

**Jharkhand Regularization Of Unauthorized/Deviated
Constructions Through Compounding In Urban Areas Act,
2011**

04 of 2012

CONTENTS

1. Short Title and Commencement
2. Definitions
3. Regularization Scheme
4. Regularization Rate
5. Application Procedure
6. Fee
7. Appeal to the Divisional Commissioner of the revenue division for Urban Local Bodies and Tribunal for Regional Development Authority
8. Unauthorized construction not regularized to be demolished
9. Safety Provision
10. Removal of difficulties
11. Penalties
12. Saving

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Regional Development Authority and other Local Bodies have been finding it difficult in their task of meeting the increasing demand for residential sites. There is high number of unauthorized constructions on urban land. Such constructions not only increase a tendency to violate rule of law, but also cause extra pressure on civic amenities and disrupt the process of town planning & management. The unauthorized constructions which already have come up over the years cannot possibly be demolished and any complete demolition would not only amount to wastage of national wealth but may, in some cases also create law and order problems. Keeping in view the above points, it is felt necessary to have a comprehensive legislation for regularization of certain types of unauthorized constructions.

1. Short Title and Commencement :-

(1) This Act may be called the Jharkhand Regularization of Unauthorized/Deviated Constructions through compounding in Urban Areas Act, 2011.

(2) It shall come into force on such date(s) as may be notified by the State Government and shall be valid till disposal of all applications received within 6 (six) months only from the date of its notification in official gazette or to the extent of maximum nine months.

2. Definitions :-

(1) In this Act, unless the context otherwise require,

(a) "Approved Plan" means building plan approved by Competent Authority empowered under the provision of Bihar & Orissa Municipalities Act, 1922; Patna Municipal Corporation Act, 1951 (as adopted by Jharkhand State), Regional Development Authority Act, Bihar Mineral Area Development Authority Act and other relevant Acts.

(b) "Application Fee" means the cost of the prescribed form for regularization of the building.

(c) "Building Fee" means the building fee described in the Prevailing building Bye-laws.

(d) "Compounding Fee" means the fee to be realized as described in section-4(A) of this act for regularization of the additional construction made beyond admissible standard under prevailing building Bye-laws.

(e) "Competent Authority" means a Competent Authority working

as an institution as notified by the State Government for the area concerned as Regional Development Authority or Urban Local Body throughout the state.

(f) "Construction" means any permanent structure, which includes any building whether of masonry, bricks, wood, mud, metal or any other construction materials whatsoever;

(g) "Deviation" means additional construction made beyond admissible standard under prevailing building Bye-laws.

(h) "Divisional Commissioner" means an administrative officer appointed by the State Government for a revenue division of the State;

(i) "Law" means any Act, Ordinance, Order, Bye-Laws, Rules, Notification, Planning or all documents which are relevant to this Act.

(j) "Master Plan" means defining the various zones under the jurisdiction of any Urban Local Body or Local Authority into which the development area of it is to 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 stage by which any such development shall be carried out and duly confirmed by the State Government.

(k) "Tribunal" means an appellate authority empowered by the State Government for this purpose.

(l) "Unauthorized Construction" means constructions undertaken in contravention of the approved plan and without any approval/sanction of the Competent Authority prior to 01-07-2011.

(m) "Urban Area" means

(i) Any area within the limits of Municipal Corporation, Municipal Council, Nagar Panchayat, Notified Area Committee, Municipality and any other agency/authority assigned such types of work by the Government under the Bihar & Orissa Municipalities Act, 1922; Patna Municipal Corporation Act, 1951 (as adopted by Jharkhand State), Ranchi Regional Development Authority Act, Mineral Area Development Authority Act and other relevant Acts as amended from time to time.

(ii) Any such area, as may be declared by the State Government by notification.

(n) "Pre Constructed Buildings" means buildings constructed prior to 01-01-1984 and onus of establishing the date of construction shall lie upon the land owner or his successors. Evidence shall include holding number, Municipal receipt etc.

Explanation - Urban area includes any such other area adjacent to the aforesaid area as the State Government may, on notification, specify.

(2) An unauthorized development shall not be regularized under Section-3 in the case where unauthorized development is carried out on any of the following lands namely;

(i) Land belonging to State/Central Government/PSUs, local authority or statutory body or land in respect of which a dispute exists in relation to its title or tenure.

(ii) Land allotted by the State Government, local authority or statutory body for a specific purpose;

(iii) Water courses as well as sources and water bodies like tank beds, river beds, catchment area of river, natural drainage and such other places;

(iv) Land under alignment of roads/streets/pathways indicated in development plan or a town planning scheme or under alignment of a public road or an internal road, of approved lay out;

(v) Areas earmarked for the purpose of obnoxious and hazardous industrial development.

(vi) Where construction has taken place on lands transferred in contravention of the provision of CNT/SPT Acts.

(vii) Where construction has been undertaken unauthorizedly violating the requirement of parking space for Group Housing Projects/commercial/residential complexes, shopping complexes, hotels and other such establishments. Building may be regularized under section-4(C) of this Act if required parking space is made available.

(viii) (a) Where construction has been undertaken over public/private road and on the alignment of the natural drainage channel identified by the Development Authority/ULB.

(b) All the construction other than individual residential buildings constructed on Public Open Space/Green Belt/Agriculture Land as defined by the competent authority.

(ix) Where construction has been undertaken violating the height limitation for the area notified by the Airport Authority, Archaeological Survey of India or the State Department concerned.

(x) Where the plot does not have any authenticated access/approach road to the plot.

3. Regularization Scheme :-

(i) "Pre constructed building" constructed prior to 01-01-1984 shall

be regularized on as it is basis provided it does not influence the Master Plan directly or indirectly.

(ii) The scheme is applicable for the area described under subsection-(1)(m) of section-2 of this Act.

(iii) The scheme shall be intended to provide one time opportunity to the concerned for regularization on payment of the fee, at the prescribed rate to be determined as mentioned below:

a. Regularization fee shall be payable on deviated part of the constructed building beyond the approved plan.

b. In the case of an "Unauthorised construction", building fee shall be payable for the admissible part of the building as per building Bye-laws whereas Regularization fee shall be realized for the deviated part of the building.

c. Maximum three storeyed building (including ground floor) of total built-up area upto 3000 sq.ft. shall be regularized on as it is basis (excluding front set back).

d. The prescribed maximum limit of deviation condonation of a building as in para-2 of Appendix-L of the prevailing building Bye-laws shall be enhanced by 10% in all prescribed building parameters for regularization in all types of building excluding the building mentioned in para-(iii)(c) of section-3 of the Act.

(iv) The unauthorized/deviated constructions undertaken after 01-07-2011 shall not be covered under this scheme.

(v) The application under this scheme shall be received only within a period of 06 (six) months from the date of its publication in the Jharkhand Gazette.

(vi) The buildings with unauthorized/deviated constructions once regularized under this scheme shall not be considered for further regularization. Those, who do not apply under the scheme within the stipulated time period shall not be eligible to avail the opportunity subsequently.

(vii) The scheme is applicable where the plot owner has a clear title deed and construction made is structurally safe and does not affect any public interest or interfere with any public authority.

(viii) The regularization of the building will not confirm any right, title and interest over the land.

4. Regularization Rate :-

(A) The Regularization fee shall be payable for regularization of the building constructed with deviation at the following rate:-

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Situations	Rate of compounding fee in Rs./Sq.ft.			
	Residential/Institutional	Group Housing	Commercial, Industrial	Central Govt., State Govt., Public Sector Undertaking
Deviated part of the building from sanctioned plan.	30	60	80	01
Unauthorized construction	40	75	100	01

(B) Maximum FAR permissible after regularization of the deviation of a building shall be one and half times of the admissible FAR.

(C) In case of buildings used for commercial/mixed occupancy having deficit in parking requirements as per the Building Regulations in force, the deficit parking shall be regularized on payment of Rs. 1000 per sq.ft. subject to fulfillment of parking requirement as prescribed in Building Bye-laws (Regulation). The fees collected so shall be used only for development of parking space at appropriated place by the authority/ULBs.

(D) The buildings under consideration for regularization "Structural Stability Certificate" issued by Architect/Engineers registered with the Council of Architecture, India/Institute of Engineers, India/licensed by Authority shall have to be submitted.

(E) The application for regularization of unauthorized construction shall be filled in and submitted to Competent Authority within stipulated time and same should be authenticated by as Architect/Engineers registered, with the Council of Architecture, India/Institute of Engineers, India/licensed by Authority.

5. Application Procedure :-

The intending Land owner/Promoter/Developer/Housing Society may apply in the prescribed format with the documents as described in building bye-laws alongwith his/her own photograph and photographs of two sides of the constructed building under this scheme within six months from the date of publication of this scheme in the Jharkhand Gazette.

6. Fee :-

(a) Application Fee:- The following fees shall be paid to Competent Authority for regularization of unauthorized construction

(i) (Applicant of Economically Weaker Section) In the case of huts and buildings not exceeding 25 sq. mtrs. - No fee

(ii) Thatched residential building upto 50 sq. mtrs. - Rs. 100

(iii) All other buildings as per building bye-laws - Rs. 200

(b) Building fee:- The applicant shall have to pay the building fee as per the rates prescribed in building Bye-laws,

(c) Regularization fee:- The application shall be accompanied by self-assessed Regularization fee as per the rates specified at para-(A) of section-4. The building fee and the Regularization fee shall be deposited with concerned authority in one installment only in the form of two separate bank drafts drawn in any nationalized bank.

7. Appeal to the Divisional Commissioner of the revenue division for Urban Local Bodies and Tribunal for Regional Development Authority :-

The Divisional Commissioner of the revenue division and Tribunal for Regional Development Authority may, on its own motion or on the application of any person filed within a period of 30 days, call for the examination of the order passed or proceeding recorded by the competent authority for the purpose of satisfying himself as to the legality or propriety of the order or the regularity of such proceeding and may pass such order within 60 days after receipt of application, in respect thereto as he may deem fit. The decision of the appellate authority shall be final.

8. Unauthorized construction not regularized to be demolished :-

All Unauthorized constructions which cannot be regularized/or not regularized under this Act shall be liable to be demolished and the persons who have made such constructions shall be evicted summarily in accordance with the relevant law of the State.

9. Safety Provision :-

In the case of buildings with no space for water storage tank and installation of fire pumps and no provision of alternate means of escape or no provision for fixed fire fighting installation the designated authority may in consultation with fire officers of municipal corporation/local bodies/authorities direct the person to provide such fire safety measures equipments as may be specified in the direction within a period of 6 months for the date of such direction.

In case of building where no arrangement for rain water harvesting system exists, the authorities while regularising shall direct the applicants to make such arrangement in maximum 6 months time frame.

10. Removal of difficulties :-

(i) Regularisation of unauthorised development under this Act shall be without prejudice to any civil or the criminal liabilities to which a person may be subjected to any law.

(ii) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification, make such provisions not inconsistent with the provisions of this Act, as appear to be necessary or expedient for removing the difficulty.

(iii) Provisions of this Act shall have effect, notwithstanding anything contrary to any law in force for time being.

11. Penalties :-

In the event of misrepresentation or/and suppression of facts, the regularization fee shall be forfeited and the permission for regularization so issued shall be revoked.

The matter shall be reported to the Council of Architecture, India/Institute of Engineers, India for cancellation of the license/registration of the concerned Architect/Engineer. They shall also be liable to maximum pay a penalty of Rs. 50,000/- (Fifty Thousand Only) failing, which they shall be liable to be punished with imprisonment for a term upto one month.

12. Saving :-

Notwithstanding such repeal, any order issued, approval, building regularization, proceeding and any other action taken in the exercise of power conferred by or under the said Act shall be deemed to have been done or taken in exercise of powers conferred by or under this act, as if, this act were enforce on the day on which such things was done or action taken.