

**THE NAGALAND VILLAGE AND AREA
COUNCILS ACT, 1978**

(NAGALAND ACT. NO. 1 OF 1979)

(Received the assent of the Governor on the 9th March, 1979 and published in the Nagaland Gazette extraordinary dated the 13th March, 1979)

An

Act.

To consolidate and amend the law relating to constitution of Village and Area Councils in Nagaland and to regulate their duties and functions and for matters connected there with. It is hereby enacted in the twenty-ninth year of the Republic of India as follows:

Short Title, extent and commencement

1. (1) This Act may be called the Nagaland Village and Area Councils Act, 1978.
- (2) It extends to whole of Nagaland.
- (3) It shall come into force on such date as the State Government may by notification in the Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Definition

2. (a) In this Act unless the context otherwise requires “appropriate authority” or “competent authority” means an authority having administrative jurisdiction with whatever designation called and notified by Government from time to time.
- (b) “Assembly” means the Nagaland Legislative Assembly.
- (c) “Gazette” or “the Gazette” means Nagaland Gazette.
- (d) “prescribed” means prescribed by rules and made under this Act,
- (e) “State Government” means the Government of Nagaland.

Chapter I

VILLAGE COUNCIL

3. Constitutions: Every recognised Village shall have a Village Council.

Explanation

Village means and **indudes an area recognised** as a Village as **such by the GoVernment of Nagaland. An area in order to be a Village under this act shall fulfil** the following conditions namely:

- (a) The land in the area belong to the population of that area or given to them by the Government of Nagaland, if the land in question is a Government land or is land given to them by the lawful owner of the land; and
 - (b) The Village is established according to the usage and customary practice of the population of the area.
4. A Village Council shall consist of members, chosen by villagers in accordance **with** the prevailing customary practices and usages, the same being **approved by the State Government**, provided that hereditary village Chiefs **GBs** and Angs shall be ex- officio members of such Council and shall have voting right.
- Qualification for members
5. A person shall not be qualified to be chosen as a member of the Village Council unless he : —
- (a) is a citizen of India, and
 - (b) has attained the age 25 years.
6. (a) Every Village Council, unless otherwise dissolved by the **State Government**, shall
- continue for five years from the date **of** appointment, provided that the said period may **be extended by the State Government by a notification in the Gazette for a period not exceeding one year at a time.**
- (b) All members shall hold office during the life of the Village Council.
- Provided that**
a member chosen to fill in a casual vacancy shall hold office for the remainder of the term of office of the member whom he replaced;

Provided further that Village institutions which were traditionally established like the “Putu Menden” in Ao Area and recognised as Village **Council** shall **continue to** function as Village Council according to respective **custom** and usage.

Chairman

7. (1) The Village Council will choose a member as Chairman of the Council.
- (2) During the absence of the Chairman from any sitting of the Village Council a member of the Council nominated by the Chairman shall act as Chairman.

Secretary

8. The Village Council may select and appoint a Secretary who may or may not be a member of the Council. If the Secretary is not a member of the Council, he shall have no voting rights.

Power to remove members

9. (1) The State Government may remove any member of a Village Council from his office:
- (a) Who is convicted of any offence involving moral turpitude by a court of law,

or

- (b) Who refuses to act, or become incapable of acting or
 - (c) Who is declared to be insolvent, or
 - (d) Who has been declared by notification in the Gazette to be disqualified for employment in the Public Service, or
 - (e) Who without an excuse or sufficient ground in the opinion of the State Government absents himself from the majority of meeting in a year of Village Council, or
 - (f) Who has been guilty of misconduct, in discharge of his duties or of any disgraceful conduct, and two third of the total members of the Village Council at a meeting recommend his removal.
- (1) No person who has been removed from his office under clause (a) or clause (d) or sub-section (1) shall be eligible for re- election except with the previous permission of the State Government obtained by such person in the prescribed manner.

Conduct of Business

10. The procedure for the conduct of business in a Village Council shall be as maybe regulated from time to time by the Chairman thereof. The written record of the gist of its proceedings shall be maintained.
11. The Village Council shall meet once in every 3 months, provided that the Chairman may summon the meeting of the Council at any time if requisition is made by one-third of the members.

Powers and Duties

12. The Village Council shall have the following powers and duties:
- (1) to formulate Village Development Schemes, to supervise proper maintenance of water supply, roads, forest, sanitation, education and other welfare activities:
 - (2) to help various Government agencies in carrying out development works in the Village.
 - (3) to take development works on its own initiative or on request by the Government.
 - (4) to borrow money from the Government, Banks or financial institutions for application in the development and welfare work of the Village and to repay the same with or without interest as the case may be.
 - (5) to apply for and receive grant-in-aid, donations, subsidies from the Government or any agencies.
 - (6) to provide security for due repayment of loan received by any permanent resident of the Villages from the Government, Bank or financial institution.
 - (7) to lend money from its funds to deserving permanent residents of the Village and to obtain repayment thereof with or without interest,
 - (8) to forfeit the security of the individual borrower on his default in repayment of loan, advanced to him or on his commission of a breach of any of the terms of loan agreement entered into by him with the Council and to dispose of such security by public auction or by private sale;
 - (9) to enter into any loan agreement with the Government Bank and financial institutionS or a permanent resident of the Village.
 - (10) to realise registration fees for each litigation within its jurisdiction.
 - (11) to raise fund for utility service within the Village by passing a resolution subject to the approval of the State Government.

Provided that all monetary transactions shall be conducted through a scheduled Bank or the Nagaland State Co-operative Bank,

- (12) to constitute Village Development Board;
- (13) power to do certain acts in the event of an epidemic. On the outbreak of an epidemic or infectious disease Village Council shall initiate all preventive measures.

Administration of Justice

- 14. (1) The Village Council constituted under the law in force from time to time shall administer justice within the Village limits in accordance with the customary law and usages as accepted by the canons of justice established in Nagaland and the law in this respect as enforced from time to time.
- (2) In case of disputes between villages falling in different areas or districts, two or more Village Councils may settle a dispute in a joint session or refer it to the appropriate authority.

Village Administration

- 15. (1) The Village Council shall be auxiliary to the administration and shall have all powers to deal with internal administration of the village.
 - (a) maintenance of law and order.
 - (b) in serious case offender may be arrested but such person should be handed over to the nearest Administrative Officer or Police Station without undue delay;
 - (c) to report to the nearest Administrative Officer occurrence of any unnatural death or serious accident;
 - (d) to inform the presence of strangers, vagabonds or suspects to the nearest Administrative Officer or Police Station;
 - (e) to enforce orders passed by the competent authority on the village as a whole;
 - (f) to report outbreak of epidemics to the nearest Administrative Officer or Medical Officer;
 - (g) no transfer of immovable property shall be affected without the consent of the Village Council. Written record of this shall be maintained by the Village Council.

Disqualification

- 16. A person shall be disqualified from being selected as and for being a member of Village Council : —
 - (1) If he is of unsound mind and stands so declared by the competent court or such authority as may be recognised by the State Government ; or
 - (2) If he is not a citizen of India or has voluntarily acquired citizenship of foreign nation or is under acknowledgement or allegiance to a foreign nation; or

- (3) if he has been convicted by a court in India **for an** offence and sentenced to imprisonment for not less than two years unless a period of five years or such less period as the State Government may allow in any particular case, has elapsed since his release; or
 - (4) if having held an office under any Council he has **been** found guilty of corruption, disloyalty or breach of such Council laws, unless a period of five years or such less period as the State Government may determine in any particular case has elapsed since his becoming so disqualified ; or
 - (5) if he is an undischarged insolvent; or
 - (6) if he is a salaried Government servant or employee of an Area **Council ; or**
 - (7) if he abstains himself from the majority of the meeting in a year and is unable to explain such absence to the satisfaction of the Council; or
 - (8) if he is a member of any other Village Council; **or**
 - (9) if he has been dismissed from the service of the **Government or** any other local authority for misconduct, unless **a period of five years** has **elapsed from the date of** dismissal.
17. If any question arises as to whether a member of Village Council has been subject to disqualification, the question shall be referred to the decision of the State Government whose decision thereon shall be final.
18. A seat shall become vacant (1) when a member dies; or (2) when a member resigns his seat in writing under his own hand; or (3) when a member is removed by the State Government on becoming disqualified.

Filling of Casual Vacancy

- 19. When a seat becomes vacant, the Chairman shall call upon the Village concerned to choose a member.
- 20. When a dispute arises as to the selection of any member of a Village Council, the matter shall be referred to the State Government whose decision thereon shall be final.
- 21. Every Village Council shall be a body, corporate by the name of the Village for which it is constituted and shall have perpetual succession and a common seal, and shall by the said name use and **be used through its Chairman, with power** to acquire hold and dispose of property, both movable and immovable and **to contract** and do all other things necessary **for the purposes of this Act.**

Control of Village Council

- 22. Subject to the General superintendence of the State Government/the Deputy Commissioner/the Additional Deputy Commissioner or Sub-divisional Officer (Civil) in-charge of the Sub-Division, Extra Assistant Commissioner or Circle Officer shall have control over all the Village Councils within his jurisdiction.

Chapter II

AREA COUNCIL

Constitution

- 23. There shall be an Area Council for each Area to be notified by the State Government in the Gazette.

Composition

- 24. (1) The Area Council shall consist of members elected by the Village Council in proportion of one member for population of 500 and part thereof not below 250:
Provided that a recognised Village with population of less than 500 but having at least 250 shall be represented by one member: Provided further that a group of contiguous small recognised Villages may together elect a member to the

Area Council having the same territorial jurisdiction on the basis of 250 population. In the event of an Area Council member to be elected by more than one Village, the members of the Village Councils shall be determined in proportion to the population of such villages.

(2) In the smaller Towns where there is no recognised Town Committees, an Area Council member can be elected in proportion of one member for every 500 people and part thereof not below 250. The election shall be carried out by an Ad-hoc Committee of the towns people themselves to be constituted for the purpose by the local Administrative Officer.

(3) There shall also be two persons nominated by the State Government as members, one of whom shall be a woman ordinarily resident of the Area.

Qualification for membership

25. A person shall not be qualified to be elected as a member of an Area Council unless he:

- (1) is a citizen of India;
- (2) has attained the age of 25 years; and
- (3) is a member of a Village Council. Chairman

26. (1) There shall be a Chairman elected from among the members of the Area Council.

(2) During the absence of the Chairman from any sitting of the Area Council a member of the Council nominated by the Chairman shall act as Chairman.

(3) Every Chairman shall be Ex-officio member of the District Planning Board.

Executive Officer and Secretary

27. The Local Administrative Officer shall be the Ex-officio Executive Officer and Secretary to the Area Council.

Tennure of Member

28. Every Area Council unless otherwise **dissolved by the State Government** shall continue for five years from the date of appointment.

Provided that the said period may be extended by the State Government by a notification in the Gazette for a period not exceeding **one year at a time**:

Provided further that a member elected to fill a casual vacancy shall hold office for the remainder of the term of office of the member whom he replaced.

Power to Remove Member

29. (1) The State Government may remove any member of an Area Council **from** his office:

- (a) who is convicted of any offence involving moral turpitude by a court of law ; or
- (b) who refuses to act, or becomes incapable of acting; or
- (c) who is declared to be insolvent ; or
- (d) who has been declared by notification in Gazette to be disqualified for employment in the public service, or
- (e) who without an excuse sufficient in the opinion of the State Government, absents himself from the majority of meeting, in a year of the Area Council; **or**
- (f) who has been guilty of misconduct in discharge of his duties or of any disgraceful

conduct and two third of the total number of the members of the Area Council at a meeting recommend his removal.

(2) No person who has been removed from his office under **clause (a) or clause (d) of sub-section (1)** shall be eligible for re- election except with the previous

permission of the State Government obtained by such person in the prescribed manner.

Power to do Certain Acts in the Event of an Epidemic

30. On the outbreak of an epidemic or infectious disease, the Area Council shall initiate all preventive measures within its jurisdiction.

Session

31. An Area Council shall meet at least twice and **not more than** four times in a year.

Conduct of Business

32. The procedure for the conduct of business in an Area Council **shall be, as may be regulated by rules made from time to time** by the State Government.

Power and duties

33. (1) The Area Council shall examine the development scheme formulated by various Councils within its jurisdiction and after coordinating and consolidating all such schemes into one for the Area submit it to the appropriate authority with its recommendation and priorities.
- (2) The Area Council shall settle dispute
- (a) if it is voluntarily referred to it by two or more contesting Village Councils; or
 - (b) if required to do so by the Deputy Commissioner; State Government; or
 - (c) any other matter referred to it by any other authority

Fund

34. (1) The funds of the Area Council shall consist of grants or subsidies.
- (2) The regular maintenance of accounts of the Area Council fund and its safe custody shall be the duty of its Executive Officer.
- (3) The funds of Area Council shall be maintained and transacted through a Scheduled bank or Nagaland State Co-operative Bank only.

Disqualification

35. A person shall be disqualified from being **elected as and for** being a member of an Area Council:
- (1) if he is of unsound mind and stands so declared by the competent court or such authority as may be recognised by the State Government, or
 - (2) if he is not a citizen of India or has voluntarily acquired citizenship of foreign nation or is under acknowledgement of allegiance to a foreign nation, or
 - (3) if he has been convicted by a Court in India for an offence and sentenced to imprisonment for not less than two years, unless a period of five years or such less period as the State Government may allow in any particular case, has elapsed since his release; or
 - (4) if having held an office under any Council he has been found guilty of corruption, disloyalty or breach of such Council laws; unless a period of five years or such less period as the State Government may determine in any particular case has elapsed since his becoming so disqualified; or
 - (5) if he is an undischarged insolvent; or
 - (6) if he is a salaried Government servant or employee of an Area Council; or
 - (7) if he abstains himself from the majority of the meeting in a year and is unable to explain such absence to the satisfaction of the Council ; or
 - (8) if he is a member of any other Area Council; or
 - (9) if he has been dismissed from the service of the Government or any other local authority for misconduct; unless a period of five years has elapsed from the date of dismissal.
 - (10) if and- for so long as, there subsists a contract entered into by him in the course of his trade or business with the State Government for the supply of goods, or for the execution of any work undertaken by the Government.

Decision on Question of Disqualification of Member

36. If any question arises as to whether a member of an Area Council has been subject to disqualification, the question shall be referred to the decision of the State Government whose decision thereon shall be final.

Vacation of Member's Seat

37. A seat shall become vacant
- (1) When a member dies, or
 - (2) when a member resigns his seat in writing under his own hand; or.
 - (3) when a member is removed by the State Government on becoming disqualified.

Vacation of Office of Chairman

38. A member holding the office of the Chairman of an Area Council shall vacate his office :—
- (1) on ceasing to be a member of the said Council; or
 - (2) when he resigns his seat in writing under his own hand addressed to the Secretary of the Area Council; or
 - (3) when a resolution is passed by the Area Council presided over by the Executive Officer of the Council removing him from office by a vote of two-third of the total membership of the Council.

Filling of Casual Vacancy

39. When a seat becomes vacant, the Chairman shall : —
- (1) notify the vacancy in Gazette; and
 - (2) call upon the Village Council concerned to elect a new member.

Election Disputes

40. If a dispute arises as to the election of any member of an Area Council, the matter shall be referred to the State Government whose decision thereon shall be final.
- Incorporation
41. Every Area Council shall be a body corporate by the name of the Area for which it is constituted and shall have perpetual succession and a common seal, and shall by the said name use and be used through its Chairman with power to acquire, hold and dispose of property both movable and immovable and to contract and to do all other things, necessary for the purpose of this Act.

Control of Area Council

42. Subject to the General superintendence and control, of the State Government, the Deputy Commissioner, the Additional Deputy Commissioner or the Sub-Divisional Officer (Civil) shall have control over all the Area Councils within their jurisdiction.

Chapter III

MISCELLANEOUS

Constitution of State Level Advisory Board

43. (a) (1) The State Government may constitute by notification in the official Gazette,
- a Board consisting of the following members, namely:
- Chairman — Minister-in-charge (Councils)
- Members - 1. Agricultural Production Commissioner
2. Secretary (Finance)
 3. Secretary (Home) — Member Secretary
 4. Three Members nominated by the State Government (like member of Legislative

Assembly)

- (2) Four of the members attending any meeting of the board shall form the quorum for the purpose of transacting the business of that meeting of the board.
 - (3) All members of the Board including the nominated members shall have one vote each and the Chairman shall have a casting vote in case of a tie.
 - (4) In the absence of the Chairman, the members present shall elect one among themselves to preside over the meeting.
44. Any non-official member may at any time resign his office and his resignation shall be effective immediately it is accepted by the State Government.
45. The term of office of any non-official member shall be three years:
Provided that in case of members representing the Legislature or Local Authorities their terms of offices shall terminate as soon as they cease to be members of such Legislature or Local Authority, as the case may be.
46. (1) The term of office of non-financial members shall commence on such date as may be notified in this behalf by the State Government.
- (2) A person ceasing to be member by reason, of the expiry of his term of office as described in section 45, shall be eligible for re-nomination.
47. The State Government may remove from the Board any member who:
- (a) refuses to act, or becomes incapable of acting or absent himself from three consecutive meetings of the Board and is unable to explain such absence to the satisfaction of the Board; or
 - (b) has so flagrantly abused in any manner his position as a member of the board as to render his continuance detrimental to the public interest.
- Provided that when the State Government proposes to take action under the foregoing provisions of this section, an opportunity for explanation shall be given to the member concerned and when such action is taken, the reasons thereof shall be placed on record.
48. (1) When the place of a member nominated by the State Government becomes vacant by his resignation, removal or death the State Government shall appoint a person to fill the vacancy.
- (2) The term of office of a member, nominated under sub-section (1) shall be the remainder of the term of office of the member in whose place he has been nominated.

Powers and duties of the State Level Advisory board

49. The State Level Advisory board shall (i) review from time to time working of various Village and

Area Councils, (ii) advise the Government about allotment of funds to various Village Councils as

grant-in-aid, (iii) perform such other duties as the Board may be required by the State Government.

50. (1) The State Government may by notification in the Gazette make rules consistent with this Act, to carry out the purpose of this act.
- (2) In particular and without prejudice to the generality of foregoing powers, such rules may provide for the following namely:
- (a) for conduct of election to the Area Councils
 - (b) for delimitation of constituencies for election to the Area Council
 - (c) for pay and allowances of members and Chairman of the Area Councils
 - (d) appointment of Officers and staff of the Area Councils and their condition of service;
 - (e) custody and disposal of Area Council funds;
 - (f) procedure for maintenance of accounts and audit;
 - (g) procedure for conduct of business of Village and Area Councils;
 - (h) any other connected matter in respect of which it is necessary to make

rules for the

- (3) constitution and proper functioning of the village and Area Councils. Every rule **made** under this section shall be laid, as soon as may be; after it is made **before** the Nagaland Legislative Assembly while it is in sessions for a total period of seven days, which **may be** comprised in one session or in two successive sessions, and if, before the expiry of the session in which it **is so laid or** the session immediately following, the Nagaland Legislative Assembly agree in making any modification in the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so that any such modification or annulment shall be without prejudice to the validity anything previously done under this rule.

Repeal

51. The Nagaland Village, Area and **Regional** Councils Act, 1970 (The Nagaland Act no 2 of 1971) shall stand repealed;

Provided that such repeal shall not affect:

- (a) the previous operation of the said Act or anything duly done or suffered thereunder ; or
- (b) and right, privilege, obligation or liability acquired; accrued or incurred under the said Act ; or
- (c) any penalty forfeiture or punishment suffered in respect of any offence committed against the said act ; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

Provided further that anything **done or** any action taken including any appointment or delegation made, instruction or direction made, certificate or registration granted under the Act hereby repealed shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly unless and until superseded by anything (done or any action taken under this **act**.

Savings

52. All powers, rights and duties given by this act shall be in addition to and **not in derogation** of any other powers, rights and duties conferred by any Act, law or custom and all such other powers, rights and duties may be exercised and put in force in the same manner by the same authority as if this act has not been passed.

Power to Remove Difficulties

53. (1) If any difficulty or doubt arises in giving effect to the provisions of this **Act**, the State Government may, by order, published in Gazette, make such provisions, not inconsistent with the purpose of this Act as appears to it to be necessary or expedient for the removal of the difficulty **or doubt**; and the order of the State Government in such cases shall be final.

- (2) Every order made under this section shall be laid as soon as may be after it is made, before the Assembly while it is in session for a total period of seven days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or in the session immediately following, the Assembly agree in making any modification in the order shall thereafter have effect only in such modified form or be of no effect as the case may be so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under this **order**.

Dissolution

54. (1) If the State Government on receipt of a report from the Deputy Commissioner of the District or otherwise is satisfied that a situation has arisen in which

Village or Area Council cannot function in accordance with the provisions of this Act, the State Government may, by order, published in the Gazette, direct that the Council shall be dissolved from such date and for such period as may be specified in the notification.

(2) **when the Village or Area Council is** dissolved under provisions of sub-section (1) : —

- (a) all members notwithstanding that their term of office has not expired, shall from the date of dissolution vacate their office as such members.
- (b) all powers and duties of the Village or Area Council shall during the period of dissolution be exercised by such person or persons as the State Government may appoint in this behalf.
- (c) all funds and other property vested in the Village or area Council shall during the period of dissolution vest in the State Government; and
- (d). as soon as the period **of** dissolution expires, the Village or Area Council shall be reconstituted in accordance with the provisions of this Act.

(3) Every order made under this section shall be laid as soon as may be after it is made, before the assembly while it is in session for a total period of seven days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following the assembly agree in making any modification in the order shall thereafter have effect only in such modified form or be of no effect as the case may be, without prejudice to the validity of anything previously done under this order.