

**Jammu And Kashmir Natural Calamities Destroyed Areas  
Improvement Act, 2011**

**38 of 2011**

**[03 February 1955]**

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**[03 February 1955]**

An Act for improvement of towns, villages or other areas destroyed by natural calamities in the State.

Whereas it is expedient to make provision for enabling the Government to make improvement of towns, villages and other areas in the State which may be destroyed wholly or partly by fire, flood, earthquake or other such natural calamity;

It is hereby enacted as follows :-

## **1. Short title, extent, commencement and application :-**

(1) This Act may be called the Jammu and Kashmir Natural Calamities Destroyed Areas Improvement Act, 2011.

(2) It shall extend to the whole of the State.

(3) It shall come into force from the date it is published in the Government Gazette but it shall also apply to such town, villages and other areas which would have been destroyed wholly or partly by fire, flood, earth-quake or other such calamity on or after 1st Baisakh, 2009.

## **2. Definitions :-**

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

(a) words and expressions not defined in this Act have the same meaning as in the <sup>1</sup>Jammu and Kashmir Municipal Act, 1998;

(b) owner includes the person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager or received for another person or for any religious or charitable purpose, the rents or profits of the property in connection with which the word is used;

(c) prescribed means prescribed by rules made under this Act;

<sup>2</sup>[(d) prescribed authority means an officer appointed by the Government as such for purposes of this Act.]

<sup>1</sup> Now Municipal Act, 2000.

<sup>2</sup> Clause (d) added by Act XI of 1968.

## **3. Improvement scheme :-**

(1) If a town, village or other area is destroyed, wholly or partly, by fire, flood, earth-quake or such other natural calamity and the Government are of the opinion that it is expedient and for the public advantage to control and provide for the future expansion, development or improvement of any such town, village or other area in the State, the Government may declare their intention to frame a scheme and such declaration shall be notified in the Government Gazette.

(2) The Government may, as soon as may be, after the publication of the notification under sub-section (1), frame and sanction a scheme and notify the sanction in the Government Gazette.

(3) Such a scheme shall show the method in which the town, village or other area is proposed to be developed or improved.

(4) A notification under sub-section (2) shall be conclusive evidence that the scheme has been duly made and sanctioned.

(5) The scheme shall have effect from the date of the publication of such notification :  
Provided that the execution of the scheme or any part thereof may be deferred until such time as may be fixed by the Government.

#### **4. Matters that may be dealt with in scheme :-**

A scheme may provide for all or any of the following matters :-

(a) the laying out or relaying out of land either vacant or already built upon as building sites or for any of the purposes mentioned in this section;

(b) the construction, diversion, extension, alteration, improvement or closure of streets, roads and communications;

(c) the construction, diversion, removal or demolition of buildings, bridges and other structures;

(d) the acquisition by purchase, exchange or otherwise of any land or other immovable property within the area included in the scheme whether required immediately or not;

(e) the re-distribution of boundaries and the reconstitution of the plots belonging to owners of property comprised in the scheme;

(f) the disposal by sale, exchange, lease or otherwise of land acquired or owned by the Government;

(g) transport facilities;

(h) water supply;

(i) lighting;

(j) drainage inclusive of sewerage and of surface drainage and sewerage disposal;

(k) the allotment or reservation of land for streets, roads, squares, houses, buildings for religious and charitable purposes, open spaces, gardens, recreation grounds, schools, markets, shops, factories, hospitals, dispensaries, Government and municipal buildings and public purposes of all kinds;

(l) construction of houses;

(m) the preservation of objects and buildings of archaeological or historic interest or of natural beauty or actually used for religious purposes or regarded by the public with special religious veneration;

(n) the imposition of conditions and restrictions in regard to the character, number, architectural features and height of buildings allowed in specified areas and the purposes to which buildings or specified areas may or may not be appropriated and the provisions and maintenance of sufficient open space about buildings;

(o) the suspension, restriction or modification, so far as may be necessary for the proper carrying out of the scheme, of any provision in the Jammu and Kashmir<sup>1</sup> Municipal Act, 1998, the Town Area Act<sup>2</sup>, 1997 and the Jammu and Kashmir Village Panchayat Act<sup>3</sup>, 2008 or any rule, bye-law or Regulation made under the said Acts and in force in the area included in the scheme;

(p) any other matter for which, in the opinion of the Government, it is expedient to make provision with a view to the improvement of any area in question or the general efficiency of the scheme.

1 Now Municipal Act, 2000.

2 Now- Town Area Act. XVII of 2011

3 Now Panchayat.

#### **5. Permission to be taken for construction, etc., after publication of notification under section 3 :-**

After the publication of a notification under section 3, sub-section (1), no person shall erect or proceed with any building or work on or enter into or carry out a contract in respect of any land within the area included in the scheme unless he has obtained permission from the Government.

#### **6. Obligation on owners to comply with scheme after sanction :-**

From the date of the notification of the Government, sanctioning a scheme under sub-section (2) of section 3, all owners of land and buildings in the area affected by the scheme who propose to construct or reconstruct or in any way alter or add to buildings shall conform in every particular with the requirements of such scheme;

and no building shall be constructed or reconstructed in any area in which building is expressly forbidden in the scheme or which is reserved in the scheme for any propose incompatible with building.

## **7. Order of demolition of buildings :-**

**1**[(1) Where, on and after the day on which the scheme shall have effect,-

(a) the construction, re-construction or alteration of, or addition to , any building has been commenced or is being carried on or has been completed in contravention of the scheme; or

(b) the erection of any building or work has been commenced or carried on without the permission referred to in section 5 or in contravention of any condition subject to which such permission has been granted;

the prescribed authority may, in addition to any prosecution, that may be instituted under this Act, make an order directing that such construction, re-construction, alteration, addition or erection shall be demolished by the owner thereof within such period not exceeding thirty days, as may be specified in the order and on failure of the owner to comply with the order, the prescribed authority may cause the construction, re-construction, alteration, addition or erection, as the case may be, to be demolished and the expenses of such demolition shall be recovered from the owner, as arrears of land revenue:

Provided that no such order shall be made unless the owner has been given 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 Minister-in-Charge Rehabilitation Department against that order within thirty days from the date thereof; and such Minister 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 decision of the Minister-in-Charge Rehabilitation

Department on the appeal and subject to only such decision, the order under sub-section (1) shall be final and shall not be questioned in any Court.

1 Section 7 and 7-A substituted by Act XI of 1968 for section 7.

**7A.** Penalties :-

Any person who constructs, re constructs, alters or makes any addition to, any building in contravention of the scheme, or, erects or proceeds with any building or work without the permission referred to in section 5, shall be punishable with fine which may extend to one thousand rupees.]

**8.** Modification of Land Acquisition Act :-

Immovable property required for the purposes of the scheme shall be deemed to be land needed for a public purpose within the meaning of the Land Acquisition Act and may be acquired-

(a) under the said Act; or

(b) under the said Act as modified in the manner hereinafter provided in sections 10 and 11.

**9.** Notification under section 3 to have effect as declaration under sections 4 and 6 of the Land Acquisition Act :-

In cases falling under section 8 (b) a notification under sub-section (2) of section 3 shall, notwithstanding anything contained in the Land Acquisition Act, Svt. 1990, operate in respect of any Land required for the purposes of the scheme as a declaration under sections 4 and 6 of the said Act and no further declaration shall be necessary; but it shall not be incumbent on the Government or officer authorised in that behalf to take immediate steps for the acquisition for such land :

Provided that if the land is not acquired within three years from the date of notification it shall cease to have effect as a declaration under sections 4 and 6 of the Land Acquisition Act unless a fresh notification is issued.

**10. Section 15, 23 and 24 of the Land Acquisition Act superseded :-**

(1) The provisions of sections 15, 23 and 24 of the Land Acquisition Act, Svt. 1990, shall have no application in cases falling under clause (b) of section 8.

(2) In such cases the Collector and the Court shall, in determining the amount of compensation to be awarded for the land acquired, take into consideration-

(a) the market value of the land at the date of publication of the notification under section 3, sub-section (1); and

(b) the damage sustained by the person interested by reason of taking of any standing crops or trees which may be on the land at the time of the Collectors taking possession thereof.

But shall not take into consideration-

(a) the degree of urgency which has led to the acquisition or its compulsory character;

(b) any damage which is likely to be caused to the land acquired after the date of publication of the notification under section 3 by or in consequence of the use to which it will be put;

(c) any outlay or improvement on the land acquired, commenced, made or effected after the date of publication of the notification referred to in clause (b) unless they are covered by a permission obtained under section 5.

**11. Power of Government to make rules :-**

(1) The Government may make rules consistent with this Act either generally or for any particular area to carry out the purposes of this



Act and to delegate any of their powers under this Act to authorities subordinate to them and such rules may be incorporated in any scheme by a reference thereto in the scheme subject to any modifications that may be set out in the scheme.

(2) In making any rule, the Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

**11A.** Sanction Of Prosecution :-

<sup>1</sup>[No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Government.

1 Sections 11-A and 11-B inserted by Act XI of 1968.

**11B.** 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 made thereunder.

**12.** **Validity of action taken by the Government or by officers or authorities under the order of the Government in making improvements of towns of Anantnag, Shopian and Baramulla :-**

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, any acquisition, readjustment or re-allotment of land made, possession of land given, action taken, order issued, notifications published and powers conferred by the Government or by any officer or authority authorised by the Government in making improvement of the towns of Anantnag, Shopian and Baramulla consequent upon the devastation of a portion of the town of Anantnag by fire in Samvat years 2009 and 2010, the town of Shopian by fire in Samvat year 2009 and Mohalla Khanpura in Baramulla by fire in Samvat Year 2011, with respect to land and immovable property affected by fire and pertaining to persons whose immovable property was affected by fire shall be deemed to have been made, given, taken, issued, published and conferred under this Act and become final and shall

not be open to question in any Civil, Criminal or Revenue Court and no suit, prosecution or other legal proceeding shall lie against any person or authority for anything which is in good faith done or intended to be done as aforesaid.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done for the improvement of the town of Anantnag destroyed by fire in Samvat years 2009 and 2010, the town of Shopian devastated by fire in Samvat year 2009 or Mohalla Khanpura of Baramulla devastated by fire in Samvat year 2011.