggrieved by an order of the prescribed authority upon an application under sub-section (1) may, within thirty days from the date of the order, apply to the District Judge for revision of such order on any one or more the following grounds, namely –

- (a) that the prescribed authority has exercised a jurisdiction not vested in it by law;
- (b) that the prescribed authority has failed to exercise a jurisdiction so vested;
- (c) that the prescribed authority has acted in the exercise of its jurisdiction illegally or with material irregularity.

(7) The District Judge may dispose of the application for revision himself or may assign it for disposal to any Additional District Judge, Civil Judge or Additional Civil Judge under his administrative control and may recall it from any such officer or transfer it to any other such officer.

(8) The revising authority mentioned in sub-section (7) shall follow such procedure as may be prescribed, and may confirm, vary or rescind the order of the prescribed authority or remand the case to the prescribed authority for re-hearing and pending its decision pass such interim orders as may appear to it to be just and convenient.

(9) The decision of the prescribed authority, subject to any order passed by the revising authority under this section, and every decision of the revising authority passed under this section, shall be final.]

12-D. The provisions of Section 12-C shall *mutatis mutandis* apply to the election of person as Up-Pradhan of a <sup>2</sup>[Gram Panchayat], Sarpanch or Sahayak Sarpanch of a Nyaya Panchayat.

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<sup>1</sup> Subs. by U.P. Act No. 37 of 1978, dated 30<sup>th</sup> December, 1978 for sub-section (6)..

<sup>2</sup> Subs. by U.P. Act No. 9 of 1994.

12-E. **Oath of office** – (1) <sup>1</sup>[Every person] shall, before entering upon any office referred to in Sections (11-A, 12), 43 or 44, make and subscribe before such authority as may be prescribed on oath or affirmation in the form to be prescribed.

(2) Any member who declines or otherwise refuses to make and subscribe such oath or affirmation as aforesaid shall be deemed to have vacated the office forthwith.

12-F. **Registration** – A Pradhan, Up-Pradhan or a member of Gram Panchayat may, by writing under his hand addressed to such authority as may be prescribed, resign his office and his office shall thereupon become vacant.

12-G. **General Election** – <sup>2</sup>[\* \* \*]

<sup>3</sup>[12-H. **Casual Vacancy** – If a vacancy in the office of the Pradhan, Up-Pradhan or a member of a Gram Panchayat arises by reason of his death, removal, resignation, voidance of his election or refusal to take oath of office, it shall be filled before the expiration of a period of six months from the date of such vacancy, for the remainder of his term in the manner, as far as may be, provided in Sections 11—B, 11-C, or 12, as the case may be :

Provided that if on the date of occurrence of such vacancy the residue of the term of the Gram Panchayat is less than six months, the vacancy shall not be filled.]

12-I. **Jurisdiction of Civil Courts in election matters barred** – No Civil Court shall have jurisdiction to question in legality of any action taken or any decision given by an officer or authority appointed under this Act in connection with the conduct of elections thereunder.

12-J. **Temporary arrangement in certain cases** – <sup>4</sup>[Where the office of Pradhan is vacant by reason of death, removal, resignation or otherwise or where the Pradhan is incapable to act by reason of absence, illness or for any reason whatsoever, the prescribed authority shall nominate a member of the Gram Panchayat, to discharge the duties and exercise the powers of Pradhan until such vacancy in the office of Pradhan is filled in, or until such incapacity of Pradhan is removed.

12-K. **Tenure of Office of Pradhan and Up-Pradhan** – <sup>5</sup>[\* \* \*]

13. **Annual estimate of income and expenditure** – <sup>5</sup>[\* \* \*]

<sup>1</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>2</sup> Omitted by U.P. Act No. 9 of 1994.

<sup>3</sup> Subs. by U.P. Act No. 33 of 1999.

<sup>4</sup> Section 12-J subs. by U.P. Act No. 44 of 2007. Published in U.P. Gazette Part I Section (Ka) dated 10<sup>th</sup> December, 2007 (w.e.f. 20 August, 2007).

<sup>5</sup> Omitted by U.P. Act No. 9 of 1994.

14. **Removal of Pradhan** <sup>1</sup>[\* \* \*] – “<sup>2</sup>(1) The Gram Sabha may at a meeting specially convened for the purpose and of which atleast 15 days previous notice shall be given, remove the Pradhan by a majority of two-thirds of the members of the Gram Sabha present and voting.

(1-A) Notwithstanding anything contained in Section 11, one-third of the members of the Gram Sabha shall form the quorum for a meeting under sub-section (1).”

(2) A meeting for the removal of a Pradhan shall not be convened within <sup>3</sup>[two years] of his election.

(3) If the motion is not taken up for want of quorum or fails for lack of requisite majority at the meeting no subsequent meeting for the removal of the same Pradhan shall be convened within one year of the date of the previous meeting.

(4) Subject to the provisions of this section, the procedure for the removal of a Pradhan, including that to be followed at such meeting, shall be such as may be prescribed.

14-A. **Punishment for failure to handover records etc.** – (1) If any person on ceasing to act as Pradhan, Sarpanch or Sahayak Sarpanch willfully fails, in spite of being required to do so by the prescribed authority, to handover all records, money or other property of <sup>4</sup>[Gram Sabha], Gram Panchayat or Nyaya Panchayat as the case may be, to his successors or to any person authorized in this behalf by the prescribed authority, he shall be punishable with imprisonment which may extend to three years or with fine or with both.

(2) Without prejudice to the provisions of sub-section (1), any such money may on a certificate issued in that behalf by the prescribed authority be recovered as arrears of land revenue.

<sup>5</sup>[14-B. **Removal of Up-Pradhan** – (1) The Gram Panchayat may at a meeting specially convened for the purpose and of which at least fifteen days previous notice shall be given, remove the Up-Pradhan by a majority of two-thirds of the members of the Gram Panchayat.

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<sup>1</sup> Word “and Up-Pradhan” omitted by U.P. Act No. 24 of 2001. Published in U.P. Gazette Extra Part I, Section (Ka) dated 6<sup>th</sup> October, 2001.

<sup>2</sup> Subs. by Act No. 24 of 2001.

<sup>3</sup> Subs. by Act No. 21 of 1998.

<sup>4</sup> Subs. by U.P. Act No. 9 of 1994.

<sup>5</sup> Section 14-B Ins. by U.P. Act No. 24 of 2001, Pub. In U.P. Gazette Extra Part I Section (Ka), dated 6 October, 2001 and now omitted by U.P. Act No. 44 of 2007 published in U.P. Gazette Extra Part I Section (Ka) dated 10 December 2007 (w.e.f. 20 August 2007).

<sup>1</sup>[(1) *Removal of Up-Pradhan* – The Gram Panchayat may at a meeting specially convened for the purpose and of which at least fifteen days previous notice shall be given, remove the Up-Pradhan by a majority of two-thirds of the members of the Gram Panchayat.

(2) A meeting for the removal of an Up-Pradhan shall not be convened within two years of election.

(3) If the motion is not taken up for lack of requisite majority at the meeting, no subsequent meeting for the removal of the same Up-Pradhan shall be convened within two years of the date of the previous meeting.

(4) Subject to the provisions of this section, the procedure for the removal of an Up-Pradhan, including that to be followed at such meeting, shall be such as may prescribed.”.

#### CHAPTER IV

##### **Powers, Duties, Functions and Administration of Gram Panchayat**

<sup>2</sup>[15. **Functions of Gram Panchayat** – Subject to such conditions as may be specified by the State Government, from time to time, a Gram Panchayat shall perform the following functions, namely –

- i- Agriculture including agricultural extension –
  - (a) Promotion and development of agriculture and horticulture,
  - (b) Development of wastelands and grazing lands and preventing their unauthorized alienation and use.
- ii- Land and development, land reform implementation, land consolidation and soil conservation;
  - (a) Assisting the Government and other agencies in land development, land reform and soil conservation.
  - (b) Assisting in land consolidation.
- iii- Minor irrigation, water management and watershed development;
  - (a) Managing and assisting in water distribution from minor irrigation projects.

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<sup>1</sup> Sub-section (1) subs. place of sub-section (1) by Uttarakhand Act No. 5 of 2007. Published in Uttarakhand Gazette Extra Part I Section (Ka) dated 17<sup>th</sup> July, 2007.

<sup>2</sup> Section 15-A and 16 have been substituted by U.P. Act No. 9 of 1994.