

**THE UTTARAKHAND  
URBAN AND  
COUNTRY PLANNING  
AND DEVELOPMENT  
ACT, 1973**

**THE UTTAR PRADESH URBAN PLANNING  
AND DEVELOPMENT ACT, 1973**

**As adopted and amended by the State of  
Uttarakhand and to be Known as**

**“THE UTTARAKHAND URBAN AND  
COUNTRY PLANNING AND DEVELOPMENT  
ACT, 1973”**

**To the Context of State of Uttarakhand.**

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# CHAPTER I

## Preliminary

### 1. Short title and extent.-

(1) <sup>1</sup>[This Act may be called The Uttarakhand Urban and Country Planning And Development Act, 1973 to the context of the State of Uttarakhand.]

(2) It extends to the whole of <sup>2</sup>[Uttarakhand] excluding Cantonment areas and lands, owned, requisitioned or taken on lease by the Central Government for the purposes of defence.

### 2. Definitions.-

In this Act unless the context otherwise requires-

- (a) 'amenity' includes road, water supply, street lighting, drainage, sewerage, public works and such other convenience as the State Government may, by notification in the Gazette specify to be an amenity for the purposes of this Act,;
- (b) 'building' includes any structure or erection or part of a structure or erection which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;
- (c) "building operations' includes rebuilding structural alterations of, or additions to, buildings operations normally undertaken in connection the construction of buildings;
- (d) <sup>3</sup>["bye-law" means a bye law made under this Act by Uttarakhand Housing and Urban Development Authority (hereinafter referred to as the State Authority) or the Local Development Authority with the previous approval of the State Government;"]
- (dd) <sup>4</sup> ['Chairman' and 'Vice-Chairman' means the Chairman and the Vice-Chairman respectively of the Development Authority;]
- <sup>5</sup>[(ddd) "City development charge" means the charge levied on a private developer under section 38-A for the development of land;]

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1 Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013., vide amendment No. 2

2 Substituted vide adaptation and modification order 2002, vide Notification No. 1081 A/S.V.-2002-238/S.V./2002 dated 8.11.2002 and further Subs. by the Notification No. 504/v/-A-2007- 08(Awas)/2007, Dated 12/03/2007

<sup>3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (a)

<sup>4</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (b)

<sup>5</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (c)

- (e) 'development' with its grammatical variations, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in any building or land, and includes re-development:
- (f) 'Development Area' means any area declared, development area under Section 3:
- (g) <sup>1</sup>["the Development Authority or the Authority" in relation to the whole of the State Area shall be 'The Uttarakhand Housing and Urban Development Authority' (hereinafter referred to as the State Authority) and in relation to any development area shall be The Local Development Authority (hereinafter referred to as the Local Authority) constituted and notified under Section 4 of the Act ;  
 Provided wherever in this Act the word "Authority" appears, it shall be construed as the Local Authority until and unless expressly provided as the State Authority ;  
 Provided further that the Urban Local Bodies and Village Panchayats will also be construed as Local Development Authority/ Local Authority under this Act if so declared by the State Government by issuing Notification under sub section(1-A) of section 4 of this Act defining the extent of their development area (s). Concerned Officer/ person of such Urban Local Bodies and Village Panchayats shall exercise powers as determined by the State Government by the Gazette Notification under sub-section (1-A) of section 4 of this Act;]
- (gg) 'Development Authorities Centralised Service' means a Centralised Service created under Section 5-A):
- (ggg) <sup>2</sup>["development fee" means the fee levied upon a person or body under section 15 for construction of road, drain, sewer line, electric supply and water supply lines in the development area by the Local Development Authority;]
- <sup>3</sup>[(gggg) "Development Plan" means the Master plan or Zonal development plan approved and published by the State Government under Section 12 of the Act;]
- <sup>4</sup>[(ggggg) 'Chief Town and Country Planner' means the Head of the Town and Country Planning Department of the State Government;]
- (h) "engineering operation" includes the formation or laying out means of access to a road or the laying out of means of water supply:

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (d)

<sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (e)

<sup>3</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (f)

<sup>4</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (f)

- <sup>1</sup>[(hh) “land use conversion charge” means the charge levied on a person or a body under section 38 –A for the change of land use in the Master Plan or the Zonal Development Plan;]
- <sup>2</sup>[(hhh) “license fee” means the fee levied on a private developer under Section 39-B seeking license for assembly and development of land within the development area;]
- (i) “means of access” includes any means of access, whether private or public, for vehicles or for foot passengers, and includes a road;
- (ii) “mutation charges” means the charges, levied under Section 15 upon the person seeking mutation in his name of a property allotted by the Authority to another person;
- <sup>3</sup>[(iii) “private developer” means an individual, company or association, body of individuals, whether incorporated or not, owning or assembling or agreeing to own or assemble, whether by purchase or otherwise, land for development and to whom a license has been granted under Section 39-B of this Act;]
- (j) <sup>4</sup>“regulation” means a regulation made under this Act by the State Authority or the Local Development Authority with the prior approval of the State Government;]
- (k) <sup>5</sup>“rules” means a rule made under this Act by the State Government or the State Authority;]
- (kk) “Stacking fees” means the fees levied under Section 15 upon the person or body who keeps building materials on the land of the Authority or on a public street or public place;
- (l) “to erect a building”, with its grammatical variations, includes-
- (i) any material alteration or enlargement of any building;
- (ii) the conversion, by structural alteration-
- (a) of a building not originally constructed for human habitation into a place for human habitation; or
- (b) into more than one place for human habitation, of a building originally constructed as one such place; or

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (g)

<sup>2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (g)

<sup>3</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (h)

<sup>4</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (i)

<sup>5</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 3 (j)

- (c) of two or more places of human habitation into a greater number of such places;
  - (iii) such alterations of a building as affect an alteration of its drainage or sanitary arrangements, or materially affect its security;
  - (iv) the addition of any rooms, buildings, houses or other structures to any building; and
  - (v) the construction, in a wall adjoining any street or land not belonging to the owner of the wall, of a door opening on to such street or land;
- (ll) “water fees” means the fees levied under Section 15 upon a person or body for using water supplied by the Authority for building operation or construction of buildings;
- (m) “zone” means any one of the divisions in which a development area may be divided for the purposes of development under this Act;
- (n) the expression “land” has the meaning assigned to it in Section 3 of the land Acquisition Act, 1894.

## **CHAPTER II**

### **The Development Authority and its Objects**

#### **3. Declaration of development, areas.-**

If in the opinion of the State Government any-area within the State requires to be developed according to plan it may, by notification in the Gazette declare the area to be a development area.

<sup>1</sup>[Provided any area covered under The U.P. Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) (as applicable in the State of Uttarakhand) is declared as a Development Area under this Section, the provisions of the U.P. Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) shall stand repealed for the said area.]

#### **4. The Development Authority-**

<sup>2</sup>[(1) The State Government may by notification in the Gazette constitute for the purposes of this Act, an authority to be called the ‘Uttarakhand Housing and Urban Development Authority’ for all the development areas in the State with headquarter at such place as the State Government may specify and Local Development Authority for any development area.]

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 4.

<sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (a).

<sup>1</sup>[(1-A) The State Government may by notification in the Gazette declare the Urban Local Bodies and Village Panchayats as Local Development Authority/ Local Authority defining the extent of their development area. The State Government by the said Notification may also define the powers of such Local Authorities and define the designations of the persons/ officers to exercise the powers under this Act. The State Government may also declare/designate/appoint the Chairman of such Local Development Authorities under this Sub Section for the purpose of exercising the powers under this Act. Such Urban Local Bodies and Village Panchayats declared as Local Development Authority under this sub section, shall act for the purpose of development as per the provisions of this Act.]

<sup>2</sup>[(1-B) The existing Board of such Urban Local Bodies and Village Panchayats, shall be deemed to be the Board of the Local Development Authority/ Local Authority under this Act to the extent of the powers delegated to them under sub-section (1-A) of section 4.]

(2) The <sup>3</sup> [Uttarakhand Housing and Urban Development Authority/ State Authority or the Local Development Authority] shall be a body corporate, by the name given to it in the said notification, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued.

<sup>4</sup>[(2-A) (1) The Uttarakhand Housing and Urban Development Authority or the State Authority shall consist of the following members; namely:-

- (a) The Minister incharge of the Housing Department of the State Government, who shall be the Chairman;
- (b) The Principal Secretary/ Secretary to the Department of Housing of the State Government, who shall be the Vice Chairman;
- (c) A full time Chief Administrator appointed by the State Government, who shall not be below the rank of Principal Secretary/Secretary to the State Government;
- (d) A full time Additional Chief Administrator appointed by the State Government, who shall not be below the rank of Additional Secretary/ Secretary to the State Government;
- (e) The Principal Secretary/ Secretary to the Department of Finance of the State Government : ex-officio;
- (f) The Principal Secretary/ Secretary to the Department of Urban Development of the State Government : ex-officio;

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (b).

<sup>2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (b).

<sup>3</sup> Replaced by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (c).

<sup>4</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (d).

- (g) Principal Secretary/ Secretary to the Department of Planning of the State Government : ex-officio;
- (h) Principal Secretary/ Secretary to the Department of Forest of the State Government : ex-officio;
- (i) Principal Secretary/ Secretary to the Department of Tourism of the State Government : ex-officio;
- (j) Principal Secretary/ Secretary to the Department of Industries of the State Government : ex-officio;
- (k) The Chief Town and Country Planner of Town and Country Planning Department of the State Government : ex-officio;
- (l) The Finance Controller of the State Authority to be appointed by the State Government : ex-officio, and
- (m) Such other non official members, not more than two, as the State Government may from time to time by notification appoint.

The non official members as mentioned in (m) above shall hold office during the pleasure of the State Government :

Provided that such non official member may at any time by writing under his hand addressed to the Chief Administrator resign his office and on such resignation being accepted shall be deemed to have vacated his membership.

(2) No act or proceeding of the State Authority shall be invalid by reason of the existence of any vacancy in or defect in the constitution of the State Authority.]

(3) The <sup>1</sup>[Local Development] Authority in respect of a development area which includes whole or any part of a city as defined in the Uttar Pradesh Municipal Corporation Act. 1959, shall consist of the following members namely-

- (a) a Chairman to be appointed by the State Government;
- (b) a Vice-Chairman to be appointed by the State Government;
- <sup>2</sup>[(bb) Secretary of the Local Development Authority to be appointed by the State Government;
- (c) the Secretary to the State Government, in charge of the Department in which, for the time being, the business relating, to the Development Authorities is transferred, <sup>3</sup>[or any person nominated by him] ex-officio;
- (d) the Secretary to the State Government, in charge of the Department of Finance, <sup>4</sup>[or any person nominated by him] ex-officio;

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (e).

<sup>2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (f).

<sup>3</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (g).

<sup>4</sup> Replaced by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (g).

- (e) the Chief Town and Country Planner, <sup>1</sup>[Uttarakhand] <sup>2</sup>[or any person nominated by him] ex-officio;
  - (f) the Managing Director of the Jal Nigam established under the Uttar Pradesh Water Supply and Sewerage Act, 1975 <sup>3</sup>[or any person nominated by him] ex-officio;
  - (g) the Mukhya Nagar Adhikari, <sup>4</sup>[or any person nominated by him] ex-officio;
  - (h) the District Magistrate of every district or any part of which is included in the development area <sup>5</sup>[or any person nominated by him] ex-officio;
  - (i) four members to be elected by Sabhasads of the Municipal Corporation for the said city from amongst themselves :  
Provided that any such member shall cease to hold office as such as soon as he ceases to be Sabhasad of the Municipal Corporation;
  - (j) such other members not exceeding three as may be nominated by the State Government.
- (4) The appointment of the Vice-Chairman <sup>6</sup>[of the Local Development Authority] shall be whole time.
- (5) The Vice-Chairman shall be entitled to receive from the funds of the <sup>7</sup>[Local Development Authority] such salaries and allowances and be governed by such conditions of service as may be determined by general or special order of the State Government in this behalf.
- (6) A member referred to in Clause (c), Clause (d), Clause (e), or Clause (f) of Sub-section (3) may instead of attending a meeting of the <sup>8</sup>[Local Development Authority] himself depute an officer, not below the rank of Deputy Secretary in the department, in the case of a member referred to in Clause (c) or Clause (d), and below the rank of Town Planner in the case of a member referred to in Clause (e) and not below the rank of Superintending Engineer in the case of a member referred to in clause (f), to attend the meeting. The officer so deputed shall have the right to take part in the proceedings of the meeting and shall also have the right to vote.
- (7) The <sup>9</sup>[Local Development Authority] in respect of a development area other than that mentioned in Sub-Section (3) shall consist of a Chairman, a Vice Chairman

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<sup>1</sup> Substituted vide adaptation and modification order 2002, vide Notification No. 1081 A/S.V.-2002-238/S.V./2002 dated 8.11.2002 and further Subs. by the Notification No. 504/v/-A-2007- 08 (Awas)/ 2007, Dated 12/03/2007

<sup>2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (g).

<sup>3</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (g).

<sup>4</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (g).

<sup>5</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (g).

<sup>6</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (h)

<sup>7,8</sup> and <sup>9</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (i).

and not less than five and not more than eleven such other members, including at least one member from Municipal Boards and Notified Area Committees having jurisdiction in the development area, who shall hold office for such period and on such terms and conditions, as may be determined by general or special order of the State Government in this behalf:

Provided that the Vice-Chairman or a member other than an ex-officio member of the <sup>1</sup>[Local Development Authority] may at any time by writing under his hand addressed to the State Government resign his office and on such resignation being accepted shall be deemed to have vacated his office.

(8) No act or proceedings of the <sup>2</sup>[Local Development Authority] shall be invalid by reason of the existence of any vacancy in, or defect in the constitution of, the <sup>3</sup>[Local Development Authority].

## **5. Staff of the Authority:**

<sup>4</sup>[(1) The State Government may by notification in the Gazette appoint three suitable persons as the Chief Administrator, Additional Chief Administrator and the Finance Controller respectively 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.

(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 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.

(3) The Chief Administrator, Additional 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.]

<sup>5</sup>[(4)] The State Government may appoint two suitable persons respectively as the Secretary and the Chief Accounts Officer of the <sup>6</sup>[Local Development Authority] who shall exercise such powers and perform such duties as may be prescribed by regulations or delegated to them by the <sup>7</sup>[Local Development Authority] or its Vice-Chairman.

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<sup>1,2,3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 5 (i)

<sup>4</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 6 (a)

<sup>5</sup> Renumbered by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 6 (a)

<sup>6</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 6 (b)

<sup>7</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 6 (b)

<sup>1</sup>[(5)] Subject to such control and restrictions as may be determined by general or special order of the State Government, the <sup>2</sup>[Local Development Authority] may appoint such number of other officers and employees as may be necessary for the efficient performance of its functions and may determine their designations and grades.

<sup>3</sup>[(6)] The Secretary, the Chief Accounts Officer and other Officers and employees of the <sup>4</sup>[Local Development Authority] shall be entitled to receive from the funds of the <sup>5</sup>[Local Development Authority] such salaries and allowances and shall be governed by such salaries and allowances and shall be governed by other conditions of service as may be determined by regulations made in that behalf.

### **5-A. Creation of Centralised Services:**

(1) Notwithstanding anything to the contrary contained in Section 5 or in any other law for the time being in force, the State Government may at any time, by notification create one or more 'Development Authorities Centralised Services' for such posts, other than the posts mentioned in Sub-Section (1) of Section 59, as the State Government may deem fit, common to all the Development Authorities, and may prescribe the manner and conditions of recruitment to and the terms and conditions of service of person appointed to such service.

(2) Upon creation of a Development Authorities Centralised Service, a person serving on the posts included in such service immediately before such creation, not being a person governed by the U.P. Palika (Centralized) Services Rules, 1966. or serving on deputation, shall, unless he opts otherwise, be absorbed in such service.-

- (a) finally, if he was already confirmed in his post, and
- (b) provisionally. if he was holding temporary or officiating appointment.

(3) A person referred to in Sub-section (2) may, within three months from the creation of such Development Authorities Centralised Service communicate to the Government in the Housing Department, his option not to be absorbed in such Centralised Service, failing which he shall be, deemed to have opted for final or provisional, as the case may be, absorption in such Centralised Service.

(4) Suitability of a person absorbed provisionally, for final absorption in a Development Authorities Centralised Service, shall be examined in the manner prescribed and if found suitable he shall be absorbed finally.

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<sup>1</sup> Renumbered by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 6 (a)

<sup>2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 6 (b)

<sup>3</sup> Renumbered by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 6 (a)

<sup>4</sup> And <sup>5</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 6 (b)

(5) The services of an employee who opts against absorption or who is not found suitable for final absorption, shall stand determined and he shall, without prejudice to his claim to any leave, pension, provident fund or gratuity which he would have been entitled to, be entitled to receive as compensation from the Development Authority concerned, an amount equal to-

- (a) three months' salary, if he was a permanent employee;
- (b) one month's salary, if he was a temporary employee.

*Explanation.*-For the purposes of this sub-section the term 'salary' includes dearness allowance, personal pay and special pay, if any.

(6) It shall be lawful for the State Government or any officer authorised by it in this behalf, to transfer any person holding any post in a Development Authorities Centralised Service from one Development Authority to another.

## **6. Advisory Council**

(1) The State Government may, if it thinks fit, constitute an Advisory Council for the purpose of advising the Authority on the preparation of the master plan and on such other matters relating to the planning of development or arising out of, or in connection with, the administration of this Act as may be referred to it by the Authority.

(2) The Advisory Council in respect of a development area referred to in Sub-section (3) of Section 4 shall consist of the following members namely-

- (a) the Chairman of the Authority ex-officio, who shall be the President;
- (b) the Chief Town and Country Planner, <sup>1</sup>[Uttarakhand], and the Chief Engineer, Local Self-Government Engineering Department, <sup>2</sup>[Uttarakhand], ex officio;
- (c) the Director, Medical and Health Services, <sup>3</sup>[Uttarakhand], or his nominee who shall not be below the rank of a Deputy Director, ex officio;
- (d) four representatives of the local authorities having jurisdiction within the limits of the development area, to be elected by their members from among themselves;
- (e) the Transport Commissioner, <sup>4</sup>[Uttarakhand], or his nominee who shall not be below the rank of a Deputy Transport Commissioner, ex officio;
- (f) the-Chairman, State Electricity Board, <sup>5</sup>[Uttarakhand], or his nominee, ex officio;
- (g) all the members of the House of the People and the State Legislative Assembly whose constituencies include any part of the development area;
- (h) all members of the Council of States and the State Legislative Council who have their residence in the development area;

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<sup>1,2,3,4 and 5</sup> Substituted vide adaptation and modification order 2002, vide Notification No. 1081 A/S.V.-2002-238/S.V./2002 dated 8.11.2002 and further Subs. by the by Notification No. 504/v/-A-2007-08 (Awasi)/ 2007, Dated 12/03/2007

- (i) three members to be nominated by the State Government, one of whom shall represent the interest of labour and one the interest of industry and commerce in the development area.

(3) For the purpose-of Clause (h) of Sub-section (2), the place of residence of a member of the Council of States or the State Legislative Council shall be deemed to be that mentioned in the notification of his election or nomination. as the case may be, as such member.

(4) An elected member under Clause (d) of Sub-section (2) shall hold office for a term of three years from the date of his election to the council and shall be eligible for re-election:

Provided that such term shall come to an end as soon as the member ceases to be a member of the local body from which he was elected.

(5) The Advisory Council, if any, in respect of a development area other than that mentioned in Sub-section (2) shall consist of such members as may be determined by the State Government by general or special order in that behalf.

(6) The Advisory Council, shall meet as and when called by the Chairman:  
Provided that such meeting shall be held at least twice a year.

## **7. Objects of the Authority.-**

The objects of the <sup>1</sup>[Local Development Authority] shall be promote and secure the development of the development area according to plan and for that purpose the <sup>2</sup>[Local Development Authority] shall have the Power to acquire, hold, manage and dispose of land and other property, to carry out building, engineering, mining and other operations, to execute works in connection with the supply of water and electricity to dispose of sewage and to provide and maintain other services and amenities and generally to do anything necessary or expedient for purposes of such development and for purposes incidental thereto:

Provided that save as provided in this Act nothing contained in this Act shall be construed as authorising the disregard by the <sup>3</sup>[Local Development Authority] of any law for the time being in force.

## **<sup>4</sup>[7-A.Functions of the State Development Authority–**

The State Development Authority shall have the following powers –

- (i) To assess the necessity of declaring/notifying any areas in the State as development area, and thereupon give recommendation to the State Government in this regard and recommend constitution of local development authorities for the said areas;
- (ii) To prepare Master Plans/Zonal Plans through Town and Country Planning Department or through outsourcing for planned development of notified development areas in the State and get them implemented through the local development authorities.

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<sup>1,2 and 3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 7 (1).

<sup>4</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 7 (2).

- (iii) To examine the proposals received from the local development authorities for amendment in the old Master Plan and give its recommendations to the State Government in this regard;
- (iv) To review the works of various development authorities of the State and Town and Country Planning Department and issue necessary directions to them;
- (v) To give recommendation to the State Government regarding distribution of works/determination of jurisdiction amongst local development authorities, Urban Local Bodies and Gram Panchayats in respect of plan sanctioning and enforcement in various notified areas;
- (vi) To grant permission for the plans in the notified/development areas as per the limit/ norms prescribed by the State Government and to do supervision/enforcement of such projects through local development authorities/ Local bodies;
- (vii) To conceptualize and formulate projects of infrastructure development having inter regional benefits in the State, mobilize funds for such projects from State/Central Government or through private investment and implement the project by itself or through local development authorities;
- (viii) To acquire/collect land for the development of residential projects and use such land for the project developed by itself or by local development authorities or based on Public Private Partnership;
- (ix) To explore opportunity of such mega projects on Public Private Partnership which are in the interest of State, create favourable environment in this regard and take all necessary steps for this purpose;
- (x) To prepare guidelines for the local development authorities with regard to Housing and infrastructure development works and ensure compliance;
- (xi) To prepare a policy for the promotion of Low Cost Housing and give recommendation to the State Government in this regard;
- (xii) To decide the quantum of fund to be allocated to local development authorities from its own fund and allocate the same amongst the local development authorities;
- (xiii) To sit in revision against the orders of the Chairman of local development authorities passed under this Act;
- (xiv) To carry out such other functions which may be assigned to it by the State Government from time to time.]

#### **<sup>1</sup>[ 7-B.Control by the State Authority -**

- (1) All orders passed by the State Authority shall be passed in the name of the Chief Administrator of the State Authority;
- (2) The Local Development Authority, the Chief Town and Country Planner of the Town and Country Planning Department, the Chairman or the Vice-Chairman of the Local Development Authority or any other officer designated/ appointed by the State

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 7 (2).

Government under sub section 1-A of Section 4 of the Local Development Authority shall carry out such directions as may be issued to it from time to time by the State Authority for the efficient administration of this Act;

(3) If in, or in connection with, the exercise of its powers and discharge of its functions by the State Authority, the Chairman or the Vice-Chairman of the Local Development Authority under this Act any dispute arises between the State Authority and any Local Development Authority or between the two or more Local Development Authorities, the same shall be referred to the State Government, whose decision on such dispute shall be final;

(4) The State Authority may, at any time, either on its own motion or on application made to it in this behalf, call for the records of any case disposed of or order passed by the Local Development Authority or of its Chairman for the purpose of satisfying itself as to the legality or propriety of any order passed or direction issued and may pass such order or issue such direction in relation thereto as it may think fit:

Provided that the State Authority shall not pass an order prejudicial to any person without affording such person a reasonable opportunity of being heard.

(5) Every order of the State Authority made in exercise of the powers conferred by this Act shall be final and shall not be called in question in any court.]

## **CHAPTER III**

### **Master Plan and Zonal Development Plan**

#### **8. Civil survey of, and master plan for the development area:**

<sup>1</sup>[(1) The Town and Country Planning Department or any other agency appointed / nominated by the State Authority, shall, in consultation with the concerned Local Development Authority, as soon as may be, prepare a master plan for the development area as directed by the State Authority.]

(2) The master plan shall-

- (a) define the various zones into which the development area may be divided for the purposes of development; and indicate the manner in which the land in each zone is proposed to be used (whether by the carrying out thereon of development or otherwise) and the stages by which any such development shall be carried out; and
- (b) serve as a basic pattern of framework within which the Zonal development plans of the various zones may be prepared.

(3) The master plan may provide for any other matter which may be necessary for the proper development of the development area.

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 8.

## 9. Zonal Development plans.-

(1) Simultaneously with the preparation of the master plan or as soon as may be thereafter, the <sup>1</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority] shall proceed with the preparation of a zonal development plan for each of the zones into which the development area may be divided.

(2) A zonal development plan may-

- (a) contain a site-plan and use-plan for the development of the zone and show the approximate locations and extents of land uses proposed in the zone for such things as public buildings and other public works and utilities, roads, housing, recreation, industry, business, markets, schools, hospitals and public and private open spaces and other categories of public and private uses;
- (b) specify the standards of population density and building density;
- (c) show every area in the zone which may, in the opinion of the <sup>2</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority], be required or declared for development or re-development; and
- (d) in particular, contain provisions regarding all or any of the following matters, namely, -
  - (i) the division of any site into plots for the erection of buildings;
  - (ii) the allotment or reservation of land for roads, open spaces, gardens, recreation-grounds, schools, markets and other public purposes;
  - (iii) the development of any area into a township or colony and the restrictions and conditions subject to which such development may be undertaken or carried out;
  - (iv) the erection of buildings on any site and the restrictions and conditions in regard to the open spaces to be maintained in or around buildings and height and character of buildings;
  - (v) the alignment of buildings of any site;
  - (vi) the architectural features of the elevation or frontage of any building to be erected on any site;
  - (vii) the number of residential buildings which may be erected on plot or site;
  - (viii) the amenities to be provided in relation to any site or buildings on such site whether before or after the erection of buildings and the person or Authority by whom or at whose expense such amenities are to be provided;

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<sup>1,2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 9.

- (ix) the prohibitions or restrictions regarding erection of shops, work-shops, warehouses of factories or buildings of a specified architectural feature or buildings designed for particular purposes in the locality;
- (x) the maintenance of walls, fences, hedges or any other structural or architectural construction and the height at which they shall be maintained;
- (xi) the restrictions regarding the use of any site for purposes other than erection of buildings;
- (xii) any other matter which is necessary for the proper development of the zone or any area thereof according to plan and for the preventing buildings being erected haphazardly, in such zone or area.

## **10. Submission of plans to the State Government for approval.-**

(1) In this section and in Sections 11, 12, 14 and 16 the word plan means the master plan as well as the zonal development plan for a zone

<sup>1</sup>[(2) Every plan shall, as may be after its preparation be submitted by the Town and Country Planning Department or any other agency appointed/ nominated by the State Authority to the State Authority, who shall submit the same to the State Government for approval. 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 according to such directions.]

## **11. Procedure to be followed in the preparation and approval Plan.-**

(1) Before preparing any plan finally and submitting it to the State Government for approval, the <sup>2</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority] shall prepare a plan in draft and publish it by making a copy thereof available for inspection and publishing a notice in such form and manner as may be prescribed by regulations made in that behalf inviting objections and suggestions from any person with respect to the draft plan before such date as may be specified in the notice.

(2) The <sup>3</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority] shall also give reasonable opportunity to every local authority within whose local limits and land touched by the plan is situated, to make any representation with respect to the plan.

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 10.

<sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 11 (1)

<sup>3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 11 (1)

<sup>1</sup>[(3) After considering all objections, suggestions and representations, that may have been received by the Town and Country Planning Department or any other agency appointed/ nominated by the State Authority, the Town and Country Planning Department or any other agency appointed/ nominated by the State Authority shall finally prepare the plan and submit it to the State Authority for its onward submission to the State Government, with its recommendation and observation, if any, for approval.]

(4) Subject to the foregoing provisions of this section, the State Government may direct the <sup>2</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority] to furnish such information as that Government may require for the purpose of approving any plan submitted to it under this section.

## **12. Date of commencement of plan-**

Immediately after a plan has been approved by the State Government, the <sup>3</sup>[State Authority and the concerned Local Development Authority] shall publish in such manner as the State Government may specify, a notice stating that a plan has been approved and naming a place where a copy of the plan may be inspected at all reasonable hours and upon the date of the first publication of the aforesaid notice the plan shall come into operation.

## **(CHAPTER III-A)**

### **Arterial Roads In Development Area**

#### **12-A. Maintenance and Improvement of facade of certain buildings abutting arterial roads.-**

(1) Where in any development area, any building occupied wholly for non-residential purposes or partly for residential and partly for non-residential purposes abuts an arterial road, the occupier of such building, shall be bound to repair, whitewash, colour-wash or paint the facade of such building at his own cost in accordance with any bye laws made in that behalf.

(2) Where the authority, with a view to ensuring symmetry with any colour-scheme or other specification made in that behalf considers it necessary or expedient so to do, or where any occupier fails to repair, white-wash, colour wash or paint the facade of any building in accordance with Sub-section (1), it may by order require that the said work shall be carried out by the Authority itself or under Its direction, and may accordingly, also require the occupier to pay the cost of such work to the Authority.

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 11 (2).

<sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 11 (1).

<sup>3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 12.

(3) The cost of any work referred to in Sub-section (2) shall be calculated on a 'no profit no loss' basis, and in case of any dispute about the reasonableness of the amount required to be deposited, the same shall be decided by the State Government, and subject thereto, the order of the Authority shall be final and shall not be called in question in Court.

(4) In case of non-payment by an occupier of the whole or part of the cost of any work referred to in Sub-section (2), it shall, on the certificate of the Vice-Chairman, be recoverable from the occupier as arrears land revenue.

*Explanation* - In this section -

- (a) the expression 'arterial road' shall have the meaning assigned to it in the bye-laws;
- (b) the expression 'occupier', in relation to a building, means the person in actual occupation or use of the building, and includes-
  - (i) the owner (which expression shall include an agent or trustee or a receiver, sequestrator or manager appointed by a Court, or a mortgagee with possession of the building) in occupation;
  - (ii) the tenant who for the time being is paying or is liable to pay rent in respect thereof to the owner;
  - (iii) the rent-free grantee or licensee thereof;
  - (iv) the person who is liable to pay to the owner damages for unauthorised use and occupation thereof.

## **CHAPTER IV**

### **Amendment of the Master Plan and the Zonal Development Plan**

#### **13. Amendment of Plan.-**

(1) The <sup>1</sup>[Town and Country Planning Department or any other agency appointed/nominated by the State Authority] may make any amendments in the master plan or the zonal development plan as it thinks fit, being amendments which, in its opinion do not effect important alteration in the character of the plan and which do not relate to the extent of land uses or the standards of population density.

(2) The State Government may make amendments in the master plan or the zonal development plan whether such amendments are of the nature specified in Sub-section (1) or otherwise.

(3) Before making any amendments in the plan, the <sup>2</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority], or as the case may be, the State Government shall publish a notice in at least one newspaper having circulation in the development area inviting objections and suggestions from any person with respect to the proposed amendments before such date as may be specified in the notice and shall consider all objections and suggestions that may be

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<sup>1, 2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 13 (1)

received by the <sup>1</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority] or the State Government.

(4) Every amendment made under this section shall be published in such manner as the <sup>2</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority] or the State Government, as the case may be, may specify, and the amendments shall come into operation either on the date of the first publication or on such other date as the <sup>3</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority] or the State Government, as the case may be, may fix.

(5) When the <sup>4</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority] makes any amendments in the plan under Sub-section (1) it shall report to the <sup>5</sup>[State Authority] the full particulars of such amendments within thirty days of the date on which such amendments come into operations.

(6) If any question arises whether the amendments proposed to be made by the <sup>6</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority] are amendments which effect 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 to the State Government whose decision thereto shall be final.

(7) Any reference in any other Chapter, except Chapter III, to the master plan or the zonal Development plan shall be construed as a reference to the master plan or the zonal development plan as amended under this section.

## **CHAPTER V**

### **Development of Lands**

#### **14. Development of land In the developed area.-**

(1) After the declaration of any area as development area under Section 3, no development of land shall be undertaken or carried out or continued in that area by any person or body (including a department of Government) unless permission for such development has been obtained in writing from the <sup>7</sup>[Vice Chairman of the concerned Local Development Authority/Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/Local Authority under this Act or the State Authority, as the case may be] in accordance with the provision of this Act.

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<sup>1,2,3,4</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 13 (1).

<sup>5</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 13 (2)

<sup>6</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 13 (1)

<sup>7</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 14 (1)

- (2) After the coming into operation of any of the plans in any development area no development shall be undertaken or carried out or continued in that area unless such development is also in accordance with such plans.
- (3) Notwithstanding anything contained in Sub-sections (1) and (2), the following provisions shall apply in relation to development of land by any department of any State Government or the Central Government or any local authority-
- (a) when any such department or local authority intends to carry out any development of land it shall inform the <sup>1</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] in writing of its intention to do so, giving full, particulars thereof, including any plans and documents, at least 30 days before undertaking such development;
- (b) in the case of a department of any State Government or the Central Government, if the <sup>2</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] has no objections it should inform such department of the same within three weeks from the date of receipt by it under Clause (a) of the department's intention, and if the <sup>3</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] does not make any objection within the said period the department shall be free to carry out the proposed development;
- (c) where the <sup>4</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] raises any objection to the proposed development on the ground that the development is not conformity with any Master Plan or Zonal Development Plan prepared or intended to be prepared by <sup>5</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority]

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 14 (2)

<sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 14 (2)

<sup>3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 14 (2)

<sup>4</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 14 (2)

<sup>5</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 14 (3)

or on any other ground, <sup>1</sup>[Town and Country Planning Department or any other agency appointed/ nominated by the State Authority] as the case may be, shall-

- (i) either make necessary modifications in the proposal development to meet the objections raised by the <sup>2</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] or
  - (ii) submit the proposals for development together with the objections raised by the <sup>3</sup>[Vice Chairman of the concerned Local Development Authority/ Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/Local Authority under this Act or the State Authority, as the case may be] to the State Government for decision under Clause (d)
- (d) the State Government, on receipt of proposals for development together with the objections of the <sup>4</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] may either approve the proposals with or without modifications or direct the department or the local authority, as the case may be, to make such modification as proposed by the Government and the decision of the State Government shall be final;
- (e) the development of any land begun by any such department or subject to the provisions of Section 59 by any such local authority before the declaration referred to in Sub-section (1) may be completed by that department or local authority with compliance with the requirement of Sub-sections (1) and (2).

## **15. Application for permission.-**

(1) Every person or body (other than any department of Government or any local authority) desiring to obtain the permission referred to in Section 14 shall make an application in writing to the <sup>5</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 14 (3)

<sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 14 (2)

<sup>3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 14 (2)

<sup>4</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 14 (2)

<sup>5</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 15 (1)

Authority/ Local Authority under this Act or the State Authority, as the case may be] in such form and containing such particulars in respect of the development to which the Application relates as may be prescribed by 4(bye-laws).

(2) Every application under Sub-section (1) shall be accompanied by such fee as may be prescribed by rules.

(2-A) The Authority shall be entitled to levy development fees mutation charges, stacking. Fees and water fees in such manner and at such rates as may be prescribed. Provided that the amount of stacking fees levied in respect of an area which is not being developed or has not been developed, by the Authority, shall be transferred to the local authority within whose local limits such area is situated.

(3) On the receipt of an application for permission under Sub-section (1) the <sup>1</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] after making such inquiry as it considers necessary in relation to any matter <sup>2</sup>[\*\*\*\*\*], shall by order in writing. Either grant the permission, subject to such conditions, if any, as may be specified in the order or refuse to grant such permission:

Provided that before making an order refusing such permission the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused:

Provided further that the <sup>3</sup> [Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] may before passing any order on such application give an opportunity to the applicant to make any correction therein or to supply any further particulars or documents or to make good any deficiency in the requisite fee with a view to bringing it in conformity with, the relevant rules or regulations.

Provided also that before granting permission, referred to in Section 14 the <sup>4</sup>[Vice Chairman of the concerned Local Development Authority/ Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] may get the fees and the charges levied under Sub-section (2-A) deposited.

(4) Where permission is refused, the grounds of such refusal shall be recorded in writing and communicated to the applicant.

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 15 (3)

<sup>2</sup> Repealed by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 15 (4)

<sup>3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 15 (3)

<sup>4</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 15 (4)

(5) Any person aggrieved by an order under Sub-section (4) may appeal to the Chairman against that order within thirty days from the communication thereof and may after giving an opportunity of hearing <sup>4</sup> to the appellant and, if necessary, also to the representative of the <sup>1</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be], either dismiss the appeal or direct the <sup>2</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] to grant the permission applied for with such modifications, or subject to such conditions, if any, as may be specified.

(6) The <sup>3</sup> [Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] shall keep in such form as may be prescribed by regulations a register of applications for permission under this section.

(7) The said register shall contain such, particulars including information as to the manner in which applications for permission Regulations and shall be have been dealt with, as may be prescribed by regulations, and shall be available for inspection by any member of the public at all reasonable hours on payment of such fee not exceeding rupees five as may be prescribed by regulations.

(8) Where permission is refused under this section. the applicant or any person claiming through him shall not be entitled to get refund the fee paid on the application for permission but the <sup>4</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] may, on an application for refund being made within three months of the communication of the grounds of the refusal under Sub-section (4) direct refund of such portion of the fee as it may deem proper in the circumstances of the case.

(9) If at any time after the permission has been granted under Sub-section (3), the <sup>5</sup>[Vice Chairman of the concerned Local Development Authority /Person(s) or

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 15 (5)

<sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 15 (5)

<sup>3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 15 (5)

<sup>4</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 15 (5)

<sup>5</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 15 (5)

Officer(s), designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act or the State Authority, as the case may be] is satisfied that such permission was granted in consequence of any material misrepresentation made or any fraudulent statement or information furnished, he may cancel such permission for reasons to be recorded in writing and any work done there under shall be deemed to have been done without such permission.

Provided that a permission shall not be cancelled without affording to the person or body concerned a reasonable opportunity of being heard.

### **15-A. Completion Certificate –**

(1) Every person or body having been granted permission under sub-section (3) of section 15, shall complete the development according to the approved plan and send a notice in writing of such completion to the <sup>1</sup>[Local Development Authority or the State Authority as the case may be], and obtain a completion certificate from the <sup>2</sup>[Local Development Authority or the State Authority as the case may be] in the manner prescribed or provided in the bye-laws of the <sup>3</sup>[Local Development Authority or the State Authority as the case may be].

Provided that if completion certificate is not granted and refusal to grant it is not intimated within three months after receipt of the notice of completion, it shall be deemed that the Completion Certificate has been granted by the <sup>4</sup>[Local Development Authority or the State Authority as the case may be].

(2) No person shall occupy or permit to be occupied any commercial building or use or permit to be used such building or part thereof affected by any work until–

- (a) completion certificate has been issued by the <sup>5</sup> [Local Development Authority or the State Authority as the case may be], or
- (b) <sup>6</sup>[Local Development Authority or the State Authority as the case may be] has failed for three months after the receipt of notice of completion to intimate its refusal of grant of the said certificate.

*Explanation-* For the purposes of this section, the expression “commercial building” shall have the meaning assigned to it in the Uttar Pradesh Municipal Corporations Act. 1959.

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 16

<sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 16.

<sup>3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 16.

<sup>4</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 16.

<sup>5</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 16.

<sup>6</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 16

## **16. Uses of land and buildings in contravention of plans-**

After the coming into operation of any of the plans in a zone no person shall use or permit to be used any land or building in that zone otherwise than in conformity with such plan :

Provided that it shall be lawful to continue to use, upon such terms and conditions as may be prescribed by bye-laws made in that behalf, any land or building for the purposes and to the extent for and to which it is being used upon the date on which such plan comes into force.

## **CHAPTER VI**

### **Acquisition and Disposal of Land**

## **17. Compulsory acquisition of land-**

(1) If in the opinion of the State Government any land is required for the purpose of development or for any other purpose, under this Act the State Government may acquire such land under the Provisions of the Land Acquisition Act, 1894:

Provided that any person from whom any land is so acquired may after the expiration of a period of five years from the date of such acquisition apply to the State Government for restoration of that land to him on the ground that the land has not been utilized within the period for the purpose for which it was acquired, and if the State Government is satisfied to that effect it shall order restoration of the land to him on re-payment of the charges which were incurred in connection with the acquisition together with interest at the rate of twelve per cent per annum and such development charges as if any may have been incurred after acquisition.

(2) Where any land has been acquired by the State Government, that Government may, after it has taken possession of the land transfer the land to the <sup>1</sup>[State Authority or any Local Development Authority as the case may be] or any local authority for the purpose for which the land has been acquired on payment by <sup>2</sup>[State Authority or any Local Development Authority as the case may be] or the local Authority of the compensation awarded under that Act and of the charges incurred by the Government in connection with the acquisition.

### **<sup>3</sup>[ 17-A. Land Bank of State Authority-**

The State Authority shall have the power to create its own land bank through :--

- (a) the State Government under the Land Acquisition Act, or
- (b) Surplus land received from the State Government, or,

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 17 (1).

<sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 17 (1).

<sup>3</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 17 (2)

- (c) the Land Acquisition/Pooling Policy of the development authorities or,
- (d) Purchase of land from any private person/agency / company, private or public.]

### **<sup>1</sup>[17-B. Disposal of land by the State Authority-**

- (1) The State Authority may dispose of /transfer –
  - (a) any land of its land bank to any of the Local Development Authority/ Company/ Agency / Person, Private or Public for providing affordable housing to the weaker sections of the society,
  - (b) any land acquired by the State Government and transferred to it, without carrying out any development thereon ; or
  - (c) any such land after carrying out such development as it thinks fit, to any Local Development Authority or any local authority or to such persons, in such manner and subject to such terms and conditions as it considers expedient for securing the development according to plan.
- (2) Nothing in this Act shall be construed as enabling the State Authority to dispose of land by way of gift, but subject thereto, references in this Act, to the disposal of land shall be construed as references to the disposal thereof in any manner, whether by way of sale, exchange or lease or by the creation of any easement, right or privilege or otherwise.
- (3) Notwithstanding, anything contained in Sub-section (2), the State Authority may create a mortgage or charge over such land (including any building thereon) in favour of the Life Insurance Corporation of India, The Housing and Urban Development Corporation, or a banking company or any other financial institution approved by general or special order in this behalf by the State Government.]

### **18. Disposal of land by the Authority or the local Authority concerned-**

- (1) Subject to any directions given by the State Government in this behalf, the Authority or, as the case may be, the local Authority concerned may dispose of -
  - (a) any land acquired by the State Government and transferred to it, without undertaking or carrying out any development thereon; or
  - (b) any such land after undertaking or carrying out such development as it thinks fit. to such persons, in such manner and subject to such terms and conditions as it considers expedient for securing the development of the development area according to plan.
- (2) Nothing in this Act shall be construed as enabling the Authority or the local Authority concerned to dispose of land by way of gift,(\*\*\*) but subject thereto, references in this Act, to the disposal of land shall be construed as references to the disposal thereof in any manner, whether by way of sale, exchange or lease or by the creation of any easement, right or privilege or otherwise.
- (3) Notwithstanding, anything contained in Sub-section (2), the Authority or the local Authority concerned may create a mortgage or charge over such land (including any building thereon) in favour of the Life Insurance Corporation of India, the

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 17 (2).

Housing and Urban Development Corporation, or a banking company as defined in the Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972 or any other financial institution approved by general or special order in this behalf by the State Government.

(4) Where vacant land has been disposed of under this section by way of lease for making constructions within the time with right of forfeiture of the lease and re-entry upon failure to make constructions within such time, and the lessee fails without sufficient reason, to make the constructions or a substantial portion thereof, within the stipulated time or such extended time as the lessor may grant, the lessor may subject to the provisions of Sub-section (4-A) forfeit] the lease and re-enter upon the land:

Provided that no forfeiture and re-entry shall be made unless the lessee has been allowed reasonable opportunity to show cause against the proposed action.

(4-A) Where a lessee fails to make construction within the stipulated time, and the extended time, if any, under Sub-section (4) so that the total period from the date of lease exceeds five years, a charge at the rate of two per cent of the prevailing market value of the concerned land shall be realised every year from him by the lessor and if from the date of imposition of the said charge a further period of five years elapses the lease shall stand forfeited and the lessor shall re-enter upon the land :

Provided that where the period of five years has expired before the commencement of the Uttar Pradesh Urban Planning and Development (Amendment) Act, 1997, or where the period of five years expires within one year after such commencement, the charge shall be realizable after a period of one year from the date of such commencement.

(5) Upon such forfeiture and re-entry, the premium paid by the lessee for such land shall be refunded without any interest, after deducting-

(a) the amount, if any, due to the lessor under that lease, and

(b) a sum equivalent to 5 per cent of the premium, for administrative expenses.

(6) Any person aggrieved by an order under Sub-section (4) may, within 30 days from the date of knowledge thereof, prefer an appeal to the District Judge whose decision shall be final.

(7) The land so re-entered upon after forfeiture of lease may be disposed of in accordance with the provisions of Sub-sections (1) and (2)

## **19. Nazul lands-**

(1) The State Government may, by notification in the Gazette and upon such terms conditions as may be agreed upon between that Government and the Authority, place at the disposal of the Authority all or any developed and undeveloped lands in the development area vested in the State (known and hereinafter referred to as 'nazul lands'), for the purpose of development in accordance with the provisions of the Act.

(2) After any nazul land has been placed at the disposal of the Authority under Sub-section (1), no development of any such land shall be undertaken or carried out except by or under the control and supervision of the Authority.

(3) After any such nazul land has been developed by or under the control and supervision of the Authority it shall be dealt with by the Authority in accordance with directions given by the State Government in that behalf.

(4) If any nazul land placed at the disposal of the Authority under Sub-section (1) is required at any time thereafter by the State Government, the Authority shall, by notification in the Gazette, replace it at the disposal of that Government upon such terms and conditions as may be agreed upon between that Government and the Authority.

## CHAPTER VII

### Finance, Accounts and Audit

#### 20. Fund of the Authority.-

(1) The <sup>1</sup>[Local Development Authority] shall have and maintain its own fund to which shall be credited-

- (a) all moneys received by the <sup>2</sup>[Local Development Authority] from the State Government by way of grants, loans, advances or otherwise;
- (b) all moneys borrowed by the <sup>3</sup>[Local Development Authority] from source by the State Government by way of loans or debentures;
- (c) all fees, tolls and charges received by the <sup>4</sup>[Local Development Authority] under this Act;
- (d) all moneys received by the <sup>5</sup>[Local Development Authority] from the disposal of lands, buildings and other properties, movable and immovable ; and
- (e) all moneys received by the <sup>6</sup>[Local Development Authority] by way of rents and profits or in any other manner or from any other source.

(2) The fund shall be applied towards meeting the expenses incurred by <sup>7</sup>[Local Development Authority] in the administration of this Act and for no other purpose;

(3) Subject to any directions of the State Government, the <sup>8</sup>[Local Development Authority] may keep in current account of any Scheduled Bank such sum of money out of its fund as it may think necessary for meeting its expected current requirement and invest any surplus money in such manner as it thinks fit.

(4) The State Government may, after due appropriation made by Legislature by law in that behalf, make such grants, advances and loans to the <sup>9</sup>[Local Development Authority] as that Government may deem necessary for the performance of the functions of the <sup>10</sup>[Local Development Authority] under this Act and all grants, loans and advances made shall be on such terms and conditions as the State Government may determine.

(5) The <sup>11</sup>[Local Development Authority] may borrow money by way of loans or, debentures from such sources (other than the State Government) and on such terms and conditions as may be approved by the State Government.

(6) The <sup>12</sup>[Local Development Authority] shall maintain a sinking fund for the repayment of moneys borrowed under Sub-section (5) and shall pay every year into the sinking fund such sum as may be sufficient for repayment within the period fixed of all moneys so borrowed.

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<sup>1,2,3,4,5,6,7,8,9,10,11&12</sup>All Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 18 (1)

(7) The sinking fund or any part thereof shall be applied in or towards, the discharge of the loan for which such fund was created, and until such loan is wholly discharged it shall not be applied for any other purpose.

<sup>1</sup>[(8) The Local Development Authority shall contribute a fixed proportion of their net income to the State Authority as decided by the State Authority. ]

<sup>2</sup>[(9) The State Authority shall, from the funds so collected under Clause 8 above, decide the quantum of the fund to be allocated and shall allocate the same amongst the Local Development Authorities created under Section 4 of this Act.]

### <sup>3</sup>[ **20-A. Funds of the State Authority –**

(1) The State Authority shall have and maintain its own fund i.e. funds received from the Local Development authorities as well as the funds allocated by the State Government to it.

(2) The fund shall be applied towards meeting the expenses incurred by the State Authority in the administration of this Act or for any other purposes/functions entrusted by it to the concerned Local Development Authority.

(3) The State Authority shall have the power to decide the quantum of fund to be allocated and to allocate the same amongst the Local Development Authorities/ Local bodies in order to strengthen them financially.

(4) Subject to any directions of the State Government, the State Authority may keep in current account of any Scheduled Bank such sum of money out of its fund as it may think necessary for meeting its expected current requirement and invest any surplus money in such manner as it thinks fit.

(5) The State Government may, after due appropriation in that behalf, make such grants, advances and loans to the State Authority as the State Government may deem necessary for the performance of the functions of the State Authority under this Act and all grants, loans and advances made shall be on such terms and conditions as the State Government may determine.

(6) The State Authority may borrow money by way of loans or, debentures or from such sources (other than the State Government) and on such terms and conditions as may be approved by the State Government.

(7) The State Authority shall maintain a sinking fund for the repayment of moneys borrowed under Sub-section (5) and (6) and shall pay every year into the sinking fund such sum as may be sufficient for repayment of all moneys so borrowed within the period fixed.

(8) The sinking fund or any part thereof shall be applied in or towards, the discharge of the loan for which such fund was created, and until such loan is wholly discharged it shall not be applied for any other purpose.]

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<sup>1</sup> and <sup>2</sup> Both inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 18 (2).

<sup>3</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 19

## **21. Budget of the Authority:-**

The <sup>1</sup>[Local Development Authority] shall prepare in such form and at such time every year as the State Government may specify a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the <sup>2</sup>[Local Development Authority].

### **<sup>3</sup>[21-A. Budget of the State Authority –**

The State Authority shall prepare in such and at such time every year as the State Government may specify a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the State Authority.]

## **22. Accounts and Audit –**

(1) The <sup>4</sup>[Local Development Authority and State Authority as the case may be] shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as the State Government may specify.

(2) The accounts of the <sup>5</sup>[Local Development Authority and State Authority as the case may be] shall be subject to audit annually by the Examiner, Local Fund Accounts:

Provided that in place of or in addition to the Examiner, Local Fund Accounts, the State Government may entrust and audit to the Accountant General, <sup>6</sup>[Uttarakhand] or Comptroller and Auditor General of India or to any other Auditor on such terms and conditions, in such manner, for such period and at such times as may be agreed upon between him and the State Government.

(3) The rights, authority and privileges of any person conducting audit under Sub-Section (2) shall, -

- (i) in the case of Examiner, Local Fund Accounts, be the same as he has in connection with the audit of the accounts of local authority;
- (ii) in the case of the Accountant General, <sup>7</sup>[Uttarakhand] or as the case may be, the Comptroller and Auditor General of India, be the same as he has in connection with the audit of Government accounts; and
- (iii) in the case of any other auditor, be as prescribed;

and, in particular, he shall have the right to demand production of books, accounts, connected vouchers, papers and other documents and to inspect the office of the <sup>8</sup>[Local Development Authority and State Authority as the case may be].

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<sup>1</sup> and <sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 20

<sup>3</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 21

<sup>4</sup> and <sup>5</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 22.

<sup>6</sup> and <sup>7</sup> Substituted vide adaptation and modification order 2002, vide Notification No. 1081 A/S.V.-2002-238/S.V./2002 dated 8.11.2002 and further Subs. by Notification No. 504/v/-A-2007-08(Awas)/2007, Dated 12/03/2007

<sup>8</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 22

(4) The accounts of the <sup>1</sup>[Local Development Authority and State Authority as the case may be], as certified by the Auditor or any person appointed by him in that behalf, together with audit report thereon shall be forwarded to the State Government annually or at such times as may be directed by it. The State Government may issue such directions to the <sup>2</sup>[Local Development Authority and State Authority as the case may be] as it may deem fit and the <sup>3</sup>[Local Development Authority and State Authority as the case may be] shall be bound to comply with such directions.

(5) Any expenditure, incurred by the Auditor in connection with the audit, shall be payable by the <sup>4</sup>[Local Development Authority and State Authority as the case may be] to the auditor.

### **23. Annual Report.-**

The <sup>5</sup>[Local Development Authority and State Authority as the case may be] shall prepare for every year a report of its activities during that year and submit the report to the State Government in such form and on or before such date as the State Government may specify and such report shall be laid before both houses of the Legislature.

### **24. Pension and Provident Funds: -**

(1) The <sup>6</sup>[Local Development Authority and State Authority as the case may be] may constitute for the benefit of its whole time paid members and of its officers and other employees in such manner and subject to such conditions, as the State Government may specify, such pension or Provident funds as it may deem fit.

(2) Where any such person, or provident fund has been constituted, the State Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund as if it were a Government Provident Fund.

## **CHAPTER VIII**

### **Supplemental and Miscellaneous Provisions**

### **25. Power of entry:-**

The Vice-Chairman of the Authority may authorise any person to enter in or upon any land or building with or without assistants or workmen for the purpose of-

- (a) making any inquiry, inspection, measurement or survey or taking levels of such land or building;
- (b) examining works under construction and ascertaining the course of sewers and drains;

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<sup>1, 2, 3, 4</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 22

<sup>5</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 23.

<sup>6</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 24

- (c) digging or boring into the sub-soil;
- (d) setting out boundaries and intended lines of work;
- (e) making such levels, boundaries and lines by placing marks and cutting trenches;
- (f) ascertaining whether any land is being or has been developed in contravention of the master plan or zonal development plan or without the permission referred to in Section 14 or in contravention of any condition subject to which such permission has been granted; or
- (g) doing any other thing necessary for the efficient administration of this Act:

**Provided that -**

- (i) no such entry shall be made except between the hours of sun-rise and sun-set without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or buildings;
- (ii) sufficient opportunity shall in every instance be given to enable woman, if any, to withdraw from such land or building;
- (iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made to the social and religious usages of the occupants of the land-or building entered.

**26. Penalties.-**

(1) Any person who whether at his own instance or at the instance of any other person or any body (including a department of Government) undertakes or carries out development of any land, in contravention of the Master Plan or Zonal Development Plan 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, shall be punishable with fine which may extend to Fifty thousand rupees, and in the case of a continuing offence, with further fine which may extend to Two thousand five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

(2) Any person who uses any land or building in contravention of the provisions of Section 16 or in contravention of any terms and conditions prescribed by regulations under the proviso to that section shall be punishable with fine which may extend to Twenty-five thousand rupees and in the case of a continuing offence, with further fine which may extend to One thousand, two hundred and fifty rupees for every day during which such offence continues after conviction for the first commission of the offence.

(3) Any person who obstructs the entry of a person authorised under Section 25 to enter into or upon any land or building or molests such person after such entry shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**26-A. Encroachment or obstruction on public land.-**

(1) Whoever makes any encroachment on any land not being private property, whether such land belongs to or vests in the authority or not in a development area, 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 twenty thousand rupees.

(2) Any offence punishable under Sub-section (1) shall be cognizable.

(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 in a development area, 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, shall be punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to two thousand rupees or with both.

(4) If there are grounds to believe that a person has made any encroachment or obstruction on a land in development area which is not a private property, the Authority or an officer authorised by it in this behalf may serve upon the person making encroachment or obstruction, a notice requiring him to show cause why he shall not be required to remove the encroachment or obstruction within such period not being less than fifteen days as may be specified in the notice, and after considering the cause, if any, shown by such person, may order removal of such encroachment or obstruction for reason to be recorded in writing :

Provided that any encroachment made on public land by a person belonging to weaker section on or before the date of commencement of the Uttar Pradesh Urban Planning and Development (Amendment) Act, 1997 shall not be removed until alternative land or accommodation is offered to rehabilitate him in such manner and on such terms and conditions as may be prescribed.

*Explanation.-* For the purposes of this section, the expression -

(1) 'a person belonging to weaker section' means a person-

(a) whose family on the date of commencement of the Uttar Pradesh Urban Planning and Development (Amendment) Act, 1997 does not hold any immovable property in any city as defined in the Uttar Pradesh Municipal Corporation Act, 1959 or any Municipal Area defined in the Uttar Pradesh Municipalities Act, 1916, and

(b) whose principal source of livelihood is manual labour, including the practice of any craft, either by himself or by the members of his family and includes a rickshaw puller or scavenger, but does not include a person who has been assessed to income tax under the Income Tax Act, 1961 or trade tax under the Uttar Pradesh Trade Tax Act, 1948 or Sales Tax under the Central Sales Tax Act, 1956.

(2) 'family', in relation to a person belonging to weaker section, means the husband or wife, as the case may be, and unmarried minor children either or both of them.

(5) Notwithstanding anything contained in the forgoing provisions the Authority of the officer authorised by it in this behalf shall, in addition to the action taken as provided in this section, also have power to seize or attach any property found on the land referred to in this section or, as the case may be, attached to such land or permanently fastened to anything attached to such land.

(6) Where any property is seized or attached by an officer authorised by the Authority he shall immediately make a report of such seizure or attachment to the Authority.

(7) The Authority may make such orders as it thinks fit for proper custody of the property seized or attached, pending the conclusion of confiscation proceedings, and if the property is subject to speedy and natural decay, or it is otherwise expedient so to do the Authority may order it to be sold or otherwise disposed of.

(8) Where any property is sold as aforesaid, the sale proceeds, after deducting the expenses, if any, of such sale and other incidental expenses relating thereto, shall -

(a) where no order of confiscation is ultimately passed by the Authority, or

(b) where an order in appeal so requires,

be paid to the owner thereof or the person from whom it is seized or attached.

(9) Where any property is seized under Sub-section (5), the Authority may order confiscation of such property.

(10) No order for confiscation of any property shall be made under Sub-section (9) unless the owner of such property or the person from whom it is seized or attached is given -

(a) a notice in writing, informing him of the grounds on which it is proposed to confiscate the property;

(b) an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and

(c) a reasonable opportunity of being heard in the matter.

(11) Any order of confiscation under this section shall not prevent the infliction of any punishment to which the person affected thereby may be liable under the Act.

(12) Any person aggrieved by an order made under sub-section (9) may within one month from the date of the communication to him of such order, appeal against it to the District Judge.

(13) On such appeal, the District Judge may, after giving an opportunity to the appellant and the respondent of being heard, pass such order as he may think fit confirming, modifying or setting aside the order appealed against, and pending appeal, may stay the operation of such order on such terms, if any, as he thinks fit.

## **26-B. Claim for compensation for removal under Section 26-A. -**

(1) Any person aggrieved by the removal of obstruction or encroachment under Sub-section (4) of Section 26-A may within thirty days from the date of such removal prefer a claim for compensation or restitution or both before the Tribunal against either the Authority, or the officer ordering the removal or against both, and for making such officer personally liable for the loss caused to him due to such removal.

(2) The District Judge having territorial jurisdiction over the area in which the removal -of encroachment or obstruction as provided in Sub- section (4) of Section 26-A has taken place shall be the Tribunal for the purposes of this section.

(3) Every order of the Tribunal for payment of any compensation for the restitution of any immovable property shall be deemed to be a decree of the Civil Court and shall be executable as such :

Provided that if the Tribunal awards any compensation against any officer personally, it shall be the duty of the Authority to realise the amount from the salary or the other dues of the officer concerned and to pay it to the claimant.

(4) The proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Indian Penal Code.

(5) The Tribunal shall for the purpose of deciding a claim under this section, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely-

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) Receiving evidence on affidavits;
- (c) Inspecting any immovable Property, or its locality, or issuing commission for the examination of witnesses or documents or local investigation;
- (d) Requiring the discovery and production of documents;
- (e) Recording a lawful agreement, compromise or satisfaction and making an order in accordance therewith;
- (f) Any other matter which may be prescribed.

(6) The decision of the Tribunal shall be final.

### **26-C. Authority may without notice remove anything erected or deposited in contraventions of Act.-**

The Authority or an officer authorised by it in this behalf may, without notice, cause to be removed-

- (a) Any wall, fence, rail, post, step, booth or other structure whether fixed or movable and whether of a permanent or temporary nature or any fixture which shall be erected, or set up in or upon or over any street or upon or over any open channel, drain, well or tank contrary to the provisions of this Act;
- (b) Any stall, chair, bench, box, ladder, bale, board or shelf of any other thing whatever placed, deposited, projected, attached or suspended in, upon, from or to any place in contravention of this Act.

### **26-D. Penalty for not preventing encroachment.-**

Whoever specially entrusted with the duty to stop or prevent the encroachment or obstruction under this Act or any other Act, rules or bye-laws willfully or knowingly neglects or deliberately omits to stop or prevent such encroachment or obstruction shall be punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to ten thousand rupees or with both.

## **27. Order of demolition of building.-**

(1) Where any development has been commenced or is being carried on or has been completed in contravention of the Master Plan or without the permission approval or sanction referred to in Section 14 or in contravention of any conditions subject to which such permission, approval or sanction has been granted, in relation to the development area, then, without prejudice to the provisions of Section 26, the <sup>1</sup>[Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act] or any officer of the Authority empowered by him in that behalf may make an order directing that such development shall be removed by demolition, filling or otherwise by the owner thereof or by the person at whose instance the development has been commenced or is being carried out or has been completed, within such period not being less than fifteen days and more than forty days from the date on which a copy of the order of removal, with a brief statement of the reasons therefore, has been delivered to the owner or that person as may be specified in the order and on his failure to comply with the order, the <sup>2</sup>[Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act] or such officer may remove or cause to be removed the development, and the expenses of such removal as certified by the <sup>3</sup>[Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act] or such officer shall be recoverable from the owner of the person at whose instance the development was commenced or was being carried out or completed as arrears of land revenue and no suit shall lie in the Civil Court for recovery of such expenses:

Provided that no such order shall be made unless the owner or the person concerned has been given a reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order under Sub-section (1) may appeal to the Chairman against that order within thirty days from the date thereof and the Chairman may after hearing the parties to the appeal either allow or dismiss the appeal or may reverse or vary any part of the order.

(3) The Chairman may stay the execution of an order against which an appeal has been filed before it under Sub-section(2).

(4) The decision of the Chairman on the appeal and, subject only to such decision, the order under Sub-section (1), shall be final and shall not be questioned in any Court.

(5) The provisions of this section shall be in addition to, and not in or derogation of, any other provision relating to demolition of buildings of contained in any other law for the time being in force.

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<sup>1, 2 and 3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 25

## **28. Power to stop development;-**

(1) Where any development in a development area has been commenced or continued in contravention of the Master Plan or Zonal Development Plan or without the permission, approval or sanction referred to in Section 14 or in contravention of any conditions subject to which such permission, approval or sanction has been granted, then, without prejudice to the provisions of Sections 26 and 27, the <sup>1</sup>[Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act] of the Authority or any officer of the Authority empowered by him in that behalf, may make an order requiring the development to be discontinued on and from the date of the service of the order, and such order shall be complied with accordingly.

(2) Where such development is not discontinued in pursuance of the order under sub-section (1), the <sup>2</sup>[Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act] or the said officer of the Authority may require any police officer to remove the person by whom the development has been commenced and all his assistants and workmen from the place of development within such time as may be specified in the requisition, and such police officer shall comply with the requisition accordingly.

(3) After the requisition under sub-section (2) has been complied with, the <sup>3</sup>[Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act] of the Authority may depute by a written order a police officer or an officer or employee of the Authority to watch the place in order to ensure that the development is not continued.

(4) Any person failing to comply with an order under sub-section (1) shall be punishable with fine which may extend to two hundred rupees, for every day during which the non-compliance continues after the service of the order.

(5) No compensation shall be claimable by any person for any damage which he may sustain in consequence of the removal of any development under Section 27 or the discontinuance of the development under this section.

(6) The provisions of this section shall be in addition to and not in derogation of, any other provision relating to stoppage of building operations contained in any other law for the time being in force.

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<sup>1,2,3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 26.

## **28-A. Power to seal unauthorised development: -**

(1). It shall be lawful for the <sup>1</sup>[Vice Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act] or an officer empowered by him in the behalf, as the case may be, at any time before or after making an order for the removal or discontinuance of any development under Section 27 or Section 28 to make any order directing the sealing of such development in a development area in such manner as may be prescribed for the purposes of carrying out the provisions of this Act.

(2) Where any development has been sealed, the <sup>2</sup>[Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act] or the officer empowered by him in this behalf, as the case may be, may, for the purpose of removing or discontinuing such development order the seal be removed.

(3) No person shall remove such seal except under an order made under Sub-section (2) by the <sup>3</sup>[Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act], or the officer empowered by him in this behalf.

(4) Any person aggrieved by an order made under Sub-section (1) or sub-section (2) may appeal to the Chairman against that order within thirty days from the date thereof and the Chairman may after hearing the parties to the appeal, either allow or dismiss the appeal.

(5) The decision of the Chairman shall be final.

## **29. Conferment of other powers on the Authority.-**

After a Master Plan or Zonal Development Plan has come into operation under section 12, the Development Authority or its Vice-Chairman shall have such other powers and functions exercisable by the local authority concerned or its Chief Executive Officer, as the case may be, under the enactment constituting that local authority subject to such exceptions or modifications, as the State Government may by notification in the Gazette specify.

## **30. Offences by companies.-**

(1) If the person committing an offence under this Act is a company, every person, who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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<sup>1,2,3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 27

Provided that nothing contained in this Sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent commission of such offence.

(2) Notwithstanding anything contained in Sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance, of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation* -For the purposes of this section-

- (a) 'company' means a body corporate and includes a firm or other association of individuals; and
- (b) 'director' in relation to a firm means a partner in the firm.

### **31. Fines when realized to be paid to the Authority.-**

All fines realised in connection with prosecutions under this Act shall be paid to the Authority.

### **32. Composition of Offences.-**

(1) Any offence made punishable by or under this Act may either before or after the institution of proceedings, be compounded-by the <sup>1</sup>[Vice Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act], or any officer authorised by him in that behalf by General or Special order, on such terms, including any term as regards payment of a composition fee, as the <sup>2</sup>[Vice Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act], or such officer may think fit

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

### **33. Power of the Authority to provide amenity or carry out development at cost of owner in the event of his default and the levy cess In certain cases.-**

(1) If the Authority, after holding a local inquiry or upon report from any of its officers or other information in its possession, is satisfied that any amenity in relation to any land in a development area has not been provided in relation to that land which, in the opinion of the Authority, ought to have been or ought to be provided, or that any

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<sup>1</sup> and <sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 28.

development of the land for which permission approval or sanction had been obtained under this Act or under any law, in force before the coming into force of this Act has not been carried out, it may, after affording the owner of the land or the person providing or responsible for providing the amenity a reasonable opportunity to show cause, by order require him to provide the amenity or carry out the development within such time as may be specified in the order.

(2) If any amenity is not provided or any such development is not carried out within the time specified in the order, then the Authority may itself provide the amenity to carry out the development or have it provided or carried out through such agency as it deems fit:

Provided that before taking action under this sub-section, the Authority shall afford a reasonable opportunity to the owner of the land or to the person providing or responsible for providing the amenity to show cause as to why such action should not be taken.

(3) All expenses incurred by the Authority or the agency employed by it in providing the amenity or carrying out the development together with interest at such rate as the State Government may by order fix from the date when a demand for the expenses is made until payment may be recovered by the Authority from the owner or the person providing or responsible for providing the amenity as arrears of land revenue, and no suit shall lie in the Civil Court for recovery of such expenses.

(4) Notwithstanding anything contained in the foregoing sub-sections where the Authority on the written representation by so many of the owners of any land in a development area as represent not less than one and half of the area, of that land, is satisfied that any amenity in relation to such land has not been provided, which in the opinion of the Authority ought to have been or ought to be provided, or that any development of that land for which permission, approval or sanction had been obtained under this Act or under any law in force before the commencement of this Act has not been carried out, it may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit, and recover the expenses by levy of cess from all the owners of the said land :

Provided that if the owners making the said representation contend that the amenity had been agreed to be provided or the development has been agreed to be carried out by a coloniser or co-operative housing society through or from whom the land was acquired by them, they shall file with the Authority a copy of such agreement, or of the deed of transfer or of the bye-laws of the society incorporating such agreement, and no action shall be taken by the Authority under this sub-section unless notice has been given to the coloniser or the society, as the case may be, to show cause why such action should not be taken:

Provided further that where the Authority is satisfied that the coloniser or the society has become defunct or is not traceable, no notice under the last preceding proviso need be issued.

(4-A) Where the authority provides any amenity in an area developed by it, the authority shall, till the responsibility for maintenance is assumed by the local authority as provided in Section 34, be entitled to recover, in the manner prescribed, from the owner of land or building, such charges therefor as may be fixed by the State Government, by a notified order, having regard to the expenses incurred for maintaining and continuing to provide such amenity.

(5) The cess referred to in Sub-section (4) shall be equivalent to the expenses incurred by the Authority or the agency employed by it in providing the amenity or carrying out the development, together with interest at such rate as the State Government may by order fix, from the date of completion of the work until payment, and shall be assessed and levied on all the owners of the land in proportion to the respective areas of land owned by them.

(6) The said cess shall be payable in such number of instalments, and each instalment shall be payable at such time and in such manner, as the Authority may fix and arrear of cess shall be recoverable as arrears be land revenue, and no suit shall lie in the Civil Court for recovery thereof.

(7) The expenses incurred by the Authority or the agency employed by it under this section shall be certified by the Authority; and such certificate, as also the assessment of the cess, if any under Sub-section (5), shall be final.

(8) If under any agreement between the owners of the land and the coloniser or the society referred to in sub-section (4) the responsibility for providing the amenity or carrying out the development rested with such coloniser or society, the cess payable under that sub-section by the owners shall be recoverable by them from the coloniser or the society, as the case may be.

#### **34. Power of Authority to require local authority to assume responsibilities in certain cases:-**

Where any area has been developed by the Authority, the Authority may require the local authority within whose local limits the area so developed is situated, to assume responsibility for the maintenance of the amenities which have been provided in the area by the Authority and for the provisions of the amenities which have not been provided by the Authority but which in its opinion should be provided in the area, on terms and conditions agreed upon between the Authority and that local Authority; and where such terms and conditions cannot be agreed upon, then on a reference of the matter to the State Government by the Authority, on terms and conditions settled by the Government in consultation with the local Authority.

#### **35. Power of Authority to levy betterment charges.-**

(1) Where in the opinion of the Authority, as a consequence of any development scheme having been executed by the Authority in any development area, the value of any property in that area which has been benefited by the development, has increased or will increase, the Authority shall be entitled to levy upon the owner of the property or any person having an interest therein a betterment charge in respect of the increase in value of the property resulting from the execution of the development:

Provided that no betterment charge shall be levied in respect of lands owned by Government:

Provided further that where any land belonging to Government has been granted by way of lease or licence by Government to any person, then that land and any building situated thereon shall be subject to a betterment charge under this section.

- (2) Such betterment charge shall be an amount-
- (i) in respect of any property situated in the township or colony, if any, developed or in other area developed or redeveloped, equal to one third of the amount, and
  - (ii) in respect of property situated outside such township, colony or other area, as aforesaid, not exceeding one-third of the amount,
- by which the value of the property on the completion of the execution of the development scheme, estimated as if the property were clear of buildings exceeds the value of the property prior to such execution, estimated in like manner.

### **36. Assessment of betterment charge by Authority-**

(1) When it appears to the Vice-Chairman that any particular development scheme is sufficiently advanced to enable the amount of the betterment charge to be determined, the Vice-Chairman may, by an order made in that behalf, declare that for the purpose of determining the betterment charge the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to the owner of the property or person having an interest therein that the Vice-Chairman proposes to assess the amount of the betterment charge in respect of the property under Section 34.

(2) The Vice-Chairman shall then assess the amount of betterment charge payable by the person concerned after giving such person an opportunity to be heard and such person shall, within three months from the date of receipt of the notice in writing of such assessment from the, Vice-Chairman inform the Vice-Chairman by a declaration in writing that he accepts the assessment or dissents from it.

(3) When the assessment proposed by the Vice-Chairman is accepted by the person concerned within the period specified in Sub-section (2), such assessment shall be final.

(4) If the person concerned dissents from the assessment or fails to give the Vice-Chairman the information required by Sub-section (2) within the period specified therein, the matter shall be determined by the Chairman and such determination shall not be questioned in any Court.

### **37. Finality of decision.-**

Except as provided in <sup>1</sup>[Section 7-B] every decision of the Chairman on appeal, and subject only to any decision on appeal (if It lies and is preferred), the order of the Vice-Chairman or other officer under Section 15, or Section 27, shall be final and shall not be questioned in any Court.

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 29.

### **<sup>1</sup>[37-A. Bar of jurisdiction of Civil Courts.**

(1) No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed of by any authority empowered by this Act under the rules or regulations made under this Act.

(2) No suit shall lie against the State Government or any State or Local Authority for any relief in respect of any matter covered by this Act.

(3) All suits, appeals, revisions, application for review and other incidental or ancillary proceedings including all proceedings under Order 39 of the First Schedule to the Code of Civil Procedure, 1908 (Act No. V of 1908) arising out of such suits, pending before any court subordinate to the High Court and all revisions arising out of interlocutory orders pending before the Courts subordinate to High Court, relating to any matter covered under this Act, on the date of commencement of this Act, shall stand transferred to the Chairman of the concerned Local Development Authority or the State Authority, as the case may be and Local Development Authority or the State Authority shall decide the cases in the same manner as if they were instituted before them under Sections 27 and/or 28 or Section 7-B of this Act respectively.

Provided that the Local Development Authority or the State Authority, as the case may be, subject to the provisions of Sections 27 and or 28 or Section 7-B of this Act respectively, shall commence the proceedings from the stage at which the case stood transferred as aforesaid with any pleadings presented or any oral or documentary evidence produced in the court as if the same were presented or produced before them.]

### **38. Payment of betterment charge.-**

(1) The betterment charge levied under this Act shall be payable in such number of installments, and each installment shall be payable at such time and in such manner, as may be fixed by bye-laws made in that behalf.

(2) Any arrear of betterment charge shall be recoverable as an arrear of land revenue, and no suit shall lie in the civil court for recovery of such arrear.

### **<sup>2</sup>[38-A. Power of Local Development Authority to levy land use conversion charge and city development charge –**

(1) Where in any development area the land use of a particular land is changed as a result of amendment of Master Plan or Zonal Development Plan under Section 13 on request of the land owner, the Local Development Authority shall be entitled to levy land use conversion charge on the owner of such land and in such manner and at such rates as may be prescribed :

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 30.

<sup>2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 31.

Provided that the land use conversion charge shall not be recovered during consideration of the application made for land use change, rather only such processing fee as prescribed by the local development authority to meet the expenses on examining the matter and inviting objections in the news papers, shall be deposited by the applicant along with application. Only after the application found finally acceptable, the land use conversion charge shall be recovered from the owner of land by the concerned Local Development Authority prior to final notification under sub section (4) of Section 13 of this Act :

Provided further that where the land use of a particular land is changed as a result of coming into operation of Master Plan or Zonal Development Plan, no land use conversion charge shall be levied upon the owner of such land.

(2) Where in any development area, a license has been granted to private developer for assembly and development of land, the Authority shall be entitled to levy city development charge on the private developer of such land and in such manner and at such rates as may be prescribed by the State Government.]

<sup>1</sup>[39. \*\*\*\*\*]

#### **39-A. Toll for amenities –**

The authority shall be entitled to charge and collect, toll for the use of approach roads and other amenities, at such rate and in such manner as may be notified by the State Government, from visitors, to such places of popular resort (including any ancient and historical monuments) within its development area as may be so notified :

Provided that -

- (a) the rate of toll per visitor, shall not exceed one thousand rupees;
- (b) the State Government may by notification, exempt any class or classes of visitors from the payment of the toll and may fix any day or days on which no toll shall be chargeable.

#### <sup>2</sup>[39-B. License for Assembly and Development of Land –

The Local Development Authority /State Authority may grant license to private developer for assembly and development of land within its development area in such manner and for such period as may be prescribed.]

#### **40. Mode of Recovery of moneys due to Authority.-**

Any money due to an Authority on account of any fee, or charges, or from disposal of land, building or any other property, movable or immovable, by way of rent, premium, profit or hire purchase installment, may, without prejudice to the right of recovery by any other mode of recovery provided by or under this Act or any other law for the time being in force, be realised-

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<sup>1</sup> Repealed by Uttarakhand (U.P. Urban Planning & Development Act, 1973) Amendment Act, 2009 (Uttarakhand Act No. 7 of 2010)

<sup>2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 32

- (a) either, as arrears of land revenue upon a certificate of the amount due sent by the Authority to the collector, or
- (b) by attachment and sale of property in the manner provided in Sections 504,505,506,507,508,509,510,512,513 and 514 of the Uttar Pradesh Municipal Corporation, 1959 (2 of 1959); and such provisions of the said Act shall mutatis mutandis apply to recovery of dues of an Authority as they apply to recovery of a tax due to a Municipal Corporation, so however, that references in the aforesaid section of the said Adhiniyam to 'Mukhya Nagar Adhikari', 'Corporation' and 'Executive Committee' shall be construed as references to 'Vice Chairman, 'Development Authority' and 'Chairman' respectively:

Provided that no two or more modes of recovery shall be commenced or continued simultaneously.

#### **41. Control by State Government.-**

(1) The <sup>1</sup>[State Authority or the Local Development Authority, as the case may be], the Chairman or the Vice-Chairman shall carry out such directions as may be issued to it from time to time by the State Government for the efficient administration of this Act.

<sup>2</sup>[(2) If in, or in connection with, the exercise of its powers and discharge of its functions by the State Authority, Local Authority, the Chairman or the Vice-Chairman of the Local Development Authority or Local Development Authority created under sub section (1-A) of Section 4 under this Act any dispute arises between the State Authority, Local Authority, and even between the two Local Authorities or their respective Chairman or the Vice-Chairman or any other person / officer appointed/ designated under sub section (1-A) of Section 4 for the Local Development Authorities created under sub section (1-A) of Section 4 of this Act, the decision of the State Government on such dispute shall be final.]

<sup>3</sup>[(3) \*\*\*\*\*]

(4) Every order of the State Government made in exercise of the powers conferred by this Act shall be final and shall not be called in question in any court.

#### **42. Returns and Inspections.-**

(1) The Authority shall furnish to the State Government such reports, returns and other information as that Government may from time to time require.

(2) Without prejudice to the provisions of Sub-section (1), the State Government or any officer authorised by the State Government in that behalf, may call reports, returns

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<sup>1</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 33 (1)

<sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 33 (2)

<sup>3</sup> Repealed by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 33 (3)

and other information from the Authority, or the local authority concerned in regard to the implementation of the Master Plan.

(3) Any person authorised by the State Government or the officer referred to in Sub-section (2) may enter into or upon any land with or without assistants or workmen for ascertaining whether the provisions of the Master Plan are being or have been implemented, or whether the development is being or has been carried out in accordance with such plan.

(4) No such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building.

### **43. Services, of notices. etc.-**

(1) All notices, orders and other documents required by this Act or any rule or regulation made thereunder to be served upon any person shall save as otherwise provided in this Act or such rule or regulation be deemed to be duly served-

(a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered Office or at its principal office or place of business and is either-

(i) sent by registered post, or

(ii) delivered at the registered office or at the principal office or place of business of the company;

(b) where the person to be served is a firm, if the document is addressed to the firm at its principal place of business, identifying it by the name or style under which its business is carried on, and is either-

(i) sent by registered post, or

(ii) delivered at the said place of business;

(c) where the person to be served is a public body or a corporation or society or other body, if the document is addressed to the secretary, treasurer or other chief officer of that body, corporation or society at its principal office, and is either-

(i) sent by registered post. Or

(ii) delivered at that office;

(d) in any other case, if the document is addressed to the person to be served and-

(i) is given or tendered to him, or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, if within the development area or is given or tendered to some adult member of his family or is affixed on some conspicuous part of land or building to which it relates, or

(iii) is sent by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed 'the owner' or 'the occupier', as the case may be, of that land or building (naming, that land or building) without further name or description, and shall be deemed to be duly served-

- (a) if the document so addressed is sent or delivered in accordance with Clause (d) of Sub-section (1), or
  - (b) If the document so addressed or a copy thereof so addressed, is delivered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.
- (3) Where a document is served on a firm in accordance with Clause (b) of Sub-section (1), the document shall be deemed to be served on each partner of that firm.
- (4) For the purpose of enabling any document to be served on the owner of any property, the secretary to the Authority, may by notice in writing require the occupier (if any) of the property to state the name and address of the owner thereof.
- (5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family be deemed to be service upon the minor.
- (6) A servant is not a member of the family within the meaning of this section.

#### **44. Public notice how to be made known-**

Every public notice given under this Act shall be in writing over the signature of the secretary to the Authority and shall be widely made known in the locality to be affected thereby affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by advertisement in a newspaper having circulation in the locality or by two or more of these means, and by any other means that the Secretary may think fit.

#### **45. Notices, etc., to fix reasonable time-**

Where any notice, order or other document issued or made under this Act or any rule or regulation made there under requires anything to be done for the doing of which no time is fixed in this Act or regulation, the notice, order or other document shall specify a reasonable time for doing the same.

#### **46. Authentication of orders and documents of Authority-**

All permissions, orders, decisions, notices and other documents of the Authority shall be authenticated by the signature of the Secretary to the Authority or any other officer authorised by the Authority in that behalf.

#### **<sup>1</sup>[46-A. Authentication of orders and instruments of the State Authority –**

All permissions, orders, decisions, notices and other documents of the State Authority shall be authenticated by the signatures of the Chief Administrator or any other officer authorized by the Chief Administrator of the State Authority in that behalf.]

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 34.

#### **47. Members and Officers to be public servants.-**

Every member and every officer and other employee of the Authority shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

#### **<sup>1</sup>[47-A. Members and officers of the State Authority to be public servants –**

Every member, every officer and every employee of the State Authority shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.]

#### **48. Jurisdiction of Courts –**

No Court inferior to that Magistrate of the first class shall try an offence punishable under <sup>2</sup>[section 26 of] Act.

#### **49. Sanction of prosecution-**

No prosecution for any offence punishable under this Act shall be instituted except with the sanction of the Vice-Chairman of the Authority or any officer authorised by him in that behalf.

#### **50. Protection of action taken in good faith-**

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made there under.

#### **51. Power to delegate-**

(1) The State Government may by general or special order, direct that any power exercisable by it under this Act except the power to make rules, may also be exercised by such officer in such cases and subject to such conditions if any, as may be specified therein.

(2) The Authority, may by general or special order, direct that any power exercisable by it under this Act except the power to make regulations or bye-laws, 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.

(3) The Vice-Chairman of the Authority may by general or special order direct that any power exercisable by him under this Act may also be exercised by such officer of the Authority in such cases and subject to such conditions, if any, as may be specified therein.

<sup>3</sup>[(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

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 35.

<sup>2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 36.

<sup>3</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 37

Addl. chief Administrator of the State Authority in such cases and subject to such conditions, if any, as may be specified therein.]

## **52. Savings-**

Nothing in this Act shall apply to-

- (a) the carrying out of works for the maintenance, improvement or other alterations of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
- (b) the carrying out by any local authority or by any department of Government of any works for the purpose of inspecting repairing or renewing any drains, sewers, mains, pipes cables or other apparatus including the breaking open of any street or other land for that purpose;
- (c) the operational construction, (including maintenance, development and new construction), by or on behalf of a department of the Central Government;
- (d) the erection of a building, not being a dwelling house, if such building is required for the purposes subservient to agriculture;
- (e) the excavations (including wells) made in the ordinary course of agricultural operations; and
- (f) the construction of unmetalled road intended to give access to land solely for agricultural purposes.

## **53. Exemption-**

Notwithstanding anything contained In this Act, the State Government may by notification in the Gazette exempt, subject to such conditions and restrictions, if any, as may be specified in such notification any land or building or class of lands or buildings from all or any of the provisions of this Act or rules or regulations made thereunder.

## **54. Plans to stand modified in certain cases-**

- (1) Where any land situated in the development area is required by the Master Plan or a zonal development plan to be kept as an open space or unbuilt upon or is designated in any such plan as subject to compulsory acquisition, then, if at the expiration of ten years from the date of coming into operation of the plan under Section 12 or where such land has been so required or designated by any amendment of such plan, from the date of coming into operation of such amendment, under Sub-section (4) of Section 13, the land is not compulsorily acquired, the owner of land may serve on the State Government a notice requiring his interest in the land to be so acquired.
- (2) If the State Government fails to acquire such land within a period of six months from the date of the notice, the Master Plan or, as the case may be, the Zonal Development Plan shall have effect after the expiration of the said six months, as if that land were not required to be kept as an open space or unbuilt upon or were not designated as subject to compulsory acquisition.

## **55. Power to make rules-**

- (1) The State Government <sup>1</sup>[or State Authority] may, by notification in the Gazette, make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely-
  - (a) the levy of fee on a memorandum of appeal under Sub-section (5) of Section 15 or under Sub-section (2) of Section 27;
  - (b) the procedure to be followed by the Chairman in the determination of betterment charge, and the powers that it shall have for that purpose;
  - (c) any other matter which has to be, or may be, prescribed by rules.

<sup>2</sup>[(3) \*\*\*\*\*]

## **56. Power to make regulations-**

- (1) <sup>3</sup> [State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be] may, with the previous approval of the State Government, make regulations not inconsistent with this Act and the rules made there under, for the administration of the affairs of the <sup>4</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be].
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely-
  - (a) the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of members necessary to form a quorum there at;
  - (b) the powers and duties of the Secretary and Chief Accounts Officer of the Authority:
  - <sup>5</sup>[(bb) The powers and duties of the Chief Administrator, Addl. Chief Administrator and Finance Controller of the State Authority.
  - (c) the salaries, allowance and conditions of service of the Secretary, Chief Accounts Officer and other officers and employees:

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 38 (1)

<sup>2</sup> Repealed by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 38 (2)

<sup>3,4</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 39 (1)

<sup>5</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 39 (2).

- <sup>1</sup> [(cc). The salaries, allowances and conditions of service of the Chief Administrator, Addl. Chief Administrator, Finance Controller, and other officers and employees.]
- (d) the procedure for carrying out the functions of the Authority under Chapter III and IV.
- (e) the form of register of application for permission and the particulars to be contained in such register;
- (f) the management of the properties of the <sup>2</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be].
- (g) the fee to be paid on an application for permission under Sub- section (1) of Section 15;
- (h) the fee to be paid for inspection or obtaining copies of documents and maps;
- (i) any other matter which has to be or may be prescribed by regulations.
- (3) Until an Authority is established for an area under this Act, any regulation which may be made under Sub-section (1) may be made by the State Government and any regulation so made may be altered or by rescinded by the Authority concerned in exercise of its power under sub- section (1).

### **57. Power to make bye-laws-**

The <sup>3</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be], may, with the previous approval of the State Government, make bye-laws consistent with this Act and the rules made thereunder for carrying out the purposes in this Act in respect of any matter affecting the general public, and without prejudice to the generality of this power, such bye-laws may provide for-

- (a) the form in which any application for permission under Sub-section(1) of Section 15 shall be made and the particulars to be furnished in such application;
- (b) the terms and conditions referred to in Section 16, subject to which the user of lands and buildings in contravention of plans may be continued;
- (bb) the guiding principles for composition of offences under Section 32;
- (c) the time and manner of payment of betterment charge under Section 30;
- (d) the grant of licences to architects, town planning engineers, surveyors, draftsmen for the preparation of building plans or water supply, drainage and sewerage plans and the fees to be paid for the grant of such licence;
- (e) for so long as the Zonal Development Plans are not prepared under Section 9, the matter specified in Clause (d) of Sub- section (2) of that section;

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 39 (3)

<sup>2</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 39 (4).

<sup>3</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 40.

- (ee) the definition of an arterial road and the colour scheme and other specifications according to which the facade of buildings abutting such road shall be repaired, white-washed, colour washed or painted under Section 12-A;
- (f) any other matter which has to be or may be prescribed by bye-laws.

## **58. Dissolution of Authority.-**

(1) Where the State Government is satisfied that the purposes for which the <sup>1</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be] was established under this Act have been substantially achieved so as to render the continued existence of the <sup>2</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be] in the opinion of the State Government unnecessary, that Government may by notification in the Gazette, declare that the <sup>3</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be] shall be dissolved with effect from such date as may be specified in the notification; and the <sup>4</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be] shall be deemed to be dissolved accordingly.

(2) From the said date-

- (a) all properties, funds and dues which are vested in or realisable by, the <sup>5</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be] shall vest in, or be realisable by, the State Government;
- (b) all nazul lands placed at the disposal of the <sup>6</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be] shall revert to the State Government;
- (c) all liabilities which are enforceable against the <sup>7</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be] shall be enforceable against the State Government; and
- (d) for the purpose of carrying out any development which has not been fully carried out by the <sup>8</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be] and for the purposes of realising properties, funds and dues referred to in Clause (a) the functions of the <sup>9</sup>[State Authority or the Local Development Authority or the Local Development Authority created under sub section (1-A) of Section 4 of this Act, as the case may be] shall be discharged by the State Government.

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<sup>1,2,3,4,5</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 41

<sup>6,7,8,9</sup> Substituted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 41

## 59. Repeal etc. and Savings-

(1) (a) The operation of Clause (c) of Section 5, Sections 54, 55 and 56, Clause (xxxiii) of Section 114, Sub-section (3) of Section 117, Clause (c) of Sub-section (1) of Section 119, Section 191, Sections 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329 and 333, Clauses (a) and (b) of Sub-section (1) of Section 334, Sections 335, 336, Chapter XIV of the Uttar Pradesh Municipal Corporation Act, 1959, Sections 178, 179, 180, 180-A, 181, 182, 183, 184, 185, 186, 203, 204, 205, 206, 207, 208, 209, 210 and 222 of the U. P. Municipalities Act, 1916 (or the said sections as extended under Section 338 thereof or under Section 38 of the United Provinces Town Areas Act, 1914), or as the, case may be, of Sections 162 to 171 of the The U.P. Kshetra Panchayat Zila Panchayat Adhiniyam, 1961 and of the Uttar Pradesh (Regulation of Building Operations) Act, 1958 and the Uttar Pradesh Avas- Evam Vikas Parishad Adhiniyam, 1965, (except in relation to those housing or Improvement schemes which have either been notified under Section 32 of Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965 before the declaration of the area comprised therein as development area or which having been notified under Section 28 of the said Adhiniyam before the said declarations are thereafter approved by the State Government for continuance under the said Adhiniyam or which are initiated after such declaration with the approval of the State Government, hereinafter in this section referred to as Special Avas Evam Vikas Parishad Schemes] shall in respect of a development area remain suspended and Sub-section (3) of Section 139 of the Uttar Pradesh Municipal Corporation Act, 1959 shall have effect as if the requirement as to constitution of a Development Fund were suspended with effect from the date of constitution of the Authority for that area and until the dissolution of such Authority, and the provisions of Sections 6 and 24 of the United Provinces General Clauses Act 1904, shall apply, in relation to such suspension as if the suspension amounted to repeal of the said enactment by this Act, and in particular, all proceedings relating to acquisition of land and interest in land for improvement schemes under the said enactment pending immediately before such suspension before any court, tribunal or authority may be continued and concluded in accordance with the provisions of the said enactment (which shall mutatis mutandis apply) as if those provisions were not suspended and the powers, for doing anything which could but for such suspension of the Uttar Pradesh (Regulation of Building Operations) Act, 1958, be done by the Prescribed Authority and controlling authority and which can, after such suspension be done by virtue of the application of Section 6 of the Uttar Pradesh General Clause Act, 1904, shall vest in the Vice-Chairman and the Chairman respectively.

<sup>1</sup>[(aa). The operation of The U.P. Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) (as applicable in the State of Uttarakhand) in relation to the area declared as a Development Area under Section 3 of this Act, shall stand repealed as from the date of the declaration of development area and the Special Area Development Authority constituted under The U.P. Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) for that area as from that date, shall stand dissolved.]

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (1)

(b) The operation of the provisions suspended <sup>1</sup>[and repealed] by virtue of Clause (a) <sup>2</sup>[and clause (aa)] shall revive upon the dissolution of the Authority under Section 58, and the provisions of Sections 6 and 24 of the United Provinces General Clauses Act, 1904 shall apply in relation to the cesser of application of the corresponding provisions of this Act as if such cesser amounted to a repeal of these provisions of this Act by an <sup>3</sup>[Uttarakhand] Act.

(c) Without prejudice to the generality of the provisions of Clauses (a) <sup>4</sup>[and clause (aa)] and (b), any bye-laws, directions or regulations under the U.P. Municipalities Act, 1916 or the Uttar Pradesh (Regulation of Building Operations) Act, 1958 or the U.P. Municipal Corporation Act, 1959 <sup>5</sup>[or the Uttar Pradesh Special Area Development Area, Act, 1986] as the case may be, and in force on the date immediately before the date of commencement of this Act, shall, insofar as they are not inconsistent with the provisions of this Act, continue in force, until altered, repealed or amended by any competent authority under this Act.

<sup>6</sup>[(d) All Development Authorities constituted under the present Act, before the commencement of this Act, shall continue to exist and will be deemed to be Local Development Authorities as if constituted by this Act, and any act/ function discharged by them in such capacity shall be deemed to have been done or taken under this Act.]

(2) Where any area for which an Improvement Trust constituted under the United Provinces Town Improvement Act, 1919 is in existence is declared to be a development area under Section 3, the said Act as well as the Uttar Pradesh local Bodies (Appointment of Administrator) Act, 1961, if applicable, shall, in relation to such area, stand repealed as from the date of the constitution of the Development Authority for that area, and the Improvement Trust shall as from that date stand dissolved.

(3) On and from the constitution of the Development Authority in relation to development area which includes the whole of a city as defined in the U.P. Municipal Corporation Act, 1959, all posts borne on the establishment of the Municipal Corporation of that city exclusively in connection with its activities under Chapter

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (2).

<sup>2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (3)

<sup>3</sup> Substituted vide adaptation and modification order 2002, vide Notification No. 1081 A/S.V.-2002-238/S.V./2002 dated 8.11.2002 and further Subs. by Notification No. 504/v/-A-2007-08(Awas)/2007, Dated 12/03/2007

<sup>4</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (3).

<sup>5</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (4)

<sup>6</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (5).

XIV of the said Adhiniyam or under the Uttar Pradesh (Regulation of Building Operations) Act, 1958, <sup>1</sup>[or the Uttar Pradesh Special Area Development Authorities Act, 1986] immediately before the date of the constitution of the Development Authority, not being a post governed by the Uttar Pradesh Palika (Centralized Services) Rules, 1956 (hereinafter in this, section referred to as the Centralized Services), shall, on and from such date, stand transferred to the Development Authority with such designations as the Authority may determine and officers and other employees who are not members of any Centralized Services, serving under the Municipal Corporation of that City not exceeding the number of posts so transferred shall be selected in accordance with such directions as may be issued by the State Government for being appointed on the said posts and on such selection shall stand transferred to and become officers and other employees of the Development Authority and shall as such hold office by the same tenure, at the same remuneration and on the same terms and conditions of service as they would have held the same if the Authority had not been constituted, and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Authority:

Provided that any service rendered under the Municipal Corporation <sup>2</sup>[or the Uttar Pradesh Special Area Development Authorities Act, 1986 or in relations to the functions specified under The U.P. Special Area Development Authorities Act, 1986] by any such officer or other employee before the constitution of the Authority shall be deemed to be service rendered under the Authority:

Provided further that the Authority may employ any such officer or other employee in the discharge of such functions under this Act as it may think proper, and every such officer or other employee shall discharge those functions accordingly.

(4) On and from the date of the constitution of the Development Authority in relation to a development area which includes the whole of a city as defined in the U.P. Municipal Corporation Act, 1959 all posts governed by the Centralized Services which were borne on the establishment of the Municipal Corporation <sup>3</sup>[or the Special Area Development Authority] of that city exclusively in connection with Its said activities immediately before the date of constitution of the Development Authority shall, on and from such date, stand transferred to the Development Authority with such designations as the State Government may determine, but all such posts shall continue to be filled by members of the Centralized Services, as they would have been filled had they not been so transferred to the Authority, and the said Adhiniyam and the rules relating to the Centralized Services shall be amended accordingly.

(5) Every officer and other employee serving under an Improvement Trust referred to in Sub-section (2) immediately before the date of the constitution of the Development Authority shall, on and from such date, be transferred to and become an officer or other employee of the Development Authority with such designations as the Authority may determine and shall hold office by the same tenure, at the same

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (6)

<sup>2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (7).

<sup>3</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (8).

remuneration and on the same terms and conditions of service as he would have held the same if the Authority had not been constituted, and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by the Authority:

Provided that any service rendered under the Trust by any such officer or other employee before the constitution of the Authority shall be deemed to be service rendered under the Authority:

Provided further that the Authority may employ any such officer or other employee in the discharge of such functions under this Act as it may think proper, and every such officer or other employee shall discharge those functions accordingly.

- (6) Notwithstanding the provisions of Sub-sections (1) and (2) –
- (a) anything done or any action taken (including any notification issued or order or scheme made or permission granted) under any of the enactments referred to in Sub-sections (1) and (2) shall, so far as it is not inconsistent with the provisions of the Act continue in force and be deemed to have been done or taken under the provisions of this Act unless and until it is superseded by anything done or any action taken under the provisions this Act;
  - (b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for any local authority constituted under any enactment referred to in sub-sections (1) and (2) in relation exclusively to the performance of functions assigned to Development Authority by this Act shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Development Authority concerned;
  - (c) all properties, movable and immovable, vested in an Improvement Trust referred to in sub-section (2) shall vest in the Development Authority concerned, and all properties movable and immovable vested in any other local authority constituted under any enactment referred to in sub-section (1) in relation exclusively to the performance of functions assigned to the Development Authority by this Act shall vest in the Development Authority concerned;
  - (d) all rents, fees and other sums of money due to an Improvement Trust referred to in sub-section (2) or in relation exclusively to the performance of functions assigned to the Development Authority by this Act shall be deemed to be due to the Development Authority;
  - (e) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by, for or against any authority appointed or constituted under any enactment referred to in sub-section (1) or sub-section (2) in relation the performance of functions assigned to the Development Authority by this Act, may be continued or instituted by, for or against the Development Authority;
  - (f) all appeals under Sub-section(2) of Section 15 of the Uttar Pradesh (Regulations of Building Operations) Act, 1958 <sup>1</sup>[and all appeals under the

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (9).

U.P. Special Area Development Authorities Act, 1986] in relation to an area declared under this Act as a Development area, pending before the Controlling Authority on the date of such declaration shall stand transferred to the Chairman and the decision of the Chairman shall be final and all such appeals which were addressed to the Controlling Authority and which were entertained by the Chairman after the said declaration shall be deemed to have been preferred to the Chairman and the decision of the Chairman shall be final.

*Explanation.-* For the purposes of this sub-section, the Development Fund referred to in sub-section (3) of Section 139 of the Uttar Pradesh Municipal Corporation Act, 1959 <sup>1</sup>[or under the provisions of the Uttar Pradesh Special Area Development Authorities Act, 1986] and all properties created out of that fund, and all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Municipal Corporation <sup>2</sup>[or the Special Area Development Authority] in relation to such properties or in relation to the functions specified in Chapter XIV of the said Adhiniyam <sup>3</sup>[or the U.P. Special Area Development Authorities Act, 1986 or in relations to the functions specified under the U.P. Special Area Development Authorities Act, 1986] shall be deemed to relate to the performance of functions assigned to the Development Authority by this Act and Clauses (a), (b),(c) (d) and (e) shall apply accordingly.

(7) If any dispute arises between any Local Authority or a Development Authority whether for purposes of Clauses (b), (c) and (d) of Sub-section (6) any debt, obligation or liability was incurred or any contract was entered into or anything was engaged to be done by, with or for any local authority, or any property vested in any local authority, or any rent, fee or other sum was due to any local authority, in relation exclusively to the performance of functions assigned by this Act to the Development Authority it shall be referred to the State Government whose decision shall be final and shall not be questioned in any Court.

(8) If any question arises whether for the purpose of sub-section (3) any officer or other employee of the Municipal Corporation concerned <sup>4</sup>[or the Special Area Development Authority] was immediately before the date of constitution of the Development Authority employed exclusively in connection with the performance of functions under Chapter XIV of the Uttar Pradesh Municipal Corporation Act, 1959 <sup>5</sup>[or the U.P. Special Area Development Authorities Act, 1986] in the area for which the Development Authority is constituted, it shall be referred to the State Government, whose decision shall be final and shall not be questioned in any Court.

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<sup>1,2,3</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (10).

<sup>4,5</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (11).

(9) Nothing in sub-sections (3) and (4) shall apply to an officer or other employee of a Municipal Corporation or an Improvement Trust, <sup>1</sup>[or the Special Area Development Authority] as the case may be, who within one month from the date of the constitution of the Development Authority concerned intimates the Corporation, or Trust <sup>2</sup>[or the State Government] of his option not to become an employee of the Development Authority, and on receipt of such intimation by that body, his employment there under shall stand immediately determined, and his post under that body shall stand abolished and he shall be entitled to receive from that body compensation –

- (a) if he was employed immediately before the date of the constitution of the Development Authority, in a permanent capacity, equivalent to three month's salary;
- (b) if he was employed immediately before the date of the constitution of the Development Authority in a temporary capacity, equivalent to one month's salary.

*Explanation-* In this sub-section, the expression 'salary' includes Dearness Allowance, Special Pay or any other like allowance, periodical allowance or pay.

(10) Notwithstanding anything contained in the U.P. Industrial Disputes Act, 1947 or in any other law, for the time being in force, the transfer of services of any officer or the employee to the Development Authority under sub-section (3) or sub-section (5) shall not entitle him to any compensation under that Act or such other law, and no such claim shall be entertained by any Court, Tribunal or Authority.

(11) Notwithstanding anything contained in sub-sections (3) and (5) no appointment made or promotion, increment in salary, pension, allowance or any other benefit granted to any person after the commencement of this Act and before the date of constitution of the Development Authority which in the opinion of the Development Authority would not ordinarily have been made or granted or would not ordinarily have been admissible under the terms and conditions of service in force prior to the commencement of this Act shall have effect or be payable or claimable from the Development Authority or from any provident, pension or other fund or from any authority administering the fund unless the State Government has, by general or special order, confirmed the appointment, promotion or increment or has directed the continued grant of the pension, allowance or other benefit, as the case may be.

(12) For the persons who immediately before the date of constitution of the Development Authority were trustees of any pension, provident, gratuity or other like fund constituted for the officers and other employees referred to sub-section (3) or sub-section (5), other than trustees nominated by or under any law, there shall be substituted as trustees such persons as the State Government may by general or special order, specify.

(13) For the purposes of Clauses (b),(c),(d)and (e) of sub-section (6) all the functions of a Municipal Corporation under Chapter XIV of the U. P. Municipal Corporation Act, 1959 and all the functions of the Uttar Pradesh Avas Evam Vikas Parishad under the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965,

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<sup>1,2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (12)

other than those related to any Special Avas Parishad Schemes <sup>1</sup>[and all the functions under the U.P. Special Area Development Authorities Act, 1986] shall be deemed to be functions assigned to the Development Authority by this Act.

(14) Notwithstanding anything contained in Section 365 of the Uttar Pradesh Municipal Corporations Act, 1959, all acquisition of land and interest in land for an improvement scheme, the functions in respect of which are to be deemed as functions assigned to the Development Authority under Sub-section (13) shall be completed at least up to the stage of making awards on or before December 31, 1982.

<sup>2</sup>[ (15) No act / acts or proceedings/ functions of the Development Authorities in the State of Uttarakhand constituted under the U. P Urban Planning and Development Act, 1973, done or performed before the commencement of this Amendment Act, so far as they are not inconsistent with the provisions of this act, shall be invalidated after the commencement of this Amendment Act, and all acts and functions performed by them before the commencement of this act so far as they are not inconsistent with the provisions of this act shall be deemed to have been done or performed under the provisions of this Act.]

## **60. Repeal and savings –**

(1) The Uttar Pradesh Urban Planning and Development Ordinance, 1973 (U.P. Ordinance 7 of 1973), 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 this Act, as if this Act had commenced on the 12th day of June, 1973.

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<sup>1</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (13)

<sup>2</sup> Inserted by Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013, Uttarakhand Act No. 25 of 2013, vide amendment No. 42 (14)