

**Maharashtra Regional And Town Planning (Amendment)
Act, 2011**

35 OF 2014

[17 November 2014]

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An Act further to amend the Maharashtra Regional and Town Planning Act, 1966.

WHEREAS it is expedient further to amend the Maharashtra Regional and Town Planning Act, 1966, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-second Year of the Republic of India, as follows :-

1. Short title and commencement. :-

(2) This Act may be called the Maharashtra Regional and Town Planning (Amendment) Act, 2011.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 59 of Mah. XXXVII of 1966. :-

In section 59 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the principal Act"), in sub-section (1),-

(a) in clause (a), after the words " Development plan " the words " or in respect of any land which is likely to be in the course of development or which is already built upon " shall be inserted ;

(b) in clause (b), after sub-clause (ii), the following sub-clauses shall be inserted, namely:-

"(ii-a) the filling-up or reclamation of low-lying, swampy or unhealthy areas, or levelling-up of land;

(ii-b) layout of new streets or roads, construction, diversion, extension, alteration, improvement and closing up of streets and roads and discontinuance of communications ;

(ii-c) the construction, alteration and removal of buildings, bridges and other structures ;

(ii-d) the allotment or reservation of land for open spaces, gardens, recreation grounds, schools, markets, green-belts, dairies, transport facilities and public purposes of all kinds ;

(ii-e) drainage, inclusive of sewerage, surface or sub-soil drainage and sewage disposal;

(ii-f) lighting;

(ii-g) water supply;

{ii-h) the preservation of objects of historical or national interest or natural beauty, and of buildings actually used for religious purposes ;".

3. Amendment of section 61 of Mah. XXXVII of 1966. :-

In section 61 of the principal Act,-

(a) in sub-section (1), for the words " twelve months " the words " nine months " shall be substituted ;

(b) in sub-section (2), for the words " twelve months " the words " nine months " shall be substituted ;

(c) in sub-section (3),-

(i) the words " from time to time " shall be deleted ; (ii) for the words " six months " the words " three months " shall be substituted.

4. Amendment of section 64 of Mah. XXXVII of 1966. :-

In section 64 of the principal Act, after clause (g), the following clause shall be inserted, namely :-

"(g-1) the allotment of land from the total area covered under the scheme, to the extent of,-

(i) the reservation of land to the extent often per cent, of the total area covered under the scheme, for the purpose of providing housing accommodation to the members of economically weaker section and for lower income group and for persons dispossessed in the scheme ;

(ii) the allotment of land to the extent of forty per cent, of the total area covered under the scheme, in the aggregate, for any or all of the following purposes, namely :-

(A) for roads;

(B) for parks, playgrounds, garden and open spaces;

(C) social infrastructure such as schools, dispensary, fire brigade and public utility place ;

(D) sale by Planning Authority for residential, commercial or industrial use depending upon the nature of development:

Provided that,-

(1) the proceeds from the sale of land referred to in subclause (D) of this clause shall be used for the purpose of providing infrastructural facilities in the area covered under the scheme ;

(II) the use of land allotted for the purposes referred to in sub-clause (B) of this clause shall not be changed by variation of scheme for a purpose other than the purpose for which it is so allotted;

(III) the land allotted for the purposes referred to in sub-clause (C) of this clause may be allowed to be developed, without variation of scheme, for any public purpose not contrary to the intent of the provisions of the draft scheme."

5. Amendment of section 68 of Mah. XXXVII of 1966. :-

In section 68 of the principal Act, in sub-section (2),-

(a) for the words " six months " the words " three months " shall be substituted;

(b) the words " or not later than such further time as the State Government may extend " shall be deleted.

6. Insertion of section 68A in Mah. XXXVII of 1966. :-

After section 68 of the principal Act, the following section shall be inserted, namely :-

"68A. Effect of sanction of draft scheme.

(1) Where a draft scheme has been sanctioned by the State Government under sub-section (2) of section 68 (hereinafter in this section, referred to as " the sanctioned draft scheme "), all lands required by the Appropriate Authority for the purposes specified in sub-clauses (ii-b), (ii-e), (ii-f) and (ii-g) of clause (6) of sub-section (1) of section 59 shall vest absolutely in the Appropriate Authority free from all encumbrances.

(2) Nothing in sub-section (1) shall affect any right of the owner of the land vesting in the Appropriate Authority under that sub-section.

(3) The provisions of sections 89 and 90 shall, mutatis mutandis apply, to the sanctioned draft scheme as if,-

(i) sanctioned draft scheme were, a preliminary scheme, and

(ii) in sub-section (1) of section 89 and sub-section (1) of section 90, for the words " the day on which a final scheme comes into force " the words, brackets and figures "the date on which the draft scheme is sanctioned under sub-section (2) of section 68 " were substituted."

7. Amendment of section 72 of Mah. XXXVII of 1966. :-

In section 72 of the principal Act, for sub-sections (3) and (4), the following sub-sections shall be substituted, namely :-

" (3) The Arbitrator shall, after following the prescribed procedure, subdivide the town planning scheme into a preliminary scheme and a final scheme. The Arbitrator shall prepare preliminary scheme within nine months and as far as possible the final scheme within eighteen months, from the date of his appointment:

Provided that, the State Government may, by an order in writing, extend the said period by such further period not exceeding three months in the aggregate and any such order extending the period may be made so as to have retrospective effect:

Provided also that, where the town planning scheme pending before the Arbitrator on the date of commencement of the Maharashtra Regional and Town Planning (Amendment) Act, 2011, which has not been sub-divided into a preliminary scheme and a final scheme within the period so extended under the preceding proviso, the State Government may, by an order and for reasons to be recorded in writing, extend the period by such further period not

exceeding two years in aggregate from the date of expiry of the period so extended under the said proviso and any such order extending the period may be made so as to have retrospective effect.

(4) In the preliminary scheme, the Arbitrator shall,-

(i) after notice given by him in the prescribed manner, define, demarcate and decide the areas allotted to, or reserved for the public purpose or purposes of the Planning Authority, and also the final plots ;

(ii) after notice given by him in the prescribed manner, decide the person or persons to whom a final plot is to be allotted ; when such plot is to be allotted; and when such plot is to be allotted to persons in ownership in common, decide the shares of such persons ;

(iii) provide for the total or partial transfer of any right in an original plot to a final plot or provide for the transfer of any right in an original plot in accordance with the provisions of section 101;

(iv) determine the period within which the works provided in the scheme shall be completed by the Appropriate Authority.

(5) The Arbitrator shall submit the preliminary scheme so prepared to the State Government for sanction and shall also prepare and submit to the State Government the final scheme for sanction in accordance with the provisions of sub-section (6).

(6) In the final scheme, the Arbitrator shall, -

(i) estimate the amount of compensation payable under section 66 ;

(ii) calculate the proportion in which the increment in respect of the final plots included in the final scheme shall be liable to contribution to the cost of the scheme in accordance with the provisions contained in section 97 ;

(iii) estimate the value of and fix the difference between the values of the original plots and the values of the final plots included in the final scheme, in accordance with the provisions contained in clause (/) of subsection (1) of section 97 ;

(iv) estimate the compensation payable for the loss of the area of the original plot in accordance with the provisions contained in clause (f) of sub-section (1) of section 97 in respect of any original plot which is wholly acquired under the scheme ;

(v) estimate the value of final plots included in the final scheme and the increment to accrue in respect of such plots in accordance with the provisions of section 98 ;

(vi) determine the amount to be deducted from or added to, as the

case may be, the contribution leviable from a person in accordance with the provisions contained in section 100 ;

(vii) estimate in reference to claims made before him, after the notice given by him in the prescribed manner, the compensation to be paid to the owner of any property or right injuriously affected by the making of a town planning scheme in accordance with the provisions contained in section 102 ;

(viii) determine whether the areas allotted or reserved for the public purpose or purposes of the Planning Authority are beneficial wholly or partly to the owners or residents within the area of the scheme;

(ix) estimate the proportion of the sums payable as compensation of each plot used, allotted or reserved for the public purpose or purposes of the Planning Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the cost of the scheme;

(x) determine the proportion of contribution to be levied on each plot used, allotted or reserved for a public purpose or purposes of the Planning Authority which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public;

(xi) determine the amount of exemption, if any, from the payment of the contribution that may be granted in respect of plots or portions thereof exclusively used or occupied for religious or charitable purposes on the date on which the final scheme is drawn up under sub-section (7);

(xii) calculate the contribution to be levied on each final plot included in the final scheme ;

(xiii) where a plot is subject to a mortgage with possession or a lease, decide the proportion of compensation payable to or contribution payable by the mortgagee or lessee on one hand and the mortgagor or lessor on the other.

(7) The Arbitrator shall draw in the prescribed form the preliminary and final schemes in accordance with the draft scheme:

Provided that, -

(a) he may make variation in the draft scheme;

(b) he may, with the previous sanction of the State Government, after hearing the Planning Authority and any owners who may raise objections, make substantial variations in the draft scheme.

Explanation.-For the purposes of clause (b) of this proviso, "substantial variation" means increase in the total cost of the draft scheme by more than twenty per cent, or, two lakhs rupees,

whichever is higher, on account of the provision of new works or the reservation of additional sites for public purposes included in the final scheme drawn up by the Arbitrator."

8. Amendment of section 73 of Mah. XXXVII of 1966. :-

In section 73 of the principal Act, for the words, brackets and figures " clauses (iv) to (xi) (both inclusive) and clauses (xiv), (xv) and (xvi) of sub-section (3)" the words, brackets and figures " clauses (i), (ii), (iv), (v) and clauses (vii) to (xiii) (both inclusive) of sub-section (6)" shall be substituted.

9. Amendment of section 74 of Mah. XXXVII of 1966. :-

In section 74 of the principal Act, in sub-section (1), for the words, brackets and figures " clauses (iv) to (xi) (both inclusive) and clauses (xiv), (xv) and (xvi) of sub-section (3)" the words, brackets and figures " clauses (i), (ii), (iv), (v) and clauses (vii) to (xiii) (both inclusive) of sub-section (6) " shall be substituted.

10. Substitution of section 86 of Mah. XXXVII of 1966. :-

For section 86 of the principal Act, the following section shall be substituted, namely :-

" 86. Sanction of State Government to preliminary or final scheme.
(1) On receipt of the preliminary scheme or, as the case may be, the final scheme, the State Government may,-
(a) in the case of the preliminary scheme, within a period of two months from the date of its receipt, and
(b) in the case of the final scheme, within a period of three months from the date of its receipt,
by notification in the Official Gazette, sanction the preliminary scheme or the final scheme or refuse to give such sanction, provided that in sanctioning any scheme, the State Government may make such modifications as may, in its opinion, be necessary for the purpose of correcting an error, irregularity or informality.
(2) Where the State Government sanctions the preliminary scheme or the final scheme, it shall state in the notification,-
(a) the place at which the scheme shall be kept open for inspection by the public; and
(b) a date (which shall not be earlier than one month after the date of the publication of the notification) in which all the liabilities created by the scheme shall come into force :

Provided that, the State Government may, from time to time, by notification in the Official Gazette, extend such date, by such period, not exceeding three months at a time, as it thinks fit.

(3) On and after the date fixed in such notification, the preliminary scheme or the final scheme, as the case may be, shall have effect as if it were enacted in this Act."

11. Amendment of section 87 of Mah. XXXVII of 1966. :-

In section 87 of the principal Act, in sub-section (2), for the words " final scheme " the words " preliminary scheme" shall be substituted.

12. Amendment of section 88 of Mah. XXXVII of 1966. :-

In section 88 of the principal Act,-

(a) for the words " final scheme " the words " preliminary scheme " shall be substituted;

(b) clause (c) shall be deleted;

(c) in the marginal note, for the words " final scheme " the words " preliminary scheme" shall be substituted.

13. Amendment of section 89 of Mah. XXXVII of 1966. :-

In section 89 of the principal Act, in sub-section (2), for the words " final scheme ", at both the places where they occur, the words " preliminary scheme " shall be substituted.

14. Amendment of section 90 of Mah. XXXVII of 1966. :-

In section 90 of the principal Act,-

(a) in sub-section (2), for the words "final scheme" the words " preliminary scheme " shall be substituted ;

(b) after sub-section (3), the following sub-sections shall be added, namely:-

" (4) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the Appropriate Authority under the provisions of this section except in respect of the building constructed or work begun before the date referred to in sub-section (2) and only in so far as such building or work has proceeded until that date :

Provided that, any claim to compensation, which is not barred by this sub-section shall be subject to the condition of any agreement entered into between the claimant and the Appropriate Authority.

(5) The provisions of this section shall not apply to any operational construction undertaken by the State Government or the Central Government."

15. Amendment of section 97 of Mah. XXXVII of 1966. :-

In section 97 of the principal Act, in sub-section (2),-

(a) for clause (b), the following clause shall be substituted, namely:-

" (b) all sums spent or estimated to be spent by a Planning Authority with reference to the period during which the preliminary scheme is to be implemented, after it is sanctioned under section 86 ; " ;

(b) after clause if), the following clause shall be added, namely:-

" (g) twenty per cent, of the amount of cost of the infrastructure provided in the area adjacent to the area of the scheme as is necessary for the purpose of and incidental to the scheme."

16. Amendment of section 100 of Mah. XXXVII of 1966. :-

To section 100 of the principal Act, the following proviso shall be added, namely:-

" Provided that, in lieu of the amount that qualifies to be deducted from the contribution leviable from a person, the Planning Authority or the Arbitrator may, at the request of such person, grant FSI (Floor Space Index) or TDR (Transferable Development Right) equivalent to the reduction in the area of his original plot resulting from reconstitution."