



**The Sikkim Legislative Assembly Members (Removal of Disqualifications) Act,
1978**

Act 5 of 1978

Keyword(s):

Compensatory Allowance, Legislative Assembly, Non-Statutory Body, Office of Profit

Amendment appended: 11 of 2006

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THE SIKKIM LEGISLATIVE ASSEMBLY MEMBERS REMOVAL OF
DISQUALIFICATIONS ACT, 1978
ACT NO.5 OF 1978
AN
ACT

to declare that certain offices 1[of profit] are not to disqualify the holders thereof for being chosen as, or for being, members of the Legislative Assembly of the State of Sikkim.

[31st March, 1978

WHEREAS it is expedient to declare that certain offices 2[of profit] are not to disqualify the holders thereof for being chosen as, or for being, members of the Legislative Assembly of the State of Sikkim.

It is hereby enacted in the Twenty-ninth Year of the Republic of India by the Legislature of Sikkim, as follows:

1. (1) This Act may be called the Sikkim Legislative Assembly Members Removal of Disqualifications Act, 1978. *Short title.*
- (2) It shall be deemed to have come into force on the 3rd day of November, 1977.
2. In this Act, unless the context otherwise requires, *Definitions.*
 - (a) "Compensatory allowance" means any sum of money payable to the holder of an office by way of daily allowance, conveyance allowance, house rent allowance or traveling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office.
 - (b) "Legislative Assembly" means the Legislative Assembly of the State of Sikkim.
 - (c) "Non-statutory body" means any - body of persons other than a statutory body.
 - (d) "State Government" means the Government of the State of Sikkim.
 - (e) "Statutory body" means any Corporation, Committee, Commission, Council, Board or other body of persons
1. Ins. by sec. 2 of the Sikkim Legislative Assembly Members' Removal of Disqualification Amd. Act, no. 13 of 1981 (w. e. f. 3. II. 1977).
2. Ins. by *ibid.*

whether incorporated or not, established by or under any law for the time being in force.

Certain offices not to disqualify

3. It is declared that none of the following offices under the Government of India or the State Government, shall disqualify or be deemed ever to have disqualified the holder thereof for being chosen as or for being, a member of the Legislative Assembly 3[in so far as it is an office of profit under the Government] namely:

- (a) the office of the Minister of the State or the Deputy Minister, either for the union or for the State of Sikkim;
- (b) the office of a member of any force raised or maintained under the National Cadet Corps Act, 1948, the Territorial Army Act, 1948, or the Reserve and Auxiliary Air Forces Act, 1952;'
- (c) any office in the Home Guard constituted by or under any law for the time being in force under the authority of the State Government;
- (d) the office of the Chairman or a member of the syndicate, Senate, Executive Council or Court of a University or any Committee, by whatever name called. of any educational institution receiving aid out of the State funds;
- (e) the office of the Chairman or a member of the Committee of management of a Co-operative Society nominated or appointed by the State Government under any law relating to co-operative societies for the time being in force in the State of Sikkim;
- (f) the office of the Chairman or a member of the planning Commission or Committee or Board or similar other authorities appointed by the State Government;
- (g) the office of the Chairman or a member of the Labour Commission appointed by the State Government;
- (h) the office of the Chairman or a member of the pay Commission appointed by the State Government;
- (i) the office of the Chairman or a member of Board of Directors of the State Trading Corporation;

3. Ins. by sec. 3 (a) of the Sikkim Legislative Assembly Members Removal of Disqualification Act, No. 13 of 1981 (w. e' f. 3: 11. 1977).

- (j) the office of the Chairman or a member of the Board of Directors of the State Bank of Sikkim
 - (k) the office of the Chairman or a Member of the State Electricity Advisory Board or the State Electricity Board appointed by the State Government;
 - (l) the office of the Chairman or a member of the Sikkim Khadi and Village Industries Board appointed by the State Government;
 - (m) the office of the Chairman or a member of the Board of the Sikkim Nationalized Transport appointed by the State Government;
 - (n) the office of the Chairman or a member of the Board of Directors of the Sikkim Mining Corporation appointed by the State Government;
 - (o) the office of the Chairman or a member of the Schedule Caste Welfare Board appointed by the State Government;
- 4o (a) the office of the Chairman or a member of the Board Directors of the Sikkim Jewels Limited appointed by the State Government;
- (b) the office of the Chairman or a member of the Board of Directors of the Sikkim Distilleries Limited appointed by the State Government;
 - (c) the office of the Chairman or a member of the Board of Directors of the Government Fruit Preservation Factory appointed by the State Government;
 - (d) the office of the Chairman or a member of the Board of Directors of the Sikkim Tobacco Private Limited appointed by the State Government;
 - (e) the office of the Chairman or a member of the Board of Directors of the Sikkim Time Corporation appointed by the State Government;"]
 - (p) the office of the Block Mandals appointed by the State Government;
 - (q) the office of the Chairman, Deputy Chairman or a member or Secretary of any Committee, Commission,
4. Ins. by sec. 3 (b) of the Sikkim Legislative Assembly Members Removal of Disqualification Act, No. 13 of 1981 (w. e. f. 3. 11.1977).

Corporation or similar other authorities constituted by the Government of India or the State Government or any other authority in respect of any public matter, if the holder of such office is not entitled to any remuneration other than compensatory allowance or any residential accommodation or any arrangement for conveyance to facilitate the performance of the function of such office.

Explanation:- For the purpose of this Act, the office of the Chairman, Deputy Chairman or Secretary shall include every office of that description, by whatever name called.

Repeal.

4. The Sikkim Legislative Assembly Members Removal of Disqualifications Ordinance, 1977, is hereby repealed.

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Saturday 17th June 2006

No. 183

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 34/ LD/06

Date: 17/06/2006

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 17th day of June 2006 is hereby published for general information:-

**THE SIKKIM LEGISLATIVE ASSEMBLY MEMBERS
(REMOVAL OF DISQUALIFICATIONS) AMENDMENT ACT, 2006.
ACT NO. 11 of 2006
AN
ACT**

further to amend the Sikkim Legislative Assembly Members (Removal of Disqualifications) Act, 1978.

***Short title and
commencement.***

Be it enacted by the Legislature of Sikkim in the Fifty-Seventh year of the Republic of India as follows:-

1. (1) This Act may be called the Sikkim Legislative Assembly Members (Removal of Disqualifications) Amendment Act, 2006.

(2) It shall be deemed to have come into force on the 3rd day of November, 1977.

***Amendment of
clause(a) of
Section 2.***

2. In the Sikkim Legislative Assembly Members (Removal of Disqualifications) Act, 1978 (hereinafter referred to as the said Act), after clause (a), the following shall always be deemed to have been inserted namely:-

(aa) Remuneration or allowances means any sum of money payable to the holder of an office as may be prescribed under the laws, rules, regulations framed in that behalf by the State.

***Insertion of new
Section 3A.***

3. In the said Act, after section 3, the following section shall be always deemed to have been inserted, namely:-

Certain other offices not to disqualify.

3A Notwithstanding anything contained in section 3 of the Act, the following offices under the State Government under any statute or rules or proclamations or through any other instrument issued in that behalf if held by a member of the State Legislative Assembly irrespective of powers, privileges, facilities, remuneration or allowances as may be provided shall not disqualify or be deemed to have ever disqualified the holder thereof for being chosen as or for being member of the State Legislative Assembly, namely:-

- (a) Chairman, Sikkim Scheduled Caste, Scheduled Tribe and Other Backward Classes Development Corporation (SAABCO).
- (b) Chairman, Sikkim Industrial Development and Investment Corporation (SIDICO).
- (c) Chairman, Sikkim Tourism Development Corporation (STDC).
- (d) Chairman, Agriculture Development and Farmers' Welfare Board, Sikkim.
- (e) Chairman, Tourism Development Board, Sikkim.
- (f) Chairman, Industries Trade and Commerce Development Board, Sikkim.
- (g) Chairman, Poultry Development Board, Sikkim.
- (h) Chairman, Sikkim Poultry Development Corporation Limited.
- (i) Chairman, Land Use & Environment Board, Sikkim.
- (j) Chairman, Scheduled Tribe Welfare Board, Sikkim.
- (k) Chairman, Juvenile Justice Board, Sikkim.
- (l) Chairman, Sikkim State Cooperative Bank Ltd.
- (m) Chairman, Sikkim Marketing Federation Ltd. (SIMFED).
- (n) Chairman, Denzong Agriculture Cooperative Society, Sikkim.
- (o) Chairman, Sikkim Milk Union Cooperative Society Ltd.
- (p) Chairman, Consumers' Cooperative Society Limited.
- (q) Chairman, Sikkim Power Development Corporation.
- (r) Chairperson, Sikkim State Women Commission.
- (s) Chairman, Power Advisory Board, Sikkim.
- (t) Chairman, Environment Development and Protection Commission, Sikkim.
- (u) Chairman, State Youth Development Commission, Sikkim.

(v) Chairman, Labour Welfare Board, Sikkim.

(w) Chairman, Agriculture & Horticulture Board, Sikkim.

(x) Chairman, Other Backward Classes Board, Sikkim.

(y) Chairman, Other Backward Classes Commission.

(z) Chairperson, Sikkim State Women Advisory Board.

(aa) Chairman, Tea Board, Sikkim.

(bb) Office of the Parliamentary Secretary appointed by the State Government, Sikkim.

(cc) Office of the Deputy Chief Whip, Government of Sikkim or such other Officer, Member, Chairperson/ Chairman, Director whatever name called, constituted under any statute or laws or rules or regulations or such other such similar bodies under the Constitution or under the State.

By Order.

**R.K. Purkayastha, SSJS
Legal Remembrancer-cum-Secretary
Law Department
File No. 16 (82) 2006**