

**Uttar Pradesh Urban Planning And Development
(Amendment) Act, 1997**

3 of 1997

[01 May 1997]

CONTENTS

1. Short Title
2. Amendment Of Section 2 Of Presidents Act No. 11 Of 1973 As Re-Enacted By U.P. Act No. 30 Of 1974
3. Amendment Of Section 15
4. Insertion Of New Section 15-A
5. Amendment Of Section 18
6. Amendment Of Section 26
7. Insertion Of New Sections 26-A, 26-B, 26-C And 26-D
8. Insertion Of New Section 28-A
9. Amendment Of Section 32
10. Amendment Of Section 33
11. Amendment Of Section 59

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An Act further to amend the Uttar Pradesh Urban Planning and Development Act, It is hereby enacted in Forty-eighth Year of the Republic of India as follows :--

1. Short Title :-

This Act may be called the Uttar Pradesh Urban Planning and Development (Amendment) Act, 1997.

2. Amendment Of Section 2 Of Presidents Act No. 11 Of 1973 As Re-Enacted By U.P. Act No. 30 Of 1974 :-

(1) In Section 2 of the Uttar Pradesh Urban Planning and Development Act, 1973, hereinafter referred to as the principal Act,--

(a) after Clause (gg), the following clause shall be inserted, namely :--

"(ggg) 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 Development Authority;"

(b) after Clause (i), the following clause shall be inserted, namely :--

"(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;"

(c) after Clause (k), the following clause shall be inserted, namely :--

"(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;"

(d) after Clause (l), the following clause shall be inserted, namely :--

"(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."

3. Amendment Of Section 15 :-

In Section 15 of the principal Act,--

(a) after Sub-section (2) the following Sub-section shall be inserted, namely :--

"(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."

(b) in Sub-section (3), after the existing provisos the following proviso shall be inserted, namely :--

"Provided also that before granting permission, referred to in Section 14 the Vice-Chairman may get the fees and the charges levied under Sub-section (2-A) deposited";

(c) after Sub-section (8) the following Sub-section shall be inserted, namely :--

"(9) If at any time after the permission has been granted under

Sub-section (3), the Vice-Chairman is satisfied that such permission was granted in consequence of any material mis-representation made or any fraudulent statement or information furnished, he may cancel such permission, for reasons to be recorded in writing and any work done thereunder 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."

4. Insertion Of New Section 15-A :-

After Section 15 of the principal Act, the following section shall be inserted, namely :--

"15-A. Completion certificate.--

(1) Every person or body having been granted permission under Sub-section (3) of Section 15, shall complete the developments according to the approved plan and send a notice in writing of such completion to the Authority, and obtain a completion certificate from the Authority in the manner prescribed or provided in the Bye-laws of the Authority :

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 Authority.

(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 Authority, or

(b) Authority has failed for three months after the receipt of the 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."

5. Amendment Of Section 18 :-

In Section 18 of the principal Act,--

(a) In Sub-section (4), for the words "the lessor may forfeit," the words "the lessor may, subject to the provisions of Sub-section (4-A), forfeit" shall be substituted;

(b) after Sub-section (4), the following Sub-section shall be

inserted, namely :--

"(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."

6. Amendment Of Section 26 :-

In Section 26 of the principal Act,--

(a) in Sub-section (1) for the words "ten thousand rupees" and "five hundred rupees" the words "fifty thousand rupees" and "two thousand and five hundred rupees" respectively shall be substituted.

(b) in Sub-section (2) for the words "five thousand rupees" and "two hundred and fifty rupees" the words "twenty-five thousand rupees" and "one thousand two hundred and fifty rupees" respectively shall be substituted.

7. Insertion Of New Sections 26-A, 26-B, 26-C And 26-D :-

After Section 26 of the principal Act, the following sections shall be inserted, namely :--

"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 step 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 or 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 a 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 reasons 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 as 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 foregoing provisions

the Authority or 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 the 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 off.

(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 passed 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 or attached 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 or 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 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 contravention 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 a 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 or 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 wilfully 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."

8. Insertion Of New Section 28-A :-

After Section 28 of the principal Act, the following section shall be inserted, namely :--

"28-A. Power to seal unauthorised development.--

(1) It shall be lawful for the Vice-Chairman or an officer empowered by him in this 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 Vice-Chairman 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 to be removed.

(3) No person shall remove such seal except under an order made under Subsection (2) by the Vice-Chairman, 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."

9. Amendment Of Section 32 :-

In Section 32 of the principal Act, in Sub-section (1),--

(a) for the words "the authority (or any officer authorised by it in that behalf by general or special order)", the words "the Vice-Chairman (or any officer authorised by him in that behalf by general or special order)", shall be substituted;

(b) for the words "the Authority", the words "the Vice-Chairman" shall be substituted.

10. Amendment Of Section 33 :-

In Section 33 of the principal Act, after Sub-section (4), the following Sub-section shall be inserted, namely :--

"(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 the 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."

11. Amendment Of Section 59 :-

In Section 59 of the principal Act,--

"(1) (a) for the words and figures the United Provinces Municipalities Act, 1916, and the Uttar Pradesh NagarMahapalika Adhiniyam, 1959 wherever occurring, the words and figures, the Uttar Pradesh Municipalities Act, 1916 and the Uttar Pradesh Municipal Corporations Act, 1959 respectively shall be substituted; and

(b) for the words Nagar Mahapalika, wherever occurring the words Municipal Corporation shall be substituted;

(2) In Sub-section (1), in Clause (a), for the words and figures the Uttar Pradesh Kshettra Samiti and Zila Parishads Adhiniyam, 1961, the words and figure the Uttar Pradesh Kshettra Panchayats and Zila Panchayats Adhiniyam, 1961 shall be substituted."