

Himachal Pradesh New Mandi Townships (Development And Regulations) Act, 1973

(Act No. 18 Of 1973)

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An Act to provide for the development and regulation of new mandi townships in Himachal Pradesh.

Himachal Pradesh New Mandl Townships (Development And Regulations) Act, 1973

(Act No. 18 Of 1973)

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India asfollows:-

1. Short title, extent and commencement.-

(1) This Act may be called the Himachal Pradesh New Mandi Townships (Development and Regulation) Act 1973.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. Definitions.-

In this Act, unless the context otherwise requires.-

(a) "Administrator" means any person designated by the State Government by notification in the Official Gazette for performing the functions of an Administrator under this Act;

(b) "amenity" includes roads, water supply, street lighting, drainage, sewerage, cattle-sheds, warehouse, public laboratories, bathrooms, public buildings, horticulture, landscaping, children parks, lawns and ploy grounds, and any other public utility as may be prescribed;

(c) "building" means any construction or part of construction which is intended to be used for residential, commercial, industrial or other purposes, whether in actual use or not and includes any out-house, structure, stable, cattle-shed, garage, hut, platform and plinth;

(d) "erect or re-erect any building" includes-

(i) any material alteration or enlargement of building,

(ii) the conversion by structural alteration into a place for human habitation of any

building not originally constructed for human habitation,

(iii) the conversion into more than one place for human habitation of a building originally constructed as one such place,

(iv) the conversion of two or more places of human habitation into a greater number of such places,

(v) such alterations of a building as affect an alteration of its drainage or sanitary arrangements, or materially affect its security,

(vi) the addition of any rooms, buildings, out-houses or other structures to any building,

(vii) 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,

(viii) the construction of any overhanging structure over any street or public place or the enclosing of any space intended to be kept open, and

(ix) digging of earth and construction of foundation for erection or re-erection of any structure;

(e) "family" includes husband, wife and their children;

(f) "new mandi township" means any area declared to be a new mandi township by the State Government under sub-section (1) of section 3;

(g) "occupier" means a person, including firm or other body of individuals, whether incorporated or not, who occupies site or building transferred under this Act, and includes his successors and assigns;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "site" means any land which is transferred by the State Government under section 3; and

(j) "transferee" means a person (including a firm or other body of individuals whether incorporated or not) to whom a site or building is sold, leased or transferred in any manner whatsoever, under this Act, and includes his successors and assigns.

3. Power of State Government to declare new mandi townships and to transfer land and buildings therein.-

(1) The State Government may, from time to time, by notification in the Official Gazette, declare any area to be a new mandi township for the purposes of this Act, to be known by such name as may be specified in the notification.

(2) The State Government may, sell, lease or otherwise transfer, by auction, allotment or otherwise, any land or building belonging to or vested in the State Government in any new mandi township on such terms and conditions as it may, subject to any rules that may be made under this Act, deem fit to impose.

(3) Any amount due to the State Government on account of the sale, lease or transfer of any site or building under sub-section (2) shall be a first charge on that site or building, and notwithstanding anything contained in any other law for

the time being in force, no transferee shall be entitled to sell, mortgage or otherwise transfer any right, title or interest in the site or building transferred to him under sub-section (2) except by way of a lease from month to month (by the plot holders) until the amount mentioned as first charge under this sub-section has been paid in full.

4. Bar to purchase plots.-

Not more than two plots will be sold, leased or otherwise transferred to one family.

5. Bar to erection or alteration of buildings in contravention of building rules.-

(1) No person shall erect or re-erect or occupy wholly or partly any building or use or develop any site or building in contravention of any rules made under sub-section (2) and without the previous permission in writing of the Administrator.

(2) The State Government, shall by notification, in the Official Gazette make rules to regulate the erection or re-erection of buildings and use of sites, and such rules may provide for all or any of the following matters:-

(a) notice to build and procedure for submission of building applications with building and site plans;

(b) use of site and the type and character of building and the number of self-contained units that may be erected on any site;

(c) extent of site coverage and space about buildings and the prescription of a building line;

(d) the minimum dimensions and superficial area required for various parts of the building designed for different purposes and the minimum provision of doors and windows for securing ventilation and circulation of air;

(e) the maximum height of any building and the total number and height of storeys in a building;

(f) the means to be provided for ingress and egress to any building for prevention of fire;

(g) the extents of architectural control on the various units of the building and the portions of such architectural units, including compulsory building line along which, and compulsory height upto which, building shall be completed within a specified and reasonable time;

(h) the specification of materials and dimensions for any building to ensure structural stability;

(i) the materials and methods of construction for drains and sewers and for the provision and use of connection between private and public drains and sewers, and the procedure for submission of plans;

(j) supervisors and architects for designs and erection of any buildings and the qualifications which such person shall possess;

(k) notice and certificate of completion of buildings or part thereof;

(l) any other matters for the proper use and development of sites and the use, alteration and erection of buildings thereon.

6. Administer's power to sanction or refuse erection, re-erection or modification of plan of buildings and presumption sanction.-

(1) The Administrator shall refuse to sanction the erection, re-erection or modification of plan of any building in contravention of any rules made' under sub-section (2) of section 5.

(2) The Administrator shall, in every case, communicate the sanction or modification or rejection of a building application within sixty days of its receipt.

(3) Where no communication is received by the applicant from the Administrator within the period specified in sub-section (2), the application shall be deemed to have been sanctioned and the applicant may, after giving fifteen days notice to the Administrator, erect or re-erect the building in accordance with the building application submitted by him to the Administrator for sanction notwithstanding that such erection or re-erection contravenes the rules made under section 5:

Provided that when the Administrator modifies the building application within such fifteen days and communicates the modification to the applicant; the applicant shall erect or re-erect the building in accordance with such modifications.

7. Power of Administrator to stop unauthorized building operations and penalty for breach and disobedience.-

Where the erection or re-erection of a building has been commenced without sanction or is being carried on as such or in contravention of the terms of any sanction, the Administrator may, by a notice to be served on the owner, or by affixing it at the site or on the building, direct that building operations be discontinued.

8. Power of Administrator to direct modification of sanctioned plan of a building before its completion.-

If at any time before the completion of a building of which the erection or re-erection has been sanctioned under section 6, the Administrator finds that any modification of the sanctioned plan is necessary, he may direct that the building be modified accordingly, subject to payment of compensation by the State Government for any loss incurred by the owner on account of such modification,

9. Lapse of sanction after one year from the date of such sanction.-

Every sanction for erection or re-erection of any building given or deemed to have been given under section 6 shall be valid for one year from the date of such sanction or for such longer period as the Administrator may allow:

Provided that the erection of the building not commenced within one year and completed within two years or such longer period as may have been allowed the sanction shall be deemed to have lapsed, but such lapse shall not bar any subsequent application for fresh sanction.

10. Power to require proper maintenance of site or building.-

If it appears to the Administrator, that the condition or use of any site or building is

prejudicially affecting the proper planning of any part of the new mandi township, or its amenities or the health or interests of the general public, he may serve on the transferee or occupier of the site or building notice requiring him to take such steps and within such period as may be specified in the notice and thereafter to maintain it in such a manner as may be specified therein.

11. Levy of fees for amenities.-

For the purpose of providing, maintaining or continuing any amenity in the new mandi township the State Government may levy such fees as it may consider necessary in respect of any site or building on the transferee or occupier thereof.

12. Imposition of penalty.-

Where any transferee or occupier defaults in the payment of any fee levied under this Act or the rules made thereunder and such default has continued for three months from the due date, then, in addition to the arrears, a sum equal to twenty per centum of that amount shall be recovered from the transferee or occupier, as the case may be, by way of penalty.

13. Mode of Recovery of arrears.-

In the event of default in the payment of any amount due under this Act or the rules made thereunder, the outstanding amount together, with the penalty if any, may be recovered from the transferee or occupier as the case may be as arrears of land revenue.

14. Forfeiture for breach of conditions of transfer.-

(1) Notwithstanding anything contained in any other law for the time being in force, the Administrator may resume any site or building if the transferee or occupier persistently fail to use such site or building for the purpose for which it is sold, leased or transferred or fails to build upon the site within the period allowed or fails to pay the sale price or lease money of such site or building due under this Act or the rules made thereunder.

(2) In the event of such resumption of any site or building, any money paid or deposited in respect of such site or building may also be forfeited:

Provided that no order of resumption or forfeiture of money shall be passed under this section without affording the defaulter an opportunity to show cause against it.

(3) The resumed site or building as the case may be, may be resold by auction and any loss resulting from such re-sale which is not covered by the amount forfeited under sub-section (2), shall be recoverable as arrears of land revenue from such defaulter.

15. Penalty for breach of the provisions of the Act or rules there under.-

(1) Except as otherwise provided in this Act, any contravention of the provisions of this Act or the rules made thereunder shall be punishable with fine which may extend to five hundred rupees and, in the case of continuing contravention, with an additional fine which may extend to fifty rupees for each day during which such contravention continues after the first conviction.

(2) If a building is begun, erected or re-erected in contravention of any of the rules

made under sub-section (2) of section 5, the Administrator shall be competent to order the building to be altered or demolished by a written notice served on the owner thereof within six months of such commencement, erection or re-erection. Such notice shall also specify the period not being less than fifteen days during which such alteration or demolition must be made and, if the notice is not complied with, the Administrator shall be competent to demolish the said building at the expense of the owner.

Provided that the Administrator may, instead of requiring the alteration or demolition of any such building, accept, by way of compositions such sum as he may, deem reasonable.

16. Appeal and revision.-

(1) Any person aggrieved by an order of the Administrator under section 6, 9, 10, 14 or sub-section (2) of section 15 may, within thirty days from the date of communication to him of such order, prefer an appeal to the Commissioner:

Provided that the Commissioner may entertain appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that the provisions relating to the deduction of period spent in obtaining copies of order contained in the Indian Limitation Act, 1963, shall apply in computing the period of limitation.

(2) The Commissioner may, after hearing the appeal, confirm, vary or reverse the order appealed against and may pass said orders, as he may deem fit.

(3) The Financial Commissioner, may either on his own motion or on an application received in this behalf at any time, within a period of one year from the date of the order, call for the records of any proceedings in which the Administrator or Commissioner has passed an order for the purpose of satisfying himself as to the legality or propriety of such order and may pass such orders in relation thereto as he thinks fit:

Provided that the Financial Commissioner shall not pass an order under this sub-section prejudicial to any person without giving him a reasonable opportunity of being heard.

17. Powers of entry into buildings or land.-

(1) The Administrator may, after giving four days' notice to the occupier, or if there be no occupier, to the owner of the building or land, authorise any person-

(a) to enter on and to survey and to take levels or measurements of any building or land;

(b) to enter into any building or on any land to ascertain whether any building is being or has been erected without sanction or in contravention of any sanction or the rules made under this Act and to take such measurements as may be necessary for this purpose.

(2) The entry contemplated in clauses (a) and (b) of sub-section (1) shall be between sunrise and sun-set.

18. Partial exclusion of jurisdiction of municipal Committees, Panchayats and Town Improvement Trusts in new mandi townships.-

(1) If any new mandi township or a part thereof lies within the limits of a municipality, notified area, gram panchayat area or local area under the Punjab Town Improvement Act, 1922, the State Government may, by notification in the Official Gazette, direct that any or all the powers under the Himachal Pradesh Municipal Act, 1968, the Himachal Pradesh Panchayati Raj Act, 1968 or the Punjab Town Improvement Act, 1922, as are relevant to the purposes of this Act, shall, subject to such conditions and restrictions as may be specified in the notification, cease to operate in such new mandi township or a part, thereof, and the Municipal Committee, the President or any officer of the Committee, the Gram Panchayat or the Town Improvement Trust, as the case may be shall thereafter cease to have jurisdiction over that new mandi township or a part thereof, as the case may be, in respect of such powers.

(2) The provisions of the Himachal Pradesh, Municipal Act, 1968, the Himachal Pradesh Panchayati Raj Act, 1968 and the Punjab Town Improvement Act, 1922 in so far as they are inconsistent with the provisions of this Act shall not apply to a new mandi township or a part thereof .

19. Procedure for prosecution.-

No Court shall take cognizance of any offence under section 15 except on the complaint of, or upon information received by (sic) the Administrator or any other person authorised by him in this behalf.

20. Bar of jurisdiction of Court.-

Except as otherwise provided in this Act, no order made by the Administrator or any authority in exercise of any powers conferred by or under this Act shall be called in question in any Court.

21. Protection of Action taken in good faith.-

No suit, prosecution or other legal proceedings shall be against the Administrator or any other officer or authority for anything done or intended to be done in good faith in pursuance of this Act or rules or orders made thereunder.

22. Delegation.-

(1) The State Government may, by order, direct that any power exercisable by it or by the Administrator under this Act shall also be exercisable by such officer not below the rank of a Naib-Tehsildar and subject to such conditions, if any, as may be specified in the order.

(2) The Administrator may delegate all or any of his powers under this Act to any officer not below the rank of a Naib-Tehsildar of the State Government or any other authority subject to such conditions as may be specified by the Administrator.

23. Power to exclude application of Act to certain new mandi townships.-

If the State Government is of opinion that it is not in public interest to develop a new mandi township, it may, by notification, declare that the provisions of this Act shall cease to apply to such new mandi township from such date as may be

specified in such notification.

24. Power to include fully developed new mandi townships within limits of local authorities.-

If the State Government is of the opinion that any new mandi township has been fully developed in accordance with the provisions of this Act and the rules made thereunder, it may, by notification in the official Gazette, include such new mandi township within the local limits of any local authority from such date as may be specified in the notification, and thereupon the provisions of this Act shall cease to apply to such new mandi township, and the provisions of the law for the time being in force relating to such local authority shall apply in relation thereto.

25. Certain sales to be deemed to be sales under this Act.-

Every sale of land made to any person under the Punjab New Mandi Township (Development and Regulation) Act 1960 or recognized a sale under section 24 of the said Act in respect of areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act 1966, shall be deemed to have been made to such person under the provisions of this Act and as from the commencement of this Act in such new mandi township all the provisions of this Act and the rules or orders made thereunder shall apply accordingly in respect thereof:

Provided that such rules or orders shall not be inconsistent with the terms and conditions on which such sale has already been made.

26. Power to make rules.-

(1) The State Government may, by notification in the Official Gazette, make rules prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular prescribing-

(a) the terms and conditions on which any land or building may be transferred by the State Government under this Act;

(b) the manner in which consideration money for transfer may be paid;

(c) the rate of interest payable and the procedure for payment of installments, interest, fees, rents or other dues payable under this Act; and

(d) the terms and conditions under which the transfer of any right in any site or building may be permitted;

(e) the levy of fees under section II;

(f) the terms and conditions for the breach of which any site or building may be resumed;

(g) the form of notice and the manner in which notices may be served;

(h) the form and manner in which appeals and applications under this Act may be filed and the court fees leviable on such appeals and applications; and

(i) any other matter which has to be or may be prescribed.

(2) Every rule made under this Act, shall be laid, as soon as may be after it is

made, before the Legislative Assembly while it is in session for total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. Repeal and Savings.-

The Punjab New Mandi Townships (Development and Regulation) Act, 1960, in its application to territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 is hereby repealed:

Provided that anything done, action taken, rules made or notification issued in exercise of the powers conferred by or under the provisions of the Act so repealed to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done, action taken, rules made or notification issued.