

**GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT**

Legislative

West Bengal Act XX of 1988

**THE WEST BENGAL PANCHAYAT
(AMENDMENT) ACT, 1988.**

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the *Calcutta Gazette, Extraordinary*, of the 16th December, 1988.]

[16th December, 1988.]

An Act to amend the West Bengal Panchayat Act, 1973.

West Ben.
Act XLI of
1973.

WHEREAS it is expedient to amend the West Bengal *Panchayat Act*, 1973, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Thirty-ninth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal *Panchayat* (Amendment) Act, 1988.

Short title
and
commence-
ment.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In section 2 of the West Bengal *Panchayat Act*, 1973 (hereinafter referred to as the principal Act),—

Amendment
of section 2
of West Ben.
Act XLI of
1973.

(a) after clause (4a), the following clause shall be inserted:—

‘(4b) “Council” means the Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act, 1988;’;

(b) for clause (11a), the following clause shall be substituted:—

‘(11a) “hill areas” has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988;’;

(c) after clause (12), the following clause shall be inserted:—

‘(12a) “*Mahakuma Parishad*” means the *Mahakuma Parishad* for the sub-division of Siliguri in the district of Darjeeling constituted under section 185B;’;

(d) in clause (22), for the words and figures “elected under section 143;”, the words and figures “elected under section 143, and includes the *Sabhadhipati* of the *Mahakuma Parishad*” shall be substituted;

(Sections 3-8.)

- (e) in clause (24), for the words and figures "elected under section 143;" the words and figures "elected under section 143, and includes the *Sahakari Sabhadhipati* of the *Mahakuma Parishad*;" shall be substituted.

Amendment
of section 8.

3. In section 8 of the principal Act,—

- (a) in clause (b), for the words "or a *Zilla Parishad*;" the words "or a *Zilla Parishad* or the *Mahakuma Parishad* or the Council;" shall be substituted;
- (b) in clause (e),—
- (i) for the words "or the *Zilla Parishad* of the district;" the words "or the *Zilla Parishad* of the district, or the *Mahakuma Parishad*, or the Council;" shall be substituted, and
- (ii) in the proviso, for the words "or the *Zilla Parishad* of the district;" the words "or the *Zilla Parishad* of the district or the *Mahakuma Parishad* or the Council;" shall be substituted.

Amendment
of section
19.

4. In clause (h) of section 19 of the principal Act, after the words "the *Zilla Parishad*", the words ", the *Mahakuma Parishad*, the Council" shall be inserted.

Amendment
of section
21.

5. In clause (r) of section 21 of the principal Act, for the words "the *Zilla Parishad*," the words "the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be," shall be substituted.

Amendment
of section
25.

6. In clause (e) of sub-section (1) of section 25 of the principal Act, after the words "the *Zilla Parishad*", the words "or the *Mahakuma Parishad* or the Council, as the case may be," shall be inserted.

Amendment
of section
31.

7. In section 31 of the principal Act,—

- (a) in sub-section (1), after the words "A *Zilla Parishad*", the words "or the *Mahakuma Parishad* or the Council" shall be inserted;
- (b) in sub-section (2), for the words "the *Zilla Parishad*," the words "the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be," shall be substituted.

Amendment
of section
45.

8. In clause (b) of sub-section (1) of section 45 of the principal Act, after the words "*Zilla Parishad*," the words "*Mahakuma Parishad*, Council," shall be inserted.

The West Bengal Panchayat (Amendment) Act, 1988.

XX of 1988.]

(Sections 9-15.)

9. In sub-section (1) of section 51 of the principal Act, after the words "*Zilla Parishad*", the words "*, Zilla Parishad, Mahakuma Parishad or Council*" shall be substituted. Amendment of section 51.

10. In section 97 of the principal Act,— Amendment of section 97.
 - (a) in clause (b), for the words "*a Zilla Parishad*", the words "*a Zilla Parishad or the Mahakuma Parishad or the Council*;" shall be substituted;
 - (b) in clause (c),—
 - (i) for the words "*or the Zilla Parishad of the district*," the words "*, or the Zilla Parishad of the district, or the Mahakuma Parishad or the Council*;" shall be substituted, and
 - (ii) in the proviso, for the words "*or such Zilla Parishad*;", the words "*or such Zilla Parishad or the Mahakuma Parishad or the Council*;" shall be substituted.

11. In clause (b) of sub-section (1) of section 109 of the principal Act, after the words "*Zilla Parishad*", the words "*or Mahakuma Parishad or Council*" shall be inserted. Amendment of section 109.

12. In section 111 of the principal Act, after the words "*to the Zilla Parishad*", the words "*or Mahakuma Parishad or Council*" shall be inserted. Amendment of section 111.

13. In clause (c) of sub-section (2) of section 115 of the principal Act, after the words "*the Zilla Parishad*", the words "*or the Mahakuma Parishad or the Council*" shall be inserted. Amendment of section 115.

14. In clause (b) of sub-section (1) of section 132 of the principal Act, after the words "*the Zilla Parishad*", the words "*or Mahakuma Parishad or Council*" shall be inserted. Amendment of section 132.

15. In section 136 of the principal Act,— Amendment of section 136.
 - (a) in sub-section (1), after the words "*the Zilla Parishad*", the words "*or the Mahakuma Parishad or the Council, as the case may be*," shall be inserted;
 - (b) in sub-section (2),—
 - (i) for the words "*The Zilla Parishad may*," the words "*The Zilla Parishad or the Mahakuma Parishad or the Council, as the case may be, may*," shall be substituted,

(Sections 16-19.)

- (ii) for the words “for approval of the *Zilla Parishad*.”, the words “for approval of the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be.” shall be substituted,
- (iii) after the words “If the approval of the *Zilla Parishad*”, the words “or the *Mahakuma Parishad* or the Council, as the case may be,” shall be inserted, and
- (iv) for the words “approved by the *Zilla Parishad*.”, the words “approved by the *Zilla Parishad* or the *Mahakuma Parishad* or the Council, as the case may be.” shall be substituted.

Amendment
of section
137.

16. In section 137 of the principal Act, for the words “the *Zilla Parishad*.”, the words “the *Zilla Parishad* or the *Mahakuma Parishad* or the Council.” shall be substituted.

Amendment
of section
138.

17. In section 138 of the principal Act, after the words “the *Zilla Parishad*”, the words “or the *Mahakuma Parishad* or the Council, as the case may be,” shall be inserted.

Amendment
of section
140.

18. In sub-section (1) of section 140 of the principal Act, after the words “For every district”, the words “, except the district of Darjeeling,” shall be inserted.

Insertion of
new Chapter
XVIIA.

19. In Part IV of the principal Act, after Chapter XVII, the following Chapter shall be inserted:—

“CHAPTER XVIIA

Special provision for the District of Darjeeling

Zilla Parishad for
Darjeeling to
stand dissolved
and consequences
of dissolution.

185A. (1) With effect from the date of coming into office of the Council, the *Zilla Parishad* for the district of Darjeeling constituted under this Act shall stand dissolved and the members of the *Zilla Parishad* shall be deemed to have vacated their offices forthwith.

(2) Upon such dissolution of the *Zilla Parishad*, the Council shall exercise all the powers, discharge all the duties and perform all the functions of the *Zilla Parishad* under this Act.

(3) Notwithstanding anything contained in sub-section (1) of this section or elsewhere in this Act,—

- (a) anything done or any action taken by the *Zilla Parishad* under this Act prior to the coming into office of the Council, and

XX of 1988.]

(Section 19.)

(b) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal Panchayat Act, 1957, or the West Bengal Zilla Parishads Act, 1963, or this Act, applicable to the Zilla Parishad, and continuing in force immediately before the coming into office of the Council, shall, after such coming into office, continue in force in so far as they are not inconsistent with the provisions of the Darjeeling Gorkha Hill Council Act, 1988 until they are repealed or amended.

West Ben.
Act I of
1957.
West Ben.
Act XXXV
of 1963.

(4) Notwithstanding anything contained in section 29 of the Darjeeling Gorkha Hill Council Act, 1988, the properties, funds and liabilities of the Zilla Parishad and the officers and employees of the Zilla Parishad holding office immediately before the coming into office of the Council, shall be determined and apportioned between the Council and the Mahakuma Parishad in such manner as may be prescribed, and such determination and apportionment shall be final.

(5) An order made under sub-section (4) may contain such supplemental, incidental and consequential provisions as may be necessary to give effect to such reorganisation.

Mahakuma Parishad. 185B. (1) For the sub-division of Siliguri in the district of Darjeeling the State Government shall constitute a Mahakuma Parishad bearing the name of the sub-division.

(2) The Mahakuma Parishad shall comprise the areas of the Blocks within the sub-division excluding such mouzas of the sub-division as are comprised in the hill areas.

(3) The Mahakuma Parishad shall consist of the following members, namely:—

- (i) *Sabhapatis* of the Panchayat Samitis within the sub-division, *ex officio*;
- (ii) two persons, one from each of two such constituencies comprised in the Block within the sub-division as may be specified by notification, elected by secret ballot, at such time and in such manner as may be prescribed, from among themselves by persons whose names are included in the electoral roll of the West Bengal Legislative Assembly in force on the last date of nominations for Panchayat election pertaining to the constituency comprised in such Block;
- (iii) members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising the sub-division or any part thereof (excluding the part comprised in the hill areas), not being Ministers;

(Section 19.)

- (iv) members of the Council of States, not being Ministers, having a place of residence in the sub-division (excluding the place comprised in the hill areas).

(4) The *Mahakuma Parishad* constituted under this section shall be notified in the *Official Gazette* and shall come into office with effect from the date of its first meeting at which a quorum is present.

(5) The *Mahakuma Parishad* shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.

(6) Notwithstanding anything contained in this Act,—

(a) anything done or any action taken by the *Zilla Parishad* under this Act prior to the coming into office of the *Mahakuma Parishad*, and

(b) all rules, orders, bye-laws and notifications made or issued from time to time under the provisions of the West Bengal Panchayat Act, 1957, or the West Bengal Zilla Parishads Act, 1963, or this Act, applicable to the *Zilla Parishad*,

and continuing in force immediately before, the coming into office of the *Mahakuma Parishad* under this Act, shall, after such coming into office, be applicable to the *Mahakuma Parishad* and shall continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.

(7) (a) The *Mahakuma Parishad* shall have a *Sthayee Samiti*, namely, *Artha, Sanstha, Unnayan O Parikalpana Sthayee Samiti*.

(b) The *Mahakuma Parishad* may have such other *Sthayee Samiti* or *Samitis* as it may, subject to the approval of the State Government, constitute.

(c) A *Sthayee Samiti* shall consist of the following members:—

- (i) the *Sabhadhipati*, *ex officio*;
(ii) three persons to be elected in the prescribed manner by the members of the *Mahakuma Parishad* from among themselves;
(iii) not more than five persons, being officers of the State Government, appointed by the State Government:

Provided that such officers shall not be eligible for election as *Karmadhyaksha* of the *Sthayee Samiti* and shall not have any right to vote.

(d) No person, other than the *Sabhadhipati* or the *Sahakari Sabhadhipati*, shall be a member of more than two *Sthayee Samitis*.

(e) All the provisions of sub-sections (4) to (7) of section 171 and sections 172 to 174 shall apply *mutatis mutandis* to a *Sthayee Samiti* constituted under this section.

West Ben.
Act I of
1957.
West Ben.
Act XXXV
of 1963.

XX of 1988.]

(Section 20.)

(8) All the provisions of sections 141 to 152, 153 to 165, 166 to 170, 175 to 185, 186 to 196, 196A, 196B, 197, 197A, 197B, 198 to 202, 202A, 203 to 216, 220 to 221 and 223 shall apply to the *Mahakuma Parishad mutatis mutandis*.”.

20. In the Third Schedule to the principal Act,—

- (a) in the heading, for the words “or a *Zilla Parishad*,” the words “, a *Zilla Parishad* or *Mahakuma Parishad*.” shall be substituted, and
- (b) after the words “*Zilla Parishad*”, the words “/*Mahakuma Parishad*” shall be inserted.

Amendment
of Third
Schedule.

CORRIGENDUM

[Published in the *Calcutta Gazette, Extraordinary*, Part III,
of the 11th February, 1989.]

Dated the 9th February, 1989

In the West Bengal *Panchayat (Amendment) Act, 1988* (West Ben. Act XX of 1988), published in Part III of the *Calcutta Gazette, Extraordinary*, of the 16th December, 1988, at pages 2851-2856, with the Law (Legislative) Department notification No. 2198-L, dated the 16th December, 1988, for the words, letter and brackets “in clause (e),—” appearing at page 2852 in clause (b) of section 3 of the said Act, *read* the words, letter and brackets “in clause (c),—”.