

No. 361/XXXVI(3)/2018/72(1)/2018

Dated Dehradun, October 17, 2018

NOTIFICATION**Miscellaneous**

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of '**the Uttarakhand Special Provisions for Urban Bodies and Authorities Act, 2018**' (Adhiniyam Sankhya: 33 of 2018).

As passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 16 October, 2018.

The Uttarakhand Special Provisions for Urban Bodies and Authorities Act, 2018

(Uttarakhand Act No. 33 of 2018)

AN

ACT

to provide for unauthorised development, encroachment in Uttarakhand and matters connected therewith or incidental thereto.

Be it enacted by the Uttarakhand State Legislative Assembly in the Sixty ninth year of the Republic of India as follows-

**CHAPTER-I
PRELIMINARY**

**Short title,
extent &
commencement**

1. (1) This Act may be called "the Uttarakhand Special Provisions for Urban Bodies and Authorities Act, 2018".

(2) It extends to all Urban Local Bodies/ Authorities of the State.

(3) It shall come into force at once.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context:-

(a) "Act" means 'the Uttarakhand Special Provisions for Urban Bodies and Authorities Act, 2018';

- (b) **"Competent Authority"** means Executive officer in case of Nagar Panchayat and Municipality area and Municipal Commissioner in Municipal Corporation and Chairman of the Authority in Authority;
- (c) **"Encroachment"** means encroachment in public land/Government land, road, street, pavements etc. for residential, commercial or other use and temporary, semi-permanent or permanent construction within the area of Urban body which has been done in contravention of the master plan/ Scheme applicable in that area;
- (d) **"Punitive action"** means action taken by a local authority under the relevant law against unauthorized development wherein demolition, sealing of premises and displacement of persons or their business establishment from their existing location has been done in compliance of Court or otherwise;
- (e) **"Rules"** means 'the Uttarakhand Special Provisions for Urban Bodies and Authorities Rules, 2018', but "The Uttarakhand Reforms, Regularization, Rehabilitation, Resettlement and Provisions related thereto and Prevention of Encroachment of the Slums located in Urban Local bodies of the State Rules, 2016" shall remain in force till the promulgation of Rules made under this Act;
- (f) **"Slum"** means those areas located within the local bodies which, due to excessive population density, unplanned construction, lack of basic facilities and lack of tenancy rights, are unfit for human habitations in view of health and security. It also includes such habitations which are notified as slums by the State Government for the above any one or more factors;
- (g) **"Unauthorized development"** means such use of land or use of building and construction of building which are not relevant to the sanctioned plans or

without obtaining the sanction from Competent Authority or in contravention of the Master Plan or Zonal Plan or lay out plan, or as the case may be, and it also includes encroachment;

(h) "Urban Body" means such autonomous body which is defined under Article 12 and Constituted under Article 243Q of the Constitution of India and it includes Nagar Nigam, Nagar Palika Parishad and Nagar Panchayat.

Overriding
effect of the Act

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the any other law for the time being in force or in any instrument having effect on basis of any other law other than this Act.

CHAPTER-II

PROCEEDING BY STATE GOVERNMENT AND POWER TO GIVE DIRECTION

Enforcement to
be kept in
Abeyance

4. (1) The State Government may, within a period of 3 years from the enforcement of this Act, make all possible efforts to deal with the problems like unauthorized construction and encroachment done in the form of slums and *jhuggi-jhopris*, so that the development of Urban Bodies of Uttarakhand State takes place in a sustainable and planned manner.

(2) Status quo may be maintained according to the situations as on dated 11.03.2016 in the matters described in sub-section (1) in addition to the matters related to any Judgment, decree and orders of the courts under the provisions given in sub-section (1).

(3) Any punitive action in consequence of all notices issued by any local body/authority in the related matters of unauthorized construction referred to in sub-section(1), shall be suspended for further three years from the commencement of this Act and no punitive action shall be taken during this period.

The provisions
of this Act not to
apply in certain
cases

5. After the enforcement of this Act, there shall be no relaxation under the provisions of Section 4 for the unauthorized development of the following categories-

(1) any kind of unauthorised construction started and is under construction after dated 11.03.2016.

(2) any encroachment on public land which is not covered from sub-section (1) of section 4.

(3) encroachment/unauthorized construction/ development on public roads/ pavements/ footpaths and streets/ and track .

Power of State Government to give directions

6. The State Government may, from time to time, give such directions to Urban Local Bodies and Authorities as it may deems fit. It shall be compulsory for the Urban Bodies and Authorities, to comply with directions issued under this Act.

CHAPTER-III

MISCELLANEOUS

Protection of action taken in good faith

7. No suit, prosecution or other legal proceeding shall lie against any officer of State Government or any person exercising any powers or performing any duties under this Act, for anything in good faith or intended to be done under this Act or any rule or order made thereunder.

Power to make rules

8. The State Government may by notification, make rules for carrying out the purposes of this Act.

Power to remove Difficulties

9. (1) If any difficulty arises in implementation of the provisions of this Act, the State Government may, by order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act and as may appear to it to be necessary or expedient for removing the difficulties:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this Section shall as soon as may be after it is made, be laid before the State Legislative Assembly.

Repeal and Saving

10. (1) The Uttarakhand (Special Provisions for Urban Local Bodies and Authorities) Ordinance, 2018 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

By Order,

ALOK KUMAR VERMA,
Principal Secretary.

Statement of Objective and Reasons

The proceeding, for amendment and addition in existing Master Plan of other Urban Areas including Dehradun has been taken by the State Government. The Master Plan in under proceeding in such areas which are not covered by the Master Plan. The State Government is committed for Reformation, Regularization, Rehabilitation and Resettlement of all Slums located in Uttarakhand State. The Uttarakhand (Special Provisions for Urban Bodies and Authorities) Ordinance, 2018 has promulgated for this.

2. The proposed bill is substitute bill of the said Ordinance and fulfills the above objectives.