

THE GUJARAT LOKAYUKTA AAYOG BILL, 2013

Clause No.	Clause Contents	Comment
Appointment of Lokayukta.		
3(1)	<p>For the purpose of conducting investigations and enquiries in accordance with the provisions of this Act, the Governor shall, by warrant under his hand seal and, on the recommendations of a Selection Committee as provided below, appoint a person to be known as the Lokayukta and not more than four other persons each to be known as Up-Lokayukta.</p> <p>Provided that not more than half of such Up-Lokayuktas shall be judicial members and the remaining shall be administrative members.</p>	<p>Role of Chief Justice and H.E. the Governor have been removed by those clause.</p> <p>As per previous Act. "Governor shall appoint the Lokayukta in consultation with Leader of Opposition in Assembly & Chief Justice of the High Court of Gujarat."</p> <p>Accordingly H.E. the Governor have appointed Justice (Rtd.) R. A. Maheta as Lokayukta as recommended by the Chief Justice of Gujarat High Court, Supreme Court upheld the decision.</p> <p>Now by this Act. Governor shall appoint Lokayukta recommended by collegiums headed by the Chief Justice and 5 other members out of Six, four members are from government side.</p>
3(2)	<p>The Selection Committee shall comprise of:</p> <ul style="list-style-type: none"> (i) The Chief Minister-Chairperson; (ii) The Speaker of the Gujarat Legislative Assembly; (iii) A Minister from the council of minister, to be nominated by the Chief Minister; (iv) The Leader of Opposition in the Gujarat Legislative Assembly and should there be a vacancy in that position then a person elected in this behalf by the members of the Opposition in that House in such manner as the Speaker may direct; (v) One Judge of the High Court of Gujarat, to be nominated by the Chief Justice of the High Court in consultation with the collegiums of five Senior Judges of the High Court; (vi) Vigilance Commissioner, Gujarat State 	

Clause No.	Clause Contents	Comment
Provisions relating to punish complainants.		
11 (5)	Notwithstanding anything contained in section 12 or any other provision of this Act, every person who willfully or maliciously makes any false allegations in a complaint under this Act shall, on conviction be punished with imprisonment for a term not exceeding six months, and shall also be liable to fine of Rs.25,000 (twenty-five thousand rupees)	Under this clause, finding application rejected, than applicant would liable to be convicted for jail of 6 months & fine of Rs. 25,000. this offence is considered as cognizable offence.
11(6)	The offence punishable under sub-section(5) shall be cognizable.	
12(2)	Every such investigation shall be conducted in private and, in particular the identity of the complainant and of the public functionary affected by the investigation and the proceedings, including evidence collected, of the Lokayukta Aayog shall not be disclosed to the public or the press or published in any manner whether before, during or after the investigation:	Investigation shall be conducted in private. If any information about complain, evidence, identity of complainant/public functionary leaked to the media, persons responsible for spreading information shall be convicted for jail for 2 years and fine of Rs.2 Lakhs.
12(8)	Whoever discloser to the public or to the press any information or publishes such information in contravention of the provisions of the section shall, on conviction, be punished with imprisonment for a term which may extend to two years and shall also be liable to fine of rupees two lakhs.	

Clause No.	Clause Contents	Comment
Action against CM/Ministers/public functionaries.		
14(1)	If after investigation of any action in respect of which a complaint involving an allegation has been made against a Minister or against a Minister in conjunction with any other public functionary, the Lokayukta Aayog is satisfied that such allegation can be substantiated either wholly or partly against the Minister, it shall, be a report in writing, communicate its findings, alongwith the relevant documents, materials and other evidence, to the Chief Minister.	<ol style="list-style-type: none"> 1. Report of Lokayukta shall be submitted to CM. 2. If culprits are ministers, then council of ministers would take appropriate action as deemed fit. 3. If culprits are other than minister, Competent officer appointed by the state government would take appropriate action against the public functionaries.
14(2)	On receipt of the report under sub-section (1), the Chief Minister shall, without any delay, cause the same to be placed before the Council of Ministers for its consideration, in its original form. The Council of Ministers shall accept or reject the report or any part hereof as it may decide. As per the decision of the Council of Ministers, the State Government shall take appropriate action.	
23(1)	The State Government may, on the recommendation of the Lokayukta Aayog and on being satisfied that it is necessary or expedient in the public interest so to do, exclude, by notification in the <i>Official Gazette</i> , complaints, involving allegations against persons belonging to any class of public functionaries specified in the notification from the jurisdiction of the Lokayukta.	<p>This is a surprising and shocking clause: Government by notification in Gazette shall drop the complain against any public functionaries. i.e. Minister, CM etc.</p> <p>ABSOLUTELY NO PROVISION TO TAKE ANY ACTION AGAINST CM/MINISTERS.</p>

Clause No.	Clause Contents	Comment
Finding and recommendations to be communicated to competent authority by a report and Misc.		
15(1)	If, in any case to which section 14 does not apply, the Lokayukta Aayog, after investigation of any action in respect of which a complaint involving an allegation has been or can be or could have been made, is satisfied that such allegation can be substantiated, either wholly or partly, it shall by a report in writing, communicate its findings alongwith the relevant documents, materials and other evidence, to the competent authority.	Not require to table the reports in the assembly.
15(2)	The competent authority shall examine the report forwarded to it under sub-section (1) and intimate, within seven months of the date of receipt of the report to the Lokayukta Aayog as to the action taken or proposed to be taken on the basis of the report.	
20(2)	Whoever, by words spoken, or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Lokayukta or the Up-Lokayukta or the Lokayukta Aayog into disrepute, shall, on conviction, be punished with simple imprisonment for a term which may extend to six months or with fine of with both.	If any one criticize the Lokayukta by spoken words or publishes the statement and bring Lokayukta in to disrepute, such person shall be convicted for 6 months jail term.

Clause No.	Clause Contents	Comment
Punishment to respondent i.e. CM/Ministers.		
21(2)	No proceedings of the Lokayukta Aayog shall be held bad for want of form and except on the grounds of jurisdiction, limitation and provisions of section 10, no proceedings or decision of the Lokayukta Aayog shall be liable to be challenged, reviewed, quashed or called in question in any court.	Lokayukta proceedings/decision shall not liable to be challenge in any court of law.
26(3)	All rules power and make rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the Legislature or to such modification as the Legislature may make during the session in which they are so laid or the session immediately following. Any rescission of modification so made by the State Legislature shall be published in the <i>Official Gazette</i> , and shall thereupon take effect.	
28(1)	The Gujarat Lokayukta Act, 1986 is hereby repealed it is a Repeal and savings.	By this clause, State Government have excluded the jurisdiction of Lokayukta, from investigation of 17 scams of State Government in which irregularities worth Rs. 1 Lacks Crore have been alleged, as M B Shah Commission is appointed to investigate it.
28(4)	Nothing contained in this Act shall be construed as affecting the constitution of, or the continuance of functioning or exercise of powers by any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952 before the commencement of this Act and no complaint shall be made under this Act in respect of any matter referred for inquiry to such Commission before such commencement.	