

No. 362/XXXVI(3)/2022/71(1)/2022
Dated Dehradun, December 23, 2022

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 Urban and Country Planning and Development (Amendment) Act, 2022 (Act No. 18 of 2022)'.

As passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 22 December, 2022.

**The Uttarakhand Urban and Country Planning and Development
(Amendment) Act, 2022
(Uttarakhand Act No. 18 of 2022)**

An

Act

further to amend The Uttarakhand Urban and Country Planning and Development, 1973 to the context of State of Uttarakhand.

Be it enacted in the Seventy Third Year of the Republic of India by the Uttarakhand Legislative Assembly as follows:-

Short title and commencement	1.	(1) This Act may be called The Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2022. (2) It shall come into force at once.
Amendment of Section 1	2.	For Sub-section (1) of section 1 of the Uttarakhand Urban and Country Planning and Development Act, 1973 to the context of the State of Uttarakhand (hereinafter referred to as the principal Act), the following sub-section shall be substituted, namely :- “(1) This Act may be called the Uttarakhand Urban and Country Planning and Development Act, 1973.”

Amendment of Section 2	3.	<p>In Section 2 of the principal Act –</p> <p>(i) after clause (c), the following clause shall be inserted, namely:- “(cc) “State Government” means the State Government of Uttarakhand.”</p> <p>(ii) after clause (n), the following clauses shall be inserted, namely:- “(o) “Local Area Plan” means the plan made under Section 9-A of this Act.” “(p) “Town Planning Scheme” means the scheme made under Section 9-A of this Act.”</p>
Amendment of Section 4	4.	<p>In sub-section 2-A(1) of Section 4 of the principal Act after clause (d), the following clause shall be inserted namely:-</p> <p>“(dd) A full time Joint Chief Administrator appointed by the State Government.” who shall not be below the rank of Deputy Secretary/Joint Secretary to the State Government;</p>
Amendment of Section 5	5.	<p>For the sub-sections (1), (2) & (3) of Section 5 of the principal Act , the following sub-sections shall be substituted as follows namely:-</p> <p>“(1) The State Government may be notification in the official Gazette appoint the Chief Administrator, Additional Chief Administrator, Joint Chief Administrator and the Finance Controller of the State Authority, as provided in sub-section 2-A of Section 4, who shall exercise such powers and perform such duties as may be prescribed by regulations or delegated to them by the State Authority.</p> <p>(2) Subject to such control and restrictions as may be determined by general or special order of the State Government, the Chief Administrator or the Additional Chief Administrator or the Joint Chief Administrator of the State Authority may appoint number of other officers and employees as may be necessary for the efficient performance of the functions of State Authority and may determine their designations and grades.</p> <p>(3) The Chief Administrator, Additional Chief Administrator, Joint Chief Administrator, the Finance Controller and other officers and employees of the Authority shall be entitled to receive salaries and allowances from the funds of the State Authority and shall be governed by such salaries, allowances and other conditions of service as may be determined by regulations made in this behalf by the State Government.”</p>

<p>Amendment of Heading of Chapter III</p>	<p>6.</p>	<p>The heading of Chapter III of the principal Act shall be substituted as follows namely:- "Chapter III- Master Plan, Zonal Development Plan, Local Area Plan and Town Planning Scheme."</p>
<p>Insertion of new section 9-A</p>	<p>7.</p>	<p>(1) After Section 9 of the principal Act, the following section shall be inserted namely:- "9-A Local Area Plan and Town Planning Scheme-</p> <p>(1) The Local Authority may make one or more Local Area Plans or Town Planning Scheme(s) in respect of any area within its development area with prior approval of the State Authority, in accordance with the rules framed by the State Government for the execution of the said Local Area Plan or Town Planning Scheme.</p> <p>(2) The Local Area Plan or Town Planning Scheme so made shall be examined by the State Authority and the same shall be submitted to the State Government for its approval. Monitoring and supervision of these plans shall be done by the State Authority.</p> <p>(3) If any area not included, within the development area of the Local Authority and where the Local Area Plan or Town Planning Scheme has to be framed and implemented then the said area will be declared as the development area of the Local Authority by the State Government itself or on the recommendation of the State Authority for the purpose of implementation of the Local Area Plan or Town Planning Scheme :</p> <p>Provided the State Government may get the work of construction and implementation of Local Area Plan or Town Planning Scheme from any other agency other than the State Authority or the Local Development Authority.</p> <p>(4) Notwithstanding anything contained in the provisions of this Act, the Local Area Plan or Town Planning Scheme shall have an overriding effect over the Master Plan or Zonal Development Plan prevalent for the time being."</p>
<p>Amendment of Section 10</p>	<p>8.</p>	<p>For the the sub-section (2) of Section 10 of the principal Act the following sub section shall be substituted namely:- "(2) Every plan shall, as may be after its preparation be submitted essentially by the Town and Country Planning Department or any other agency appointed/nominated by the State Authority to the State Authority, which the State</p>

		Authority shall submit to the State Government for approval and the State Government may either approve the plan without modification or with such modifications as it may consider necessary or reject the plan with directions to the State Authority for getting a fresh plan prepared accordingly to such directions."
Amendment of Section 13	9.	<p>For the sub-sections (2) & (6) of Section 13 of the principal Act, following sub-sections shall be substituted namely:-</p> <p>(2) The State Government may make amendments in the master plan or the zonal development plan or or local area plan or town planning scheme whether such amendments are of the nature specified in sub-section (1) or otherwise.</p> <p>(6) If any question arises whether the amendments proposed to be made by the Town and Country Planning Department or any other agency appointed/nominated by the State Authority or due authorization from the State Authority, are amendments which agree important alterations in the character of the plan or whether they relate to the extent of land uses or the standards of population density, it shall be referred by the State Authority to the State Government whose decision on the same shall be final.</p>
Amendment of Section 26 "Fine"	10.	<p>In the principal Act, in section 26, the title with sub-sections (1), (2) & (3) shall be substituted as follows namely:-</p> <p>(1) Any person who whether at his own instance or at the instance of any other person or anybody (including a department of Government) undertakes or carries out development of any land in contravention of the master plan or zonal development plan or local area plan or town planning scheme or without the permission, approval or sanction referred to in section 14 or in contravention of any condition subject to which such permission, approval or sanction has been granted, fine shall be imposed on him as follows : --</p> <p>i) for the aforesaid act committed first time -Rs. 5,000/- ii) for the aforesaid act committed second time- Rs. 10,000/- iii) for the aforesaid act committed third time - Rs. 20,000/-</p> <p>In case of the aforesaid continuing act, the amount of maximum fine shall be such as may be determined by the State Government from time to time.</p> <p>(2) Any person who uses any land or building in contravention of the provisions of Section 16 fine shall be imposed on him as follows -</p>

	<p>i) for the aforesaid act committed first time - Rs. 5,000/- ii) for the aforesaid act committed second time- Rs. 10,000/- for the aforesaid act committed third time - Rs. 20,000/-</p> <p>In case of the aforesaid continuing act, the amount of maximum fine shall be such as may be determined by the State Government from time to time.</p> <p>(3) Any person who obstruct the entry of a person authorized under Section 25 to enter into or upon any land or building or harass such person after such entry, fine shall be imposed on him as follows -</p> <p>i) for the aforesaid act committed first time - Rs. 5,000/- ii) for the aforesaid act committed second time- Rs. 10,000/- iii) for the aforesaid act committed third time - Rs. 20,000/-</p> <p>In case of the aforesaid continuing act, the amount of maximum fine shall be such as may be determined by the State Government from time to time.</p>
<p>Amendment of Section 26-A</p>	<p>11. For the following sub-sections (1) & (3) of Section 26-A the following sub-sections shall be substituted namely:-</p> <p>“(1) In case any person makes any encroachment or creates obstruction on any land not being private property, whether such land belongs to the authority or vests in its development area or not, except steps over drain in any public street shall be punishable with simple imprisonment for a term which may extend to one year and with fine which may extend to Rs. 20,000/-.</p> <p>(3) Whoever by placing or depositing building material or any other thing whatsoever, or otherwise makes any obstruction in any street or land not being private property, whether such street or land belongs to or vests in the Authority or not, except steps over drain in any public street, or placing of building material during such period as may be permitted on payment of stacking fees on a public street of public place, fine shall be imposed on him as follows:-</p> <p>i) for the aforesaid act committed first time - Rs. 5,000/- ii) for the aforesaid act committed second time- Rs. 10,000/- iii) for the aforesaid act committed third time - Rs. 20,000/-</p> <p>In case of the aforesaid continuing act, the amount of maximum fine shall be such as may be determined by the State Government from time to time.</p>

<p>Amendment of Section 26-D "fine for not preventing encroachment"</p>	<p>12.</p>	<p>For Section 26-D of the principal Act, the following section shall be substituted namely:-</p> <p>"(26-D)(1) Whoever specially entrusted with the duty to stop or prevent the encroachment or obstruction under this Act or any other Act, or rules or bye-laws willfully or knowingly neglects or deliberately omits to stop or prevent such encroachment or obstruction, fine shall be imposed on him as follows:-</p> <p>i) for the aforesaid act committed first time - Rs. 10,000/- ii) for the aforesaid act committed second time- Rs. 20,000/- iii) for the aforesaid act committed third time - Rs. 30,000/-</p> <p>In case of the aforesaid continuing act, the amount of maximum fine shall be such as may be determined by the State Government from time to time.</p> <p>(2) Departmental Disciplinary action under the provisions of Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 (as amended time to time) shall also be taken against the duty entrusted person along with fine imposed under sub-section (1).</p>
<p>Insertion of new Section 32A "Compounding of acts"</p>	<p>13.</p>	<p>After Section 32 of the principal Act, the following Section shall be inserted namely :--</p> <p>"(1) The acts committed under Section 26 and sub-Section (3) of 26-A may be compounded by the Vice Chairman of the concerned Authority.</p> <p>(2) An Appeal may be presented before the Commissioner/ Chairman of the concerned Development Authority against the order of compounding passed by the Vice Chairman within 30 days.</p> <p>(3) The acts committed under Section 26-D of the Act may be compounded by the Vice Chairman of the concerned Authority.</p> <p>(4) An Appeal may be presented before the Commissioner/ Chairman of the concerned Development Authority against the order of compounding passed by the Vice Chairman under sub-section (5) within 30 days, in case the Appointing Authority of the concerned person is Vice Chairman or otherwise before the Appointing Authority. The order passed in an appeal shall be final.</p> <p>(5) The amount determined in the order of compounding may be recovered as arrears of land revenue.</p> <p>(6) The compounding application shall be disposed of within 15 days from the date of receipt thereof and appeal against the order of compounding shall be disposed of within 30 days essentially."</p>

Amendment of Section 48	14.	For section 48 of the principal Act the following section shall be substituted namely :- "No court inferior to that of Magistrate of the First Class shall try an offence punishable under sub-section (1) of Section 26 A of this Act."
Amendment of Section 51	15.	For the sub-sections (2) and (4) of Section 51 of the principal Act, the following sub-sections shall be substituted namely :-- "(2) The State Authority, may by general or special order, direct that any power exercisable by it under this Act except the power to make regulations or byelaws, may also be exercised by such officer or local Authority, in such cases and subject to such conditions, if any, as may be specified therein. (4) The Chief Administrator of the State Authority may by general or special order direct that any power exercisable by him under this Act may also be exercised by the Additional Chief Administrator or Joint Chief Administrator or any other officer of the State Authority in such cases and subject to such conditions, if any, as may be specified therein."
Amendment of Section 55	16.	After sub Section 2 of Section 55, of the principal Act the following sub Section shall be inserted namely:- "(2-A)(1) The State Government may make rules from time to time by Notification for preparation, implementation and execution of Local Area Plan(s) and/or Town Planning Scheme(s)."
Amendment of Section 56	17.	For clause (bb) and clause (cc) of sub-section 2 of Section 56 of the principal Act shall be substituted as follows namely:- "(bb) The powers and duties of the Chief Administrator, Additional Chief Administrator, Joint Chief Administrator and Finance Controller of the State Authority. "(cc) The salaries, allowances and conditions of service of the Chief Administrator, Additional Chief Administrator, Joint Chief Administrator, Finance Controller and other officers and employees of the State Authority.

By Order,

HIRA SINGH BONAL,
Principal Secretary.

Statement of purpose and reasons

Keeping in the view the trend of urbanization due to the increase of population the State Government is taking serious actions in the directions to give the concrete shape to the concept of planned development. Development Authorities has been constituted in every district of the State to ensure the planned development. In the process of the planned development, it is inevitable to establish better coordination between authority and the general public and for the inclusive development it is necessary too. Keeping the public interest paramount, establishing the balance between convenience and interests of the common man, establishing the process of Local regional plan and town planning scheme for well planned development, preventing the tendency of encroachment by the builder during construction by imposing fine, with the aim to motivate the personnel of the Authority to discharge their duties with integrity and honesty, the bill is proposed to put on the table.

2. All the above things have been in the proposed bill.
3. The proposed Bill fulfills the above objectives.

Prem Chand Agarwal
Minister