The Sikkim Town and Country Planning Act, 2024

Act No. 10 of 2024

Amendment appended: 24 of 2025

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SIKKIM

GOVERNMENT GAZETTE

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GOVERNMENT OF SIKKIM
LAW & PARLIAMENTARY AFFAIRS DEPARTMENT
GANGTOK

No. 11(656)L&PAD/2021/36 **Dated: 13.06.2024**

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 22nd day of March, 2024 is hereby published for general information:-

THE SIKKIM TOWN AND COUNTRY PLANNING ACT, 2024

ACT NO. 10 OF 2024

AN

ACT

to make provision for the promotion of development and regulation of growth of urban and rural areas in the State of Sikkim and for purposes connected therewith and incidental thereto.

Be it enacted by the Legislature of Sikkim in the Seventy-fifth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

Short title, extent and commencement

1. **(1)** This Act may be called the Sikkim Town and Country Planning Act, 2024.

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Definitions

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

(a) **"Agriculture"** includes horticulture, farming, growing of crops, fruits, vegetable, flowers, grass, fodder and trees or any kind of cultivation of soil, breeding and keeping of livestock including cattle, pigs, fish, poultry and bees and use of land which is ancillary to the farming of land or any other agricultural purposes, but shall not include the use of any land attached to a building for the purposes of a garden to be used along with such building, and "agricultural" shall be construed accordingly;

(b) **"Amenity"** includes roads and streets, water, gas and electric supply, open spaces, parks, recreational grounds, playgrounds, cultural centers, natural features, street lighting, sewerage, drainage, public facilities and such other utilities, services and conveniences;

(c) **"Annual plan"** means a plan conceived within the framework of the master plan of the development area containing the physical and fiscal details of the new and ongoing projects or schemes to be undertaken in a financial year;

(d) **"Area of bad layout or obsolete development"** means an area consisting of land which is badly laid out or of obsolete development together with other land contiguous or adjacent thereto which is defined by a master plan as an area of bad layout or obsolete development;

(e) **"Authority"** means a Development Authority constituted under sub-section (3) of section 21 for development area declared under this Act;

(f) **"Board"** means the Sikkim Town and Country Planning Board constituted under section 3 of this Act;

(g) **"Building"** includes any structure or erection or part of a structure or erection which is intended to be used for residential, industrial, commercial or other purposes whether in actual use or not;

(h) **"Building operations"** include:-

(i) erection or re-erection of a building or any part of it;

(ii) roofing or re-roofing of a building or any part of a building or an open space;

(iii) any material alteration or enlargement of any building;

(iv) any such alteration of a building as is likely to affect an alteration of its drainage or sanitary arrangement or materially affect its security; and

(v) the construction of a door or window opening on any street or land not belonging to the owner of the building;

(i) **"Chief Town Planner"** means the State Chief Town Planner appointed under section 7 of this Act;

(j) **"Commerce"** means the carrying on of any trade, business or profession, sale or exchange of goods of any type whatsoever, and includes the running of, with a view to making profit, hospitals or nursing homes, infirmaries, educational institutions and also hotels, restaurants and boarding houses not attached to any educational institution and "commercial" shall be construed accordingly;

(k) **"Commercial use"** includes the use of any land or building or part thereof for purposes of commerce for storage of goods, or as an office, whether attached to any industry or otherwise;

(l) **"Court"** means a principal civil court of original jurisdiction and includes any other civil court empowered by the Government to perform the functions of the court under this Act within the pecuniary and local limits of its jurisdiction;

(m) **"Development"** with its grammatical variations means the carrying out of building, engineering, mining, quarrying or other operations in, on or over or under land, the cutting of a hill or any portion thereof or the making of any material change in any building or land, or in the use of any building or land, and includes sub-division of any land;

(n) **"Development area"** means the area or group of areas declared as development area under sub-section (1) of section 21 of this Act;

(o) **"Development plan"** means a statutory plan prepared for the development area under this Act;

(p) **"Engineering operations"** include the formation or the laying out of means of access to a road or the laying out of means of water supply, sewerage, gas or the electricity cables or lines or of telephone lines and other communication lines and public utility services;

(q) **"Existing land use"** means the pre-dominant purpose for which any land or building is being used on a specified date;

(r) **"Government"** means the State Government of Sikkim;

(s) **"Industry"** includes the carrying on of any manufacturing process as defined in the Occupational Safety, Health and Working Conditions Code, 2020 and "industrial" shall be construed accordingly;

(t) **"Industrial use"** includes the use of any land or building or part thereof for purposes of any industry;

(u) **"Land"** includes benefits arising out of land attached to the earth or permanently fastened to anything attached to the earth;

(v) **"Local area plan"** means a sub-city statutory plan that is devised to improve the existing developed area;

(w) **"Local authority"** means an Urban Local Body constituted under the Sikkim Municipalities Act, 2007 or Panchayati Raj Institutions under Sikkim Panchayat Act, 1993 or any other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund or which is permitted by the Government to exercise the powers of a local authority; and local authority is a "local authority" concerned of any land within its local limits falls in the area of a plan prepared or to be prepared under this Act;

(x) **"Master Plan"** is a perspective plan, regional plan, development plan, or a local area plan prepared under this Act;

(y) **"Means of access"** includes any means of passage whether private or public, for vehicles or for pedestrians and includes any street;

(z) **"Natural hazard"** means the probability of occurrence within a specified period of time in a given area of a potentially damaging natural phenomenon; sudden happening and occurrence of a natural calamity like landslides, flood, earthquake;

(aa) **"Notification"** means a notification published in the Official Gazette;

(bb) **"Occupier"** includes:-

(i) a tenant;

(ii) an owner in occupation of or otherwise using his land or building or part thereof;

(iii) a rent-free occupant or any land or building or part thereof;

(iv) a licensee in occupation of any land or building or part thereof;

(v) any person who is liable to pay to the owner damages for the use and occupation of any land or building or part thereof;

(cc) **"Operational construction"** means any construction whether temporary or permanent, which is necessary to the operation, maintenance, development or execution of any of the following services, namely:-

(i) railways;

(ii) national highways;

(iii) airways and aerodromes;

(iv) posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication;

(v) regional grid for electricity; and

(vi) any other service which the Government may, if it is of the opinion that the operation, maintenance, development or execution of such other service is essential to the life of the community, by notification, declare to be a service for the purpose of this clause;

Explanation: For the removal of doubts, it is hereby declared that the construction of:-

(i) new residential buildings (other than gate lodges quarters for limited essential operational staff and the like), roads and drains in railway colonies, hotels, clubs, institution and schools in the case of railways; and

(ii) a new building, new structure or new installation or any extension thereof, in the case of any other service, shall not be deemed to be an operational construction within the meaning of this clause;

(dd) **"Owner"** includes a mortgagee in possession, a person who for the time being is necessary or is entitled to receive, or has received the rent premium for any land whether on his own account or any account or, on behalf of, or for the benefit of any other person or as an agent, trustee, guardian or receiver for any other person or for any religious or charitable institution, or who would so receive the rent or premium or any other consideration or to be entitled to receive the rent or premium if the land were let to a tenant, and includes the Head of a Government Department, General Manager of a Railway, the Secretary or other principal officer of a Local Authority, Statutory Authority of a company, in respect of properties under their respective control;

(ee) **"Perspective plan"** means a long term (twenty to thirty years) plan providing the goals, policies, strategies and general programmes of spatio-economic development of the State of Sikkim or the development area, as the case may be;

(ff) **"Prescribed"** means prescribed by rules and regulations made under this Act;

(gg) **"Projects and schemes"** means plans conceived within the framework of approved perspective plan, development plan, local area plan or the annual plan of the development area containing details working layouts with all supporting infrastructure and documents including cost of development source of finance and recovery instruments for their execution;

(hh) **"Promoter"** includes an individual company or association or body of individuals, whether incorporated or not, a co-operative society, a corporate body or an agency national or international to whom a license is given under section 71 to undertake

development works within the framework of a plan or a development scheme duly approved under this Act;

(ii) **"Private street"** means any street, road, square, court, alley, passage or pedestrian path which is not a public street but does not include a pathway made by the owner of premises on his own land to secure access to or for the convenient use of such premises;

(jj) **"Public place"** means any place or building which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not, and whether the entry is regulated by any fees or not;

(kk) **"Public building"** means any building to which the public or any class or section of the public are granted access or any building, which is open to the public of any class or section of the public and includes any building:-

(i) used as a school or college or a university or other educational institution, hostel, library, hospital, nursing home, dispensary, clinic, maternity center or any other like institution, sports complex, club, lodging house, coffee house, boarding house, or eating house;

(ii) ordinarily used by the:-

A. central or any State Government or any local authority or any body corporate, owned or controlled by the Central or any State Government; or

B. public or any class or section of the public for religious worship or for religious congregation;

(ll) **"Public open space"** means any land, whether enclosed or not, belonging to the Central or State Government or any local authority or any body corporate owned or controlled by the Central or State Government, on which there is no building or of which not more than one-twentieth part is covered with buildings and the whole or remainder of which is used for purposes of recreation or as open space;

(mm) **"Public street"** means any street, road, square, court, alley, passage or pedestrian path over which the public have a right of way, whether a thorough-fare or not, and includes the roadway over any public bridge or causeway the footway attached to any such street, public bridge or causeway and the drains attached to any such street, public bridge or causeway and land, whether covered or not by any pavement, verandah or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property belonging to the Central or State Government;

(nn) **"Railway"** means a railway defined in the Indian Railways Act,1890;

(oo) **"Re-allocation of population"** means in relation to an area of bad-layout or obsolete development or a slum area, the making available, in that area or elsewhere, of accommodation, for residential purposes or for carrying on business and other activities, together with amenities, to persons living or carrying on business or other activities in the said area who have to be so accommodated so that the said area may be properly planned;

(pp) **"Regulation"** means a regulation made under this Act by an Authority and includes zoning and also other regulations made as a part of a development plan;

(qq) **"Residence"** includes the use for human habitation of any land or building or part thereof including gardens, grounds, garages, animal sheds and out-houses, if any, appertaining to such building and "residential" shall be construed accordingly;

(rr) **"Rule"** means a rule made under this Act by the State Government;

(ss) **"Scheme"** means a Town Planning Scheme or any development scheme and includes a plan or plans together with the descriptive matter, if any relating to such scheme;

(tt) **"Slum area"** are areas which are by reasons of dilapidation, overcrowding, faulty arrangements and poor structure of houses, narrowness or faulty arrangements of avenues, streets and setbacks, lack of ventilation or lights, or any composition of these factors which are detrimental to safety health and morals/social and has sheds/tenements requiring standardization and upgradation and which is notified by the Government from time to time;

(uu) **"State"** means the State of Sikkim;

(vv) **"Unauthorized occupation"** in relation to any premises means the occupation by any person of the premises belonging to the Authority without any authority for such occupation and includes the continuance of this occupation by any person of the premises after the authority (whether by way of grant or any other mode of transfer under which he was allowed to occupy the premises) has expired or has been determined for any reasons whatsoever;

(ww) **"Urban local body"** means a Municipal Corporation or a Municipal Council or a Nagar Panchayat constituted under the Sikkim Municipalities Act, 2007.

Words and expressions used in this Act but not defined shall have the same meanings respectively assigned to them in the Sikkim Allotment of House Sites and Construction of Buildings (Regulation and Control) Act, 1985, Sikkim Building Construction Regulation, 1991 and Sikkim Municipalities Act, 2007.

CHAPTER II

SIKKIM TOWN AND COUNTRY PLANNING BOARD

Sikkim Town and Country Planning Board

3. **(1)** As soon as may be, after the commencement of this Act, the Government shall, by notification in the Official Gazette, constitute and appoint for the purpose of carrying out the functions assigned to it under this Act, the Sikkim Town and Country Planning Board.

(2) The Board shall consist of the following members, namely:-

(i)	Chief Minister	Chairperson
(ii)	Minister-in-charge of Urban Development Department	Vice Chairperson
(iii)	Minister-in-charge of Rural Development Department	Vice Chairperson
(iv)	Chief Secretary of the State	Member
(v)	Principal Secretary, Planning and Development Department	Member
(vi)	Principal Secretary, Finance Department	Member
(vii)	Secretary, Land Revenue Department	Member
(viii)	Secretary, Urban Development Department	Member
(ix)	Secretary, Rural Development Department	Member
(x)	Secretary, Law Department	Member
(xi)	Secretary, Agriculture Department	Member
(xii)	Secretary, Horticulture Department	Member
(xiii)	Secretary, Tourism Department	Member
(xiv)	Secretary, Mines and Geology Department	Member
(xv)	Secretary, Transport Department	Member
(xvi)	Secretary, State Pollution Control Board	Member
(xvii)	Secretary, Commerce and Industries Department	Member
(xviii)	Principal Chief Conservator of Forests, Forest and Environment Department	Member
(xix)	Principal Chief Engineer, Public Health Engineering Department	Member

(xx)	Principal Chief Engineer, Power Department	Member
(xxi)	Principal Chief Engineer, Roads & Bridges Department	Member
(xxii)	Two members to be nominated by the Central Government to represent the Department/ Ministries of that Government dealing with Defense, Public Works and Urban Development	Member
(xxiii)	Two non-officials, who in the opinion of the Government have special knowledge or practical experience of matters relating to Town and Country Planning, Mines and Geology, Engineering, Transport, Industry, Commerce, Agriculture or Economics	Member
(xxiv)	Chief Town Planner, ex-officio Secretary to the Board	Member Secretary

Functions and powers of the Board

4. **(1)** Subject to the provisions of this Act and the rules framed thereunder, the functions of the Board shall be to advise the Government in matters relating to policy formulations for planning, development and implementation of State programmes and use of rural and urban land in the State, and to guide, direct and assist the District Planning Committee constituted under section 127 of the Sikkim Panchayat Act, 1993, section 255-A of the Sikkim Municipalities Act, 2007 and the Sikkim Panchayat and Municipalities (Election of Member of District Planning Committee, Manner of Convening Meeting and Power and Function of the District Planning Committee) Rules, 2012.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Board shall, with the advice of the Chief Town Planner of the State, formulate perspective plan within 3 (three) years from the date of commencement of this Act for achieving spatio-economic development and social justice. Such a plan shall contain policies and strategies regarding any or all of the following matters as may be considered necessary, namely:-

(a) physical and natural resource potentials and their utilization and fiscal resource mobilization;

(b) natural disaster-prone areas;

(c) poverty alleviation and employment in both formal and informal sectors;

(d) development of trade, commerce, and industries;

(e) agriculture and rural development;

(f) national and state level transportation network;

(g) infrastructure development;

(h) urbanization trends, urbanization policy, settlement pattern of large and medium towns and their functional specialization;

(i) protection of environmentally and ecologically sensitive areas and conservation of national and state level heritage areas;

(j) generalized land use;

(k) phasing of the plan in periods of 5 (five) years; and

(l) any other particulars and details as may be prescribed or as may be directed by the Government.

(3) Annual review of the physical achievements of the investments made by the various Authorities and agencies for the last preceding year and submission of a report thereon to the Government.

(4) Advising the Government on resolving inter-district spatial development, resource utilization and infrastructure development issues.

(5) Resolution of conflicts arising out of overlapping functions between the District Planning Committees, Urban Local Bodies and Panchayati Raj Institutions and the Development authorities set up under this Act.

(6) Any other matter as may be prescribed or as may be directed by the Government.

Terms of office and conditions of service of the Members of the Board

5. (1) The term of office and conditions of service of the members of the Board shall be such as may be prescribed and the non-official members shall be entitled to receive such allowances as may be fixed by the Government.

(2) The Government may, if it thinks fit, terminate the appointment of any non-official member of the Board at any time.

(3) A member of the Board appointed under clause (xxiii) of sub-section (2) of section 3 may resign his membership of the Board by giving notice in writing to the Government and on such resignation being accepted by the Government, he shall cease to be a member of the Board.

(4) Any vacancy created under sub-section (2) or (3) shall be filled by fresh appointment by the Government.

Meeting of the Board

6. (1) The Board shall meet at such times and places, not less than once in a calendar year and shall observe such procedure as may be prescribed in regard to the transaction of its business at such meetings.

(2) The Chairperson or in his absence the Vice-Chairpersons or in the absence of both, any member chosen by the members present from amongst themselves shall preside at a meeting of the Board.

State Chief Town Planner and his functions

7. (1) For the purpose of advising the Government matters related to town and country planning and development and also to perform the functions specified in sub-section (2) of section 4, the Government shall by notification designate the Chief Town Planner of the State.

(2) The Government shall provide the Chief Town Planner such establishment consisting of such officers and staff as may be necessary.

(3) The pay and allowances of the Chief Town Planner and his establishment shall be met out of the consolidated fund of the Government.

(4) The duties and functions of the Chief Town Planner shall be to,-

(a) advise and render technical assistance to the Government pertaining to spatial planning and development and implementation of relevant state programmes;

(b) render technical assistance to the Board in the formulation of State Urbanization Policy and State Perspective Plan;

(c) render technical guidance and assistance to the District Planning Committee in the preparation of draft development plans of the districts in the State;

(d) scrutinize the various plans submitted to the Government and the Board for approval under this Act;

(e) ensure that the development plans prepared by the authorities are within the framework of the approval perspective plan of the concerned area;

(f) prepare and publish plans, if so directed by the Government in the event of default by a District Planning Committee or the Authority;

(g) render technical assistance and guidance to the authorities and other development agencies operating in the State;

(h) provide or organize necessary research inputs and other studies either himself or through the help of consultants for formulation of policies, strategies, norms, standards, laws, rules, regulations and guidelines pertaining to town and country planning and development;

(i) provide and promote manpower training facilities; and

(j) perform any other function, as may be directed by the Government from time to time.

Office of the Chief Town Planner to function as technical secretariat for the Board

8. The office of the Chief Town Planner shall also function as the technical secretariat of the Board and in order to enable him to perform the functions as detailed in sub-section (4) of section 7, the Government shall provide in consultation with the Board, such additional officers and staff to the Chief Town Planner as it may consider necessary.

Approval of State Perspective Plan

9. (1) The State Perspective Plan, after approval by the Board, shall be forwarded to the Government.

(2) On receipt of the State Perspective Plan the Government may publish the salient features of such a plan in at least 2 (two) local newspapers and digital media circulating in the State of which one must be in the regional language, for information of the public specifying the place or places where a full copy of such may be inspected, invited objections, suggestions, modification, if any.

(3) Any such objections, suggestions, modifications shall be examined and considered by a Committee to be constituted by the Government.

(4) The Government may, approve the perspective plan with or without the modifications proposed by the Committee within a period of 90 (ninety) days from the date of receipt of the State Perspective Plan by the State Government.

Review and revision of State Perspective Plan

10. (1) At least once in 10 (ten) years from the date of approval of the State Perspective Plan by the Government under sub-section (4) of section 9, the Board, with the assistance of the Chief Town Planner, shall review such plan and prepare a fresh State Perspective Plan for a period of 25 (twenty-five) years from the date of review after incorporating such modifications and amendments as may be necessary and submit the same for approval to the Government.

(2) The provisions of sections 4, 7, and 9 shall *mutatis mutandis* apply to such perspective plan.

CHAPTER III

REGIONAL DEVELOPMENT PLANS

Declaration of Regional Planning area

11. (1) The Government may, after consultation with the Board, by notification in the Official Gazette from time to time, declare any area in the State to be a Regional Planning Area for the purpose of this Act.

(2) Every such notification published under sub-section (1) shall define the limits of the area to which it relates.

(3) The Government may, after consultation with the Board, amalgamate two or more Regional Planning Areas into one such area or sub-divide a Regional Planning Area into different such areas and constitute them as separate Regional Planning Areas or include any such sub-divided areas in any other Regional Planning Area, as the case may be, and notify the same in the Official Gazette.

(4) The Government may, by notification in the Official Gazette, direct that any of the rules and orders made, regulations and directions issued and powers conferred under this Act and in force in any Regional Planning Area with which or in which any other area is amalgamated or included, shall apply to the area so amalgamated or included under this section to such extent and subject to such modifications, additions or restrictions, as may be specified in such notification.

Preparation of Regional Development Plan

12. (1) As soon as may be, after the declaration of the Regional Planning Area under section 11, the Chief Town Planner shall, subject to such directions as may be issued by the Board and within such time as may be prescribed, after carrying out on such surveys as may be necessary of the physical, social and economic conditions and potentialities of the area in respect of which a regional development plan is to be prepared, prepare a regional development plan for such area together with a report explaining the various aspects of the developments proposed in such plan.

(2) It shall be the duty of every Government Department and local authority to furnish as soon as may be possible, maps, reports and record as may be required to the Chief Town Planner in the preparation of the regional development plan.

Contents of a regional development plan

13. (1) Subject to the provisions of this Act and any rules made there under, the regional development plan shall indicate the stages by which development may be carried out, the network of transport and communication lines, the proposals for conservation and development of natural resources and such other matters as may have an influence on the development of the concerned area.

(2) In particular and without prejudice to the generality of the foregoing provisions, a regional development plan may provide for all or any of the following matters, namely:-

(a) broad demarcation of areas for agriculture, forestry, industry, mineral development, urban and rural settlements and other activities;

(b) natural disaster-prone area;

(c) the reservation of land recreation, botanical and zoological gardens, natural reserves, animal sanctuaries, dairies and

health resorts and for preservation, conservation and development of area of natural scenery, forests, wildlife, natural resources and landscaping;

(d) preservation of objects, features, structures or places of historical, natural, archaeological or scientific interest and education value;

(e) prevention of erosion of soil, provision of land stability and slope linked controls, provision for afforestation, or reafforestation, improvement and redevelopment of water front areas, rivers and lakes;

(f) transport and communications network such as roads, highways, railways, waterways, canals and airports including their future development;

(g) rural and urban centers, both existing and new, indicating the extent of their anticipated growth;

(h) proposals for irrigation, water supply, hydro-electric works, flood control and prevention of water pollution and waste management;

(i) reallocation of pollution or industry from over-populated and industrially congested area and indication the density of population or the concentration of industry to be allowed in any areas.

(3) The regional development plan shall, in particular include,-

(a) the existing land use map and the narrative report thereon;

(b) a narrative report supported by necessary map and charts explaining the provisions of the regional development plan;

(c) recommendations to the Government regarding the directions to be issued to the concerned local authorities and the different departments of the Government, if any, in respect of enforcement and implementation of the proposals contained in the regional development plan; and

(d) a report indicating the priorities assigned to works included in the regional development plan and the planning of the programme of development as such.

Power of Government to require the Chief Town Planner to prepare a regional development plan for any area

14. Notwithstanding anything contained in section 12, the Government may by notification require the Chief Town Planner to prepare and submit to the Board before a fixed date, a regional development plan in respect of any area.

Board to consider the regional development plan

15. The Chief Town Planner shall submit the regional development plan prepared under section 12 to the Board for its consideration and may make such changes in the regional development plan as may be necessary in the light of the views expressed by the Board.

Public notice of the regional development plan

16. (1) The Chief Town Planner shall notify the regional development plan, as modified under section 15, in the Official Gazette, and also in one or more local newspapers, indicating therein the place or places where copies of the same may be inspected and inviting comments in writing from the public on the regional development plan within such period as may be specified in such notification:

Provided that such period shall not be less than two months from the date on which the regional development plan is published in the Official Gazette.

(2) After the expiry of the period mentioned in sub-section (1), the Chief Town Planner shall submit the comments received from the public to the Board for its consideration.

(3) The Chief Town Planner shall, if necessary, revise the regional development plan, in the light of any notifications suggested by the Board and submit them to the Government together with the comments received from the public on the regional development plan for approval.

Approval by the Government

17. (1) The Government shall, within 60 (sixty) days from the date of receipt, either approve the regional development plan as submitted to it under section 16 or may approve the regional development plan with such modifications as it may consider necessary, or may return the same to the Chief Town Planner with instructions either to modify the plan or to prepare a fresh regional development plan in accordance with such directions as the Government may issue in this behalf.

(2) Where a fresh regional development plan is required to be prepared under sub-section (1), the provisions of sections 15 and 16 shall, *mutatis mutandis* apply to the preparation and approval of such plan.

Publication of the regional development plan

18. The Chief Town Planner shall notify the regional development plan, as approved by the Government in the Official Gazette and also in one or more local newspaper, indicating therein the place or places where copies of the same may be inspected.

Effect of the regional development plan

19. On and from the date of publication of the regional development plan under section 18 for an area, all development programmes undertaken within that area by any Department of the Government or by public and private institutions or by any other person shall conform to the provisions of such regional development plan.

Revision of the Regional development plan

20. If the Government, at any time, after a regional development plan has been published in the Official Gazette under section 18, but at least once in 5 (five) years therefrom, is of the opinion that a revision of such regional development plan is necessary, it shall direct the Chief Town Planner to undertake the revision of the regional development plan and thereupon the foregoing provisions of this Act relating to the preparation and approval of the regional development plan shall, as far as may be, apply to the revision of a regional development plan under this section.

CHAPTER IV

DEVELOPMENT AREAS AND DEVELOPMENT AUTHORITIES AND THEIR OBJECTS

Declaration of development area and constitution of Development Authority.

21. **(1)** Upon enforcement of this Act in any area or areas under sub-section (3) of section 1, the Government shall, for the purposes of proper development of such area or areas, by notification, declare such area or areas to be a development area for the purposes of this Act and shall assign a name to such area.

(2) The Government may, by notification and in accordance with such rules as may be made in that behalf:-

(a) exclude from a development area any area comprised therein; or

(b) include in a development area any other area.

(3) As soon as may be, after the declaration of a development area under sub-section (1), the Government shall, by notification in the Official Gazette, constitute for the said development area a Development Authority, with effect from such date as may be specified therein.

(4) Every Authority so constituted shall be a body corporate by the name of the development area for which it is constituted having a perpetual succession and a common seal with power to acquire, hold, manage and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

(5) The Authority shall consist of the following members, namely:-

(i)	Chief Secretary of the State	Chairperson
(ii)	Secretary, Urban Development Department	Vice Chairperson
(iii)	Chief Executive Officer, who shall be an officer of the Government	Member Secretary
(iv)	An Engineer Member, to be appointed by the Government	Member

(v)	A Finance and Accounts Member, to be appointed by the Government	Member
(vi)	A Town Planning Member, to be appointed by the Government	Member
(vii)	An Architect Member, to be appointed by the Government	Member
(viii)	Executive officers of urban local bodies comprised within the development area	Ex-Officio Member
(ix)	Executive officers of Panchayati Raj Institutions comprised within the development area	Ex-Officio Member

(6) The Chief Executive Officer shall be a whole-time member and any of the members appointed under clause (iv) to (vii) of sub-section (5) may either be whole-time or part-time members.

(7) The Chairman, the Vice-Chairman and the whole-time members shall be entitled to receive from the funds of the Authority such salaries and allowances, if any, and governed by such conditions of service as may be prescribed by rules made in this behalf.

(8) The Chief Executive Officer and members appointed under clauses (iv) to (vii) of sub-section (5) shall hold office during the pleasure of the Government.

(9) Any member specified in the clauses (iv) to (vii) of sub-section (5), if part-time, and the members specified in clause (viii) and (ix) of that sub-section may be paid from the funds of the Authority such allowances, if any, as may be fixed by the Government in this behalf.

(10) A member, other than an ex-officio member, may resign his office by writing under his hand addressed to the Chief Secretary, but shall continue in office until his resignation is accepted by the Government.

(11) No act or proceedings of the Authority shall be invalid by reason of any vacancy in, or defect in the constitution of the Authority.

(12) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of its business at its meeting (including quorum at meetings) as may be prescribed.

Power to withdraw a development area from operation of this Act.

22. **(1)** The Government may, if it is of opinion that it is necessary to do so in the public interest, by notification, withdraw from the operation of the relevant provisions of this Act, the whole or a part of any development area declared thereunder.

(2) When a notification is issued under sub-section (1) in respect of any development area or part thereof:-

(a) the relevant provisions of this Act and all rules, regulations, bye-laws, notifications, orders, directions and powers made, issued or conferred thereunder shall, cease to apply to the said area or part and the Authority, if any, constituted, under this Act shall cease to have jurisdiction in respect of the said area or part as the case may be, but where any Authority has been constituted exclusively for such area or part, such Authority shall, on the date of the notification, stand dissolved;

(b) the Government shall, in consultation with the Board, and the local authority or authorities concerned, frame a Scheme determining the portion of the balance of the fund of the Authority concerned which shall vest in the Government and in the local authority or authorities concerned, and the manner in which the properties and liabilities of the Authority shall be apportioned between the Government and such local authority or authorities, and on the Scheme being notified in the Official Gazette, the fund, property and liabilities of the authority shall vest and be apportioned accordingly.

Appointment of local authority as development authority.

23. (1) The Government may, in consultation with the Board, appoint any local authority as the development authority for the area of that local authority and for such other contiguous or adjacent area or areas as the Government may declare as a development area under section 21.

(2) Where a local authority is appointed as a development authority under sub-section (1), the provisions of sections 21, 25 and 26 shall not apply, and the provisions of the Act by which such local authority is constituted shall continue to apply to it in respect of matters covered by the aforesaid sections.

(3) A local authority appointed as a development authority under this section shall, for the purpose of performing the functions of a development authority under this Act, by notification constitute a Development Committee consisting of the following, namely;-

(a) Secretary, Urban Development Department to be the Chairman;

(b) Municipal Commissioner/ Municipal Executive Officer to be the Member Secretary;

(c) five other members, a Town Planning Member, Accounts Member, Engineer Member and member from the local authority.

Functions and powers of development authority.

24. (1) Subject to the provisions of this Act and the rules framed thereunder and any directions which the Government may give, the functions of every development authority shall be to,-

(a) prepare an existing land use map;

(b) prepare and enforce a perspective plan;

(c) prepare and enforce a development plan;

(d) prepare and enforce an annual plan;

(e) prepare and enforce development schemes;

(f) set up special function agencies, if required and guide, direct and assist them on matters pertaining to their respective functions; and

(g) carry out or cause to be carried out execution of projects and schemes framed under the perspective plan, development plan or the annual plan and for these purposes, it may carry out or cause to be carried out, surveys of the development area and prepare report or reports of such surveys, and to perform such other functions, which are supplemental, incidental or consequential to any of the functions aforesaid or as may be prescribed.

Staff of the Authority

25. (1) Subject to such control and restrictions as may be prescribed by rules, the Authority may appoint officers and employees (including experts for technical work) as may be necessary for the efficient performance of its functions and may determine their designations and grades.

(2) The officers and employees of the Authority shall be entitled to receive from the funds of the Authority such salaries and such allowances, if any and shall be governed by such conditions of service as may be determined by regulations made in this behalf.

Advisory Council

26. (1) The Government shall, as soon as may be after the constitution of the Authority, by notification, constitute an Advisory Council for the purpose of advising the Authority on the preparation of perspective plan, development schemes and on such other matters relating to the planning of development, or arising out of, or in connection with, the administration of this Act as may be referred to it by the Authority.

(2) The Advisory Council shall consist of the following members, namely: -

(i) the Hon'ble Minister, Urban Development Department, who shall be the Chairman;

(ii) a member of the Sikkim Legislature, representing the whole or any part of the development area, to be nominated by the Government;

(iii) members not exceeding three in number to be nominated by the Government who are elected members of the District Planning Committee or the municipal bodies constituted under the Sikkim Municipalities Act, 2007 or the panchayats constituted under the Sikkim Panchayat Act, 1993 as may be considered necessary;

(iv) District Collector, representing the whole or any part of the development area.

(3) The Advisory Council shall meet not less than once in a year and shall have the powers to regulate its own procedure.

Constitution of Committee

27. (1) The Authority may constitute as many committees consisting wholly of members or wholly of other persons or partly of members and partly of other persons and for such purposes as it may think fit.

(2) A Committee constituted under this section shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be determined by regulations made in this behalf.

(3) The members of a Committee (other than those who are members of the Authority) shall be paid such fees and allowances for attending its meeting and for attending to any other work of the Authority, as may be determined by regulations made in this behalf.

Objects of the Authority

28. The objects of the Authority shall be to promote and secure the development of all or any of the areas comprised in the development area concerned according to plan and for that purpose the Authority shall have power to acquire, hold, manage and dispose of land and other property, to carry out building, engineering, mining and other operations, to execute works in connection with supply of water and electricity, disposal of sewage, and other services and amenities and generally to do anything (including controlling development and coordinating developmental programmes of related agencies) necessary or expedient for purposes of such development and for purposes incidental thereto:

Provided that save as provided in this Act, nothing contained in this Act shall be construed as authorizing the disregard by the Authority of any law for the time being in force.

Authority to act on general business principles

29. The Authority while carrying out its functions, shall operate on general business principles.

CHAPTER V

PREPARATION OF EXISTING LAND USE MAP AND REGISTER

Preparation of Existing Land Use Map and Register

30. The Authority shall, after the declaration of the development area under section 21, prepare an Existing Land Use Map and Land Use Register in the prescribed form indicating the present use of every piece of land in the development area, as the case may be:

Provided that if a local authority has been appointed as the development authority for any development area and such local authority has prepared a Map or a Register, or both, in respect of the said area before the application of this Act to that area, the Map or the Register so prepared shall be deemed to be a Map or Register under this section.

Notice of the preparation of the Map and the Register

31. **(1)** After the preparation of the Map and Register under section 30, the Authority of the development area shall publish a public notice stating that such Map and Register has been prepared, and indicating therein the place or places where copies of the Map or Register, or both may be inspected, inviting objections in writing from any person with respect to the map and Register within 90 (ninety) days of the publication of such notice.

(2) After the expiry of the period mentioned in sub-section (1), an officer designated by the Authority or a Committee appointed by the Authority for the purpose, as the case may be, shall, after allowing a reasonable opportunity of being heard to all the persons who have filed the objections, make a report to the Authority, as the case may be.

(3) The Authority, as the case may be, shall consider the report made under sub-section (2) and may make such modifications in the Map or Register or both as may be considered proper and adopt the Map and the Register:

Provided that the adoption of the Map and the Register by the Authority shall be by a Resolution.

(4) As soon as may be, after the adoption of the Map and the Register under sub-section (3), the Authority, as the case may be, shall publish a public notice of the adoption of the Map and the Register and of the place or places where copies of the same may be inspected and shall submit copies of the Map and the Register to the Board and the Government.

(5) A copy of the public notice referred to in sub-section (4) shall also be published in the Official Gazette and such publication shall be conclusive evidence that the Map and Register have been duly prepared and adopted.

Power of the Government in case of default of Authority to prepare the Map and Register

32. (1) Where by virtue of the foregoing provisions of this Act, a Map and a Register are to be prepared then:-

(a) if within the period specified in section 30 or within such period as the Government may extend, no Map or Register has been prepared; or

(b) if at any time the Government is satisfied that the Authority is not taking steps necessary to prepare such a map or register within that period, the Government may direct the Board to prepare the Map and the Register.

(2) The Board shall, after the preparation of the Map and the Register, submit the same to the Government, and the Government shall, for the purpose of adopting the Map and Register so prepared, follow the procedure and exercise the powers of the Authority specified in section 31 of this Act.

(3) Any expenses incurred under this section in connection with the preparation and publication of a Map and Register in respect of a development area shall be met by the concerned Authority, as the case may be.

CHAPTER VI

PREPARATION OF PLANS AND THEIR APPROVAL

Preparation of perspective plan of development area and its contents

33. (1) As soon as may be, after the declaration of the development area under section 21 of this Act, the Authority shall, after such declaration, prepare in consultation with the local authorities concerned, a 20 (twenty) to 30 (thirty) years perspective plan of the development area including such contiguous areas thereto, as may be considered necessary or as the Government may direct to be include, after reviewing the implementation of such plan, if any, prepared earlier.

(2) The perspective plan prepared under sub-section (1) shall incorporate socio-economic and developmental issues, goals, objectives, potentials, policies, strategies, and priorities pertaining to the following as far as may be relevant:-

(a) physical characteristics and natural resources;

(b) demography;

(c) existing and proposed land uses;

(d) economic development in primary, secondary and tertiary sectors as may be applicable;

(e) poverty alleviation and employment generation in formal and informal sectors;

(f) housing and shelter development;

(g) transportation network including inter-city and intra-city mass transportation system and its interface with location of major activity nodes and land use pattern;

(h) integrated infrastructure development covering:-

(i) water harvesting and its utilization;

(ii) energy;

(iii) drainage;

(iv) sanitation;

(v) refuse disposal;

(vi) education;

(vii) health;

(viii) communication; and

(ix) other utilities and services such as police protection, fire protection, etc.;

(i) protection of environmentally sensitive areas and conservation of heritage;

(j) provision of land stability and slope linked controls;

(k) spatial development indicating direction of growth of settlement and its components such as residential, commercial, and industrial areas, open spaces, roads, etc;

(l) renewal and upgradation of old or dilapidated areas and slums;

(m) fiscal resource mobilization;

(n) implementation mechanism and process;

(o) phasing of the plan in periods of five years preferably co-terminus with the State five-year plans; and

(p) any other particulars and details as may be considered necessary by the Authority.

Existing plan to be deemed as perspective plan

34. If prior to the commencement of this Act, any Master Plan has been prepared under any other law, such master plan shall be deemed to be a perspective plan of the area prepared under this Act.

Power of Government in case of default of development authority to prepare the Plan

35. (1) Where by virtue of the provisions of this Act, a plan is to be prepared;

(a) if within the period prescribed, no plan has been prepared, or

(b) if at any time the Government is satisfied that the Authority is not taking steps necessary to prepare such a

plan within that period, the Government may direct the Chief Town Planner to prepare the plan and recover the cost thereof from the Authority concerned out of its funds.

(2) After the preparation of the plan, the Chief Town Planner shall submit the plan to the Board and the Board shall follow the procedure and exercise the powers of the Authority under section 37 and 48.

Preparation of development plan of development area and its contents

36. (1) Every Authority shall from the date of declaration of the development area under section 21, prepare a development plan within the framework of the approved perspective plan covering the whole or part of the development area, as may be necessary.

(2) Notwithstanding anything contained contrary to sub-section (1) in case no approved perspective plan exists, the Authority shall take into account the provisions of the perspective plan under preparation according to the provisions of sub-section (1) of section 33, and prepare the development plan within three years from the date of declaration of the development area under section 21.

(3) A development plan shall generally indicate the manner in which the use of land in the development area covered by such plan shall be regulated and also indicate the manner in which the development therein shall be carried out. In particular it shall, provide, so far as may be necessary for all or any of the following:

(a) analysis of dynamics of development which may include analysis of history of development, present status and trend of development, location, site and situation, regional context, hinterland, its attributes and accessibility, physiographic and demographic characteristics; city influence area and its characteristics including settlement pattern, rural-urban relationship and fringe area development;

(b) current issues and prospects regarding;

(i) economic base and employment in trade, commerce and industries in both formal and informal sectors;

(ii) hierarchy of commercial areas, dispersal of commercial activities and related issue;

(iii) dispersal of industries or restriction on specific type of industries considering the pollution level and environmental sustainability;

(iv) urban poverty and alleviation;

(v) housing including informal sector housing, resettlement strategy and slum upgradation;

(vi) educational facilities including specialized education and research centers, health facilities including specialized hospitals, cultural and religious facilities;

(vii) public and semi-public offices;

(viii) system of open spaces, play fields and recreation areas; conservation areas; ecological and environmentally sensitive areas and public gathering grounds;

(ix) transportation covering; road, railway, pedestrian-path networks and related activity centers, parking and terminal facilities; mass transportation system and its integration with activity nodes and land use pattern and airport;

(x) utilities and services such as water supply, drainage, sewerage, solid waste management, energy, communication, police, fire protection, cremation and burial grounds;

(c) existing land use;

(d) space requirement for various activities;

(e) economic and spatial development goals and objectives;

(f) development proposals which may include;

(i) concept of hierarchy of planning units and distribution of various activity nodes, facility centers, etc.;

(ii) mass transportation system and land use interface, transport and communication facilities such as hierarchy and network of roads, highways, parkways, railways, and airport including their extension, development and co-ordination;

(iii) proposals for designing the use of land for residential development including informal sector housing and slum upgradation; commercial, industrial, agricultural and recreational use;

(iv) proposals for reservation of land for community facilities and services: public purposes such as schools, colleges and other educational institutions, medical and public health institutions, theaters and places for public entertainment, public assembly museums, art galleries, religious buildings, parks, garden and play-grounds, stadium, sites and services schemes, slum up gradation schemes, housing accommodation for socially and economically backward classes of people; parking and terminal facilities such as inter-city and intra-city bus and truck terminus, diaries, areas for open

spaces, zoological gardens, natural reserves and sanctuaries; burial grounds, cremation grounds including electric crematorium; slaughter houses, tanneries and for such other purposes as may, from time to time, be considered necessary;

(v) proposals for water supply, drainage, sewage and solid waste disposal, other public utilities, amenities and services including supply of electricity and gas and provision for telephones and postal services;

(vi) public and semi-public offices;

(vii) renewal and redevelopment areas;

(viii) protection of environment, prevention of air and water pollution, promotion of ecological aspects, preservation, conservation and development of areas of natural scenery and landscape urban forestry;

(ix) preservation of features, structures, places of historical, architectural and scientific interest and educational value;

(x) proposals for flood control, land stability and sloped linked controls;

(xi) proposals for preservation of land for public purpose by the central, State and local government or any other authority or body established by or under any law for the time being in force;

(xii) the filling up or reclamation of low lying, swampy or unhealthy areas or leveling up of land;

(xiii) proposals for preparation of development schemes pertaining to tourism, environmental conservation, heritage, sites for reclamation, highway corridor development and the like; and

(xiv) such other proposals for public purposes as may, from time to time, be approved by the Authority or as may be directed by the Government in this behalf;

(g) implementation mechanism which shall include:-

(i) phasing of proposals contained in the development plan depending upon the priorities determined;

(ii) identification of sector-wise schemes and projects to be implemented by Central or State Government, authority, corporate bodies, co-operative and private sector;

(iii) development promotion regulations for promoting and regulating the use and development of land including

imposition of conditions and restrictions in regard to the open spaces to be maintained for the buildings, the Floor Ration or the Floor Space Index, the location, number size, height, number of storeys and character of buildings and density of built-up area allowed in specified area, the use and purposes to which the building or specified areas of land may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable uses of land in any area in reasonable periods, parking spaces, loading and unloading space for any building and the size of any projections and advertisement signs and hoarding and other matters as may be considered necessary for carrying out the purposes of this Act;

(iv) fiscal requirements and resource mobilization proposals;

(h) Monitoring and review mechanism.

Approval of perspective plan of development area

37. **(1)** As soon as may be, but not later than 90 (ninety) days of the preparation of the perspective plan of a development area, the concerned Authority shall accord its consent to the contents of the perspective plan and forward it to the Chief Town Planner and the District Planning Committee for concurrence.

(2) The Chief Town Planner and the District Planning Committee respectively, within 90 (ninety) days from the date of receipt of the perspective plan forwarded to it under sub-section (1) shall examine it in the light of the State perspective plan and the District Planning Committee in the light of the draft development plan, if any, of the district concerned and communicate in writing the concurrence to the State perspective plan and the draft development plan of the district, as the case may be, with or without specific modifications.

(3) On receipt of the concurrence under sub-section (2), the Authority shall, not later than 60 (sixty) days, modify if necessary, the perspective plan in the light of the specific modifications obtained in the concurrence letter of the Chief Town Planner or the District Panning Committee, as the case may be, and resubmit the modified plan to the Chief Town Planner, or the concerned District Planning Committee, as the case may be.

(4) The Chief Town Planner or the District Planning Committee, as the case may be, shall further examine the modified perspective plan, in the light of the specific modifications, suggested by it under sub-section (2) and communicate in writing within 30 (thirty) days from the date of resubmission of the plan under sub-section (3) its concurrence with or without further modifications.

(5) If the concurrence of the Chief Town Planner or the District Planning Committee is not received within the time allowed under sub-section (2) or sub-section (4), the concurrence shall be deemed to have been given by the Chief Town Planner or, as the case may be, the District Planning Committee.

(6) As soon as may be but not later than 30 (thirty) days from the date of receipt of the concurrence from the Chief Town Planner and the District Planning Committee, and after modifying the perspective plan, if necessary, the Authority shall publish a notice in at least one local newspaper and digital media of the preparation of the perspective plan inviting objections and suggestions from the public within 30 (thirty) days from the date of publication of the notice in the newspaper and digital media. The notice shall state the name of the place or places where a copy thereof or extracts therefrom certified to be correct shall be available for sale to the public at a reasonable price.

(7) The Authority shall, within a period of 60 (sixty) days of the date of expiry of notice under sub-section (6) and after making such enquiry as it may consider necessary and after giving reasonable opportunity of being heard to those persons who have made a request in writing for being so heard, modify, if necessary, the perspective plan and submit it together with the objections and suggestions received under sub-section (6) to the Government and also to the Chief Town Planner for approval.

(8) The Government shall in consultation with the Chief Town Planner, approve the perspective plan with or without modifications within 60 (sixty) days of its receipt.

(9) The Authority shall publish a notice in the Official Gazette and one local newspaper of the approval of the perspective plan, stating the name of the place where a copy thereof shall be available for inspection by the public and that copies thereof or extracts therefrom certified to be correct shall be available for sale to public at a reasonable price.

(10) The perspective plan shall come into force from the date of publication of notice of approval of the perspective plan in the Official Gazette under sub-section (9). The provisions relating to the District Planning Committee as referred to in this section shall take effect only when the District Planning Committee are constituted under section 127 of the Sikkim Panchayat Act, 1993, section 255-A of the Sikkim Municipalities Act, 2007 and the Sikkim Panchayat and Municipalities (Election of Member of District Planning Committee, Manner of Convening Meeting and Power and Function of the District Planning Committee) (Amendment) Rules, 2023.

Approval of development plan

38. **(1)** As soon as may be, but not later than 30 (thirty) days of the preparation of the development plan of a development area, the Authority shall accord its consent to the development plan, and forward it to the Chief Town Planner and the District Planning Committee if constituted for concurrence.

(2) The Chief Town Planner and the District Planning Committee, shall thirty days from the date of the receipt of the development plan forwarded to it under sub-section (1), examine it in the light of the perspective plan approved or under the process of approval under section 37 and communicate their/its concurrence, in writing to the development authority of the plan being within the framework of perspective plan or suggest specific modifications if any, to bring it in conformity with the perspective plan.

(3) The Authority shall modify, if necessary, within 30 (thirty) days, the development plan in the light of the specific modifications suggested in the concurrence letter of the Chief Town Planner or the concerned District Planning Committee and resubmit it to the Chief Town Planner or the concerned District Planning Committee, as the case may be.

(4) The Chief Town Planner or the District Planning Committee, shall further examine the development plan, in the light of specific modifications suggested by it under sub-section (2) and communicate within 30 (thirty) days from the date of resubmission of the plan, under sub-section (3), its concurrence in writing with or without further specific modifications.

(5) In case there are further specific modifications suggested in the concurrence letter received under sub-section (4), the Authority shall take necessary action to modify the development plan and resubmit, within 30 (thirty) days, the modified plan for concurrence of the Chief Town Planner or the District Planning Committee, but the part in respect to which no specific modifications has been suggested shall deemed to have been concurred and the Authority shall proceed further for getting approval as provided under sub-section (7) of that part of the development plan in respect of which no modifications are required under sub-section (4).

(6) If the concurrence of the Chief Town Planner or the District Planning Committee is not received within the time allowed under sub-section (2) or (4) as the case may be, within 30 (thirty) days from the date of resubmission under sub-section (5) as the case may be, the concurrence shall be deemed to have been given by the Chief Town Planner or, as the case may be, the District Planning Committee.

(7) As soon as may be, but not later than 30 (thirty) days from the date of receipt of the concurrence letter from the Chief Town

Planner the District Planning Committee, as the case may be, under sub-sections (2), (4) and (5) or deemed concurrence as stipulated under sub-section (6), as the case may be, the Authority shall publish a notice in at least one local newspaper of the preparation of the development plan, inviting objections and suggestions from the publication of the notice in the newspaper. The notice shall state the name of the place or places where a copy thereof shall be available for inspection by the public and that copies thereof or extracts therefrom, certified to be correct, shall be available for sale to the public at reasonable price.

(8) The Authority shall, within a period of 60 (sixty) days from the date of expiry of notice under sub-section (7), consider all objections and suggestions received within the time allowed under sub-section (7) and after making such enquiry as it may consider necessary and after giving reasonable opportunity of being heard to those persons who have made request in writing for being so heard, modify, if necessary, the development plan and submit to the Government for approval.

(9) Immediately after the development plan has been approved by the Government, the Authority shall publish a notice in Official Gazette and in at least one local newspaper of the approval of the development plan, stating the name of the place or places where a copy thereof shall be available for inspection by the public and that copies thereof or extracts therefrom certified to be correct shall be available for sale to public at a reasonable price.

(10) The development plan shall come into force from the date of publication of notice in the Official Gazette under sub-section (9).

(11) The provisions relating to District Planning Committees shall take effect only when the District Planning Committee are constituted under section 127 of the Sikkim Panchayat Act, 1993, section 255-A of the Sikkim Municipalities Act, 2007 and the Sikkim Panchayat and Municipalities (Election of Member of District Planning Committee, Manner of Convening Meeting and Power and Function of the District Planning Committee) Rules, 2012.

Review, revision and preparation of fresh perspective plan of the development area

39. **(1)** Immediately after the expiry of 15 (fifteen) years from the date of approval of the perspective plan of the development area under section 37, the Authority shall review such plan and prepare a fresh perspective plan for a period of 20 (twenty) to 30 (thirty) years from the date of review after incorporating such modifications and amendments as may be considered necessary and submit it for approval:

Provided that the time period taken for the review and preparation of fresh perspective plan shall not exceed two years.

(2) The provisions of sections 33 and 37 shall, *mutatis mutandis*, apply to the preparation and approval of such a fresh perspective plan.

Review, revision and preparation of fresh development plan of the development area

40. (1) Immediately after the expiry of 15 (fifteen) years from the date of approval of the development plan of the development area under section 38, the Authority shall review such plan and prepare a fresh development plan for 5 (five) years commencing from the date of expiry of such a plan in force after incorporating such modifications and amendments as may be considered necessary and submit it for approval:

Provided that the time period taken for the review and preparation of fresh development plan shall not exceed 2 (two) months.

(2) The provision of section 34 and section 38 shall, *mutatis mutandis*, apply to the preparation and approval of such a fresh development plan.

Provisions of development plan to prevail

41. If any provision of an approved development plan of a development area is at variance with the provisions of the approved perspective plan of the same area, the provision contained in the approved development plan shall prevail.

Modifications in perspective plan or development plan of development area

42. (1) Notwithstanding anything contained in sections 39 and 40, the perspective plan or development plan of a development area may be modified any time and for this purpose, the Authority shall publish a draft of the proposed modifications by a notice in at least one local newspaper inviting objections and suggestions from the public within 30 (thirty) days from the date of aforesaid publication of the notice, and after giving an opportunity of being heard to such persons who have made request for being heard and after considering the objections and suggestions finalize the modifications in the plan and submit it to:-

(a) the Board in the case of modifications in a perspective plan; or

(b) the Government in case of modifications in the development plan.

(2) The Board or the Government, as the case may be, approve the modifications with or without variations or refuse to approve the modification by a notification, in the Official Gazette and in at least one local newspaper:

Provided that no modifications shall be proposed or approved unless they are:

(a) of emergent nature; or

(b) of minor nature in the interest of implementation which do not materially affect the structure of the plan; and

(c) in public interest and are notified to the public.

CHAPTER VII

CONTROL OF DEVELOPMENT AND USE OF LAND

Use and development of land to be in conformity with the development plan, or development scheme

43. After the coming into operation of any development plan or a development Scheme in an area, no person shall use or permit any other person to use any land or carry out any development in that area otherwise than in conformity with such a development plan or a development scheme:

Provided that the Authority may allow on application, the continuance, for period not exceeding ten years, upon such terms and conditions as may be prescribed by the regulations made in this behalf, of any land for the purpose and to the extent, for and to which it is being used on the date on which such a plan or Scheme came into operation.

Prohibition of development

44. **(1)** After the enforcement of this Act and subject to the provisions of this Act, no development, or institution, or change of use of any land shall be undertaken or carried out in that area:-

(a) without obtaining a certificate from the Authority certifying that the development charges as leviable under this Act have been paid or that no such development charges are leviable; and

(b) without obtaining the permission in writing as provided for hereinafter:

Provided that no such permission shall be necessary: -

(i) for carrying out such works for the maintenance, improvement or other alteration of any building, which affects only the interior of building or which do not materially affect the external appearance of the building;

(ii) for carrying out by the Central or the State Government or any local authority of any works required for the maintenance or improvement of a highway, road or public street, being works carried out on land within the boundaries of such highway, road or public street;

(iii) for carrying out by the Central or the State Government or any local authority of any works for the purpose of inspecting, repairing or renewing any drains, sewers, main pipes, cables or other apparatus including the breaking open of any street or other land for that purpose;

(iv) for the excavation (including wells) made in the ordinary course of agricultural operations;

(v) for the construction of unmetalled road intended to give access to land solely for agricultural purposes;

(vi) for normal use of land which has been used temporarily for other purposes;

(vii) for use, for any purpose incidental to the use of a building for human habitation, or any other building or land attached to such building.

Permission for development

45. **(1)** Any person or body intending to carry out any development on any land shall make an application in writing to the Authority for permission in such form containing such particulars and accompanied by such documents, fee and plans as may be prescribed by the rules and regulations.

(2) On such application having been duly made, and on payment of the development charges as may be assessed under Chapter X of this Act:

(a) the Authority may pass an order: -

(i) granting permission unconditionally; or

(ii) granting permission subject to such conditions as it may consider fit; or

(iii) refusing permission;

(b) without prejudice to the generality of the foregoing clause, the Authority may impose conditions:-

(i) to the effect that the permission granted is only for a limited period and that after the expiry of that period, the land shall be restored to its previous condition or the use of land permitted shall be discontinued;

(ii) for regulating the development or use of any other land under the control of the applicant or for the carrying out of works on any such land as may appear to the Authority to be expedient for the purpose of the permitted development.

(3) The Authority in dealing with the applications for permission shall have regard to:-

(a) the provisions of the development plan or development scheme in force or under preparation; or

(b) any other material consideration.

(4) When permission is granted subject to conditions or is refused, the grounds of imposing such conditions or such refusal shall be recorded in the order.

(5) Any such order shall be communicated to the applicant in the manner prescribed by regulations.

(6) In the case of a department of Central or State Government or local authority intending to carry out any development other than operational constructions on any land, the concerned department or local authority as the case may be, shall notify in writing to the Authority, of its intention to do so, giving full particulars thereof and accompanied by such documents and plans as may be prescribed by the Government from time to time, at least thirty days prior to the undertaking of such development; where the Authority has raised any objection pertaining to the proposals received under sub-section (2) in respect of the conformity of the proposed development either to any matter in sub-section (3) or to any of the building bye-laws in force at the time, the department or the local authority, as the case may be, shall:-

(i) either make necessary modification in the proposals for development to meet the objections raised by the Authority; or

(ii) submit the proposals for development together with the objections raised by the authority to the Government for decision. When proposals and objections have been submitted, no development shall be undertaken until the Government has finally decided on that matter.

(7) The Government on receipt of the proposals for development together with the objections of the Authority shall, in consultation with the Chief Town Planner either approve the proposals with or without modifications or direct the concerned department or local authority, as the case may be to make such modifications in the proposals as they consider necessary in the circumstances.

(8) The "Operational Constructions" of the departments of the Central or State Government or local authority, as may be notified by the Government from time to time, shall be exempted from the purview of the Authority.

Appeal against refusal or conditional grant of permission

46. (1) Any applicant aggrieved by an order passed under sub-section (2) of section 45 may appeal, within 1 (one) month of the communication of that order or if no order is passed, after the expiry of the period of 3 (three) months from the date of submitting the application for permission, to the Government or an officer appointed by the Government in this behalf, in the manner and accompanied by such fees as may be prescribed.

(2) The Appellate Authority, after receiving the appeal and after giving reasonable opportunity to the appellant and the Concerned Authority to be heard, may pass an order dismissing the appeal or allowing the appeal by: -

(a) granting permission unconditionally; or

(b) granting permission subject to such conditions as it may think fit; or

(c) removing the conditions subject to which permission has been granted and imposing other conditions, if any, as it may consider fit.

Lapse of permission

47. Every permission for any development granted under this Act shall remain in force for a period of 3 (three) years only from the date of such permission:

Provided that the Authority may, on application made in this behalf before the expiry of the aforesaid period, extend such period, for such time as it may consider proper: but such extended period shall in no case exceed one year:

Provided further that such lapse shall not be a bar for any subsequent application for fresh permission under this Act.

Obligation to acquire land on refusal of or on grant of permission in certain cases

48. (1) Where:-

(a) any land is designated by a plan as subject to compulsory acquisition; or

(b) any land is allotted by a plan for the purpose of any functions of a Government or a local authority or a statutory body, or land is designated in such plan as a site proposed to be developed for the purposes of any functions of any such Government, authority or body; or

(c) any land is indicated in any plan as land on which a highway is proposed to be constructed or included; or

(d) any land for the development of which permission is refused or is granted subject to conditions, and any owner of land referred to in clauses (a), (b), (c) or (d) claims:-

(i) that the land has become incapable of reasonably beneficial use in its existing state; or

(ii) where planning permission is given subject to conditions that the land cannot be rendered capable of reasonably beneficial use by carrying out of the permitted development is accordance with the conditions; or

(e) the owner of the land because of its designation or allocation in any plan claims that he is unable to sell it except at a lower price than that at which he might have reasonably expected to sell if it were not so designated or allocated;

The owner or person affected may serve on the Government within such time and in such manner, as may be prescribed by regulations, a notice (hereinafter referred to as "the purchase notice") requiring the appropriate authority to purchase his interest in the land in accordance with the provisions of this Act.

(2) The purchase notice shall be accompanied by a copy of an application made by the applicant to the Authority, and of an order or decision of that Authority and of the Government, if any, in respect of which the notice is given.

(3) On receipt of a purchase notice, the Government shall, forthwith, call from the Authority such report or records or both, as may be necessary, which those authorities shall forward to the Government as soon as possible but later than thirty days from the date of their requisition.

(4) On receiving such reports or records, if the Government is satisfied that the conditions specified in sub-section (1) are fulfilled and that the order or decision for permission was not duly made on the ground that the applicant did not comply with any of the provisions of this Act or rules or regulations, it may confirm the purchase notice, or direct that planning permission be granted without condition or subject to such conditions as will make the land capable of reasonably beneficial use. In any other case, it may refuse to confirm the purchase notice, but in that case, it shall give the applicant a reasonable opportunity of being heard.

(5) If within a period of 6 (six) months from the date from which the purchase notice is served, the Government does not pass any final order thereon, the notice shall be deemed to have been confirmed at the expiration of that period.

(6) If within 1 (one) year from the date of confirmation of the notice, the appropriate authority fails to make an application to acquire the land in respect of which the purchase notice has been confirmed, the reservation, designation, allotment, indication or restriction on development of the land shall be deemed to have lapsed; and thereupon the land shall be deemed to be released from the reservation designation or, as the case may be, allotment, indication or restriction and shall become available to the owner for the purpose of development otherwise permissible in the case of adjacent lands under the relevant plan.

Power of revocation or modification of permission to develop

49. **(1)** If it appears to the Authority that it is expedient, having regard to development plan prepared or under preparation and to any other material consideration that any permission to develop land granted under this Act or any other law should be revoked or modified, the Authority after giving the person concerned an opportunity of being heard against such extent as appears to it to be necessary:

Provided that:-

(a) where the permission relates to the carrying out of building or other operations, no such order:-

(i) shall affect such of the operations as have been previously carried out;

(ii) shall be passed after these operations have substantially progresses or have been completed;

(b) where permission relates to a use of land, no such order shall be passed at any time after the change has taken place.

(2) When a permission is revoked or modified by an order made under sub-section (1), if the owner claims from the Authority within the time and in the manner prescribed, compensation for the expenditure incurred in carrying out the works after the grant of permission and in accordance with such permission, which has been rendered abortive by the revocation or modification, the Authority shall, after giving the owner reasonable opportunity of being heard by an officer appointed by it in this behalf, and after considering the officer's report assess and offer such compensation to the owner as it thinks fit.

(3) If the owner does not accept compensation, and gives notice, within such time as may be prescribed, of his refusal to accept, the authority shall refer the matter for the adjudication of the Court and the decision of the Court shall be final and binding on the owner and Authority.

Penalty for unauthorized development or for use otherwise than in conformity with the development plan or development scheme

50. **(1)** Any person who, whether at his own instance or at the instance of any other person or anybody commences, undertakes or carries out development, institutes, or changes use of any land or building,-

(a) in contravention of any development plan or development scheme;

(b) without obtaining a certificate regarding development charges under clause (a) of sub-section (1) of section 44;

(c) without permission as required under this Act;

(d) in contravention of any condition subject to which such permission has been granted;

(e) after the permission for development has been revoked under section 49;

(f) in contravention of the permission which has been modified under section 49;

shall, be punishable with a fine which may be prescribed by the authority from time to time.

(2) Any person who continues to use or allows the use of any land or building in contravention of the provisions of the development plan or development scheme without having been allowed under section 33 or where the continuance of such use has been allowed under that section, continues such use without complying with the terms and conditions under which the continuance of such use is allowed, shall be punishable with a further fine on daily basis during which such offence continues after conviction for the first commission of the offence.

Power to require removal of unauthorized development

51. (1) Where any development of land has been or is being carried out as described in section 50, the Authority, shall serve on the owner a notice requiring him, within such period, not exceeding 1 (one) month, as may be specified therein, after the service of the notice, to take such steps as may be specified in the notice;

(a) in cases specified in clauses (a), (c) or (e) of sub-section (1) of section 50 to restore the land to its condition before the said development takes place;

(b) in cases specified in clause (d) or (f) of sub-section (1) of section 50 to secure compliance with the conditions or with the permission as modified;

(c) in cases specified in clause (b) or sub-section (1) of section 50 to pay the development charges and such penalty, if any, as may be prescribed;

(2) In particular, any such notice may, for the purposes of sub-section (1) require:-

(a) the demolition or alternation of any building or works;

(b) the carrying out on land, or any building or other operations; or

(c) the discontinuance of use of any land:

Provided that in case the notice required the discontinuance of use of any land, the Authority shall serve a notice on the occupier also.

(3) Any person aggrieved by such notice may, within the period specified in the notice and in the manner prescribed:-

(a) apply for permission under section 35 of this Act for the retention on the land or any buildings or works or for the continuance of any use of the land, to which the notice relates; or

(b) appeal to such authority and in such manner as may be prescribed.

(4) **(a)** The notice shall be of no effect pending the final determination or withdrawal of the application or the appeal.

(b) (i) The provisions of the foregoing sections 45, 46 and 47 shall apply to such application with such modifications as may be necessary.

(ii) If such permission as aforesaid is granted on that application, the notice shall not take effect, or if such permission is granted for the retention only of some buildings or works or for the continuance of use of only a part of the land, the notice shall not take effect regarding such buildings or works or other parts of the land.

(5) The appellate authority may dismiss the appeal or accept the appeal by quashing or varying the notice as it may consider fit.

(6) If within the period specified in the notice or within such period after the disposal or withdrawal of the application for permission or the appeal under sub-section (3) the notice or so much of it continues to have effect, or the notice with variation made in appeal, is not complied with, the Authority may:-

(a) prosecute the owner for not complying with the notice and in case where the notice required the discontinuance of any use of land, any other person also who uses the land or causes or permits the land to be used in contravention of the notice; and

(b) (i) in the case of the notice requiring the demolition or alteration of any building or works or carrying out of any building or any other operations, itself cause the restoration of the land to its condition before the development work took place and secure the compliance with the conditions of the permission or with the permission as modified, by taking such steps as the Authority may consider necessary including demolition or alteration of any building or works or carrying out of any building or other operations;

(ii) the Authority may recover the cost of any expenses incurred by it in this regard from the owner as arrears of land revenue.

(7) Any person prosecuted under clause (a) of sub-section (6) shall be punishable with a fine which may extend to ten thousand rupees, and in the case of a continuing offence, with a further fine which may extend to five hundred rupees for each day during which such offence continues after conviction for the first commission of the offence.

Power to stop unauthorized development

52. (1) Where any development of land as described in section 50 is being carried out but has not been completed, the Authority may serve on the owner and the person carrying out the development, a notice requiring the development of land to be discontinued from the time of the service of such notice.

(2) Where such notice has been served, the provisions of clause (b) of sub-section (4) and sub-section (5) of section 51 shall apply with such modifications as may be necessary:

Provided that provisions of clause (a) of sub-section (4) of section 51 shall not apply, in spite of filing an application for permission for development or an appeal as provided in clause (b) of sub-section (3) of section 51, and the notice shall continue to have full effect.

(3) Any person, who continues to carry out the development of land, whether for himself or on behalf of the owner or any other person, after such notice has been served, shall be punishable a fine which may extend to ten thousand rupees, and when the non-compliance is a continuing one, with a further fine which may extend to five hundred rupees for each day after the date of the service of the notice during which non-compliance has continued or continues.

(4) If such notice is not complied with forthwith, the Authority or such officer of the authority who may be authorized in this behalf, may require any police officer to remove such person and all assistants and workmen from the land at any time after the service of such notice and such police officer shall comply with the requisition.

(5) After the requisition under sub-section (4) has been complied with the Authority or such officer of the Authority who may be authorized on this behalf, may if he thinks fit, depute, by a written order, a police officer or any officer or employee of the Authority to watch the land in order to ensure that the development is not continued. The Authority shall be empowered to seal the unauthorized development.

(6) Where a police officer or an employee of the Authority has been deputed under sub-section (5) to watch the land, the cost of such deputation shall be paid by the person at whose instance such development is being continued or to whom notice under sub-section (1) was given and shall be recoverable from such person as arrears of land revenue.

Removal or discontinuance unauthorized temporary development summarily

53. (1) Notwithstanding anything contained in this Chapter, hereinbefore, where any person has carried out any development of a temporary nature unauthorizedly as indicated in sub-section (1) of section 50, the Authority may by an order in writing direct that person to remove any structure or work erected, or discontinue the use of land made, unauthorizedly as aforesaid, within 15 (fifteen) days of the receipt of the order; and if thereafter, the person does not comply with the order within the said period, the Authority may request the District Magistrate or the Commissioner of the Police, or the Superintendent of Police, as the case may be, or authorize any of its officers or servants, to have such work summarily

removed or such use summarily discontinued without any notice as directed in the order; and any development unauthorizedly made again, shall be summarily removed or discontinued without making any order as aforesaid.

(2) The decision of the Authority on the question of what is development of a temporary nature shall be final.

(3) The Authority may recover the cost of any expenses incurred by it in this regard from the owner as arrears of land revenue.

Power to require removal of authorized development or use of land

54. (1) If it appears to the Authority that it is expedient in the interest of the proper planning of its areas (including the interests of amenities), having regard to the perspective plan of the development area or its development plan prepared and to any other material consideration;

(a) that any use of land should be discontinued; or

(b) that any conditions should be imposed on the continuance thereof; or

(c) that any building or works should be altered or removed;

the Authority may, by notice served on the owner:-

(i) require the discontinuance of that use; or

(ii) impose such conditions, as may be specified in the notice, on the continuance thereof; or

(iii) require such steps, as may be specified in the notice to be taken for the alteration or removal of any building or works, as the case may be, within such period, being not less than one month, as may be specified therein, after the service of the notice.

(2) Any person aggrieved by such notice, may within the said period and in the manner prescribed, appeal to the authority as may be prescribed.

(3) If an appeal is filed under sub-section (2), the provisions of clause (a) of sub-section (3) and sub-section (4) of section 51 shall apply, with such modifications as may be necessary.

(4) If any person:-

(a) has suffered damage in consequence of the compliance with the notice, by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land; or

(b) has carried out any work in compliance with the notice, and claims from the authority within the time and in the manner prescribed, compensation in respect of that damage, or of any expenses reasonably incurred by him

for complying with the notice the provisions of sub-sections (2) and (3) of section 49 shall apply with such modifications as may be necessary.

(5) If any person interested in the land in respect of which a notice is issued under this section, claims that by reason of the compliance with the notice, or within such period after the disposal of the appeal, if any, filed under sub-section (2) and in the manner prescribed, serve on the Government, an acquisition notice requiring his interest in the land to be acquired.

(6) When a notice is served under sub-section (5), the provisions of sub-section (2) to (5) of section 48 shall apply with such modifications as may be necessary.

Interim provision pending preparation of plan

55. Where the Authority in exercise of its functions and powers with respect to any area under it, is required to have regard to the provisions of a plan before such plan has become operative, the Authority shall have regard to the provisions which in its opinion will be required to be included for securing the proper planning of the concerned area.

Over- riding effect of this Act

56. Notwithstanding anything contained in the Sikkim Municipalities Act, 2007 or any other State laws relating to Municipalities and Municipal Corporations contrary to the provisions contained in this Act, the provisions of this Act shall have an over-riding effect over all such laws.

CHAPTER VIII

DEVELOPMENT SCHEMES

Power of the Authority to frame and execute development schemes

57. **(1)** Subject to the provisions of this Act and rules and regulations made thereunder, the Authority may undertake development in any area under its jurisdiction by framing and executing development schemes.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for the Authority to undertake development in any area outside its jurisdiction for the purpose of providing amenities and utilities which are wholly or partly beneficial to the residents of the area under its jurisdiction.

Publication of the development scheme and its approval

58. **(1)** A development scheme not inconsistent with any other law enforced in the State may be prepared for making provision for all or any of the following matters namely:

(a) acquisition of land by purchase, lease or otherwise and to erect thereon such building or to carry out such operations as may be necessary for the purposes of carrying on its functions;

(b) establishment of a new town;

(c) establishment of industries, industrial estates, flatted factories, service industries;

(d) establishment of commercial centers, including specialized markets, wholesale trade centers and mandies;

(e) establishment of tourist centers and tourism related infrastructure;

(f) development and landscaping of open spaces, recreational grounds, parks, zoological and botanical gardens, public assembly grounds and social forestry;

(g) conservation of ecologically sensitive areas and prevention of injury or contamination of rivers, water bodies and sources of water supply;

(h) preservation and protection of heritage sites and buildings, objects of historical importance or natural beauty and of buildings actually used for religious purposes;

(i) control of floods and air and water pollution;

(j) housing schemes for different income groups including housing for economically weaker sections of the society;

(k) construction and maintenance of rest houses, night shelter, infirmaries, homes for destitute, differently abled children, person with disabilities, senior citizens, etc.;

(l) redevelopment and renewal of blighted area;

(m) resettlement, rehabilitation and upgradation of slum areas;

(n) provision of health care, educational, cultural, religious and recreational facilities;

(o) provision of water supply, electricity and gas, disposal of sewage, solid waste and refuse and manufacture of its bye-products;

(p) provision of sanitary arrangements including construction of drains and general conservancy, public conveniences, etc.;

(q) construction, reconstruction, alteration, improvement and maintenance of public roads and streets, bridges, parking lots, transport terminals including bus depots, airports, bus bays and stops, street lighting and avenue plantation;

(r) provision of public transportation including mass transportation by rail or road or ropeway;

(s) provision of communication facilities;

(t) provision for burial and cremation grounds;

(u) slaughter houses;

(v) closure or demolition of dwellings and portions of dwellings unfit for human habitation;

(w) demolition of obstructive buildings or obstructive portions of buildings; and

(x) such other matters not inconsistent with the objects of this Act, as may be considered necessary.

(2) Every development scheme shall contain details, as far as may be applicable, in respect of:-

(a) land assembly over which the development scheme is to be implemented;

(b) layout plan and other relevant drawings and details including, if necessary, the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the percentage of building area for a plot, the number, height and character of buildings allowed in specific areas, the purposes for which buildings or specified areas may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable uses of land in any area in reasonable periods, parking space and loading and unloading space for any building and the size of projections and advertisement signs and hoardings;

(c) total estimated cost, sources of funding and cost recovery statement;

(d) manner of disposal of assets, if any;

(e) management and maintenance mechanism;

(f) any other matter considered necessary.

3) The Authority may, on such terms and conditions as may be agreed upon, undertake formulation and execution of any developmental project anywhere on behalf of the local authority, body corporate, co-operative society, or a department of the State or the Central Government:

Provided that permission for such development has been obtained under the provisions of Chapter VII of this Act by the concerned local authority, body corporate or co-operative society, as the case may be, the department of the State or the Central Government.

(4) No development scheme shall be framed by the Authority and no project shall be formulated by any other person or body including departments of Central and State Governments unless they are in conformity with the provisions of a plan approved under this Act.

Power of the Authority to engage consultants

59. The Authority may, for framing and executing a development scheme, engage any consultant on such terms and conditions as may be agreed upon between it and the consultant.

Publications of the development scheme and its approval

60. **(1)** As soon as may be, after a development scheme has been formulated, the authority shall publish it, in at least one local newspaper and digital media, a notice of preparation of the development scheme and the place or the places where copies of the same may be inspected, inviting objections and suggestion in writing form the public to the filed within 30 (thirty) days from the date of publication of such notice in the newspaper. The notice shall also state the name of the place or places where a copy of the development scheme shall be available for inspection by the public during the office hours:

Provided that no such notice under this sub-section shall be required where the development scheme is within the framework of the approved development plan of a development area.

(2) After the expiry of the period allowed under sub-section (1) for filing objections and suggestions, the Authority shall consider all the objections and suggestions received and shall after allowing reasonable opportunity of being heard, to any person who has made a request of being so heard, make such modifications in the development scheme as if considers proper within a period of 60 (sixty) days of the date of expiry of the notice period allowed under sub-section (1) and shall approve the time at which the scheme shall be open to inspection by the public.

(3) Immediately after the approval of the development scheme by the Authority, it shall notify in Official Gazette and publish a notice, in at least one local newspaper, of the approval of the development scheme mentioning the place or places and the time at which the scheme shall be open to inspection by the public.

Power of the Authority to set-up functional agencies

61. **(1)** The Authority may, with the prior approval of the Government, set-up functional agencies for performance of such functions, not inconsistent with the objects of this Act, in such cases where it considers appropriate that it would be in public interest and would effect economy and efficiency in the performance of the functions assigned to it.

(2) The composition, management and the procedures of the aforesaid agencies to be set-up under sub-section (1) shall be such as may be prescribed.

Auction of Floor Area Ratio

62. **(1)** If the Authority is satisfied that in a particular locality, augmentation of infrastructure, particularly relating to transportation, has occurred to such an extent that there is a

scope for permitting additional built-up space by way of additional Floor Area Ratio (FAR) or Floor Space Index (FSI) over and above the permissible FAR or FSI in the area, it may prepare, with the approval of the Government, a scheme identifying the specific area where such additional built-up space can be permitted by way of auction and specifying the applicable development control norms.

(2) The scheme prepared under sub-section (1) shall qualify the total additional built-up space to be permitted and maximum spot Floor Area Ratio or Floor Space Index to be allowed by auction. Thereupon, the Authority, shall auction the aforesaid additional build-up in the manner prescribed:

Provided that no auction shall take place unless augmentation of infrastructure and services mentioned in sub-section (1) has become fully operational.

CHAPTER IX

ACQUISITION, ASSEMBLY AND DISPOSAL OF LAND

Power to acquire land under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

63. (1) Any land required, reserved or designated in a perspective plan, a development plan, or an annual plan or a development scheme shall be deemed to be land needed for a public purpose within the meaning of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and may be acquired by the Government on request by the Authority.

(2) Where any land has been acquired by the Government under sub-section (1), it may after it has taken possession of the land, transfer the land to the Authority for the purpose for which the land has been acquired on payment by the Authority of the compensation awarded under the Act and of the charges incurred by the Government in connection with the acquisition.

Acquisition of property by the Authority

64. The Authority may acquire any movable or immovable property by purchase, exchange, gift, lease, mortgage, or by any other means permissible under any law for the time being in force.

Transfer of Government land to the Authority

65. The Government may, by order and on such terms and conditions as may be agreed upon between the Government and the Authority, place at the disposal of the Authority any developed or undeveloped Government land situated in accordance with the provisions of this Act.

Acquisition of land by way of negotiated settlement

66. The Authority may acquire land as per the laws prevailing in the state by paying such amount as may be arrived at through negotiated settlement in such manner as may be prescribed under regulations.

Disposal of land and other property by the Authority

67. The disposal of any land acquired by the Government and transferred to the Authority under section 63 or any land transferred to the Authority under section 53 or any land transferred to it under sections 65, 66 or any other land with or without carrying out development thereon, or any other immovable property belonging to the Authority, shall be done in accordance with the rules made for the purpose in this behalf.

CHAPTER X

LEVY OF DEVELOPMENT CHARGE

Levy of development charge

68. **(1)** Subject to the provisions of this Act and the rules made thereunder, and with the previous sanction of the Government, every Authority shall, by notification published in the Official Gazette, levy a charge (hereinafter called the "development charge"), on the carrying out of any development or the institution under Chapter VII of this Act, in the whole or any part of the development area, at the rates specified from time to time:

Provided that the rates may be different for different parts of the development area.

(2) The development charge shall be leviable on any person who undertakes or carries out such development and institutes or changes any such use.

(3) Notwithstanding anything contained in sub-section (1) and (2), no development charge shall be levied on development or institution of, change of use of any land vested in, or under the control or possession of the Central Government, the State Government or any local authority.

(4) The Government may, by rules, provide for exemption from the levy of development charge, any development, institution or change of any use of any land specified in the rules.

CHAPTER XI

PRIVATE AND JOINT SECTOR PARTICIPATION IN DEVELOPMENT

Development works by promoters

69. Subject to the provisions of this Act and the rules and regulations made thereunder, the Authority for the purpose of implementing the proposals contained in an approved plan, permit a promoter to undertake or carry out a development work within the area of its jurisdiction.

Power to grant license to promoters

70. **(1)** The Authority may grant a license to a promoter national or international, to undertake or carry out a development work in its area of jurisdiction, on such terms and conditions as may

be mutually agreed upon after following such procedure and on payment of such license fee as may be prescribed:

Provided that prior permission of the Government shall be required for granting license to an international promoter.

(2) Before granting such license under sub-section (1), the Authority shall ensure that development charges as leviable under this Act have been paid or that no development charges are leviable under this Act.

Application for grant of license

71. **(1)** Any promoter intending to undertake or carry out any development work shall make an application in writing for grant of license to undertake or carry out such work to the Authority in such form accompanied by such documents and fee and in such manner as may be prescribed.

(2) The Authority may, after making such enquiry as it considers necessary, by an order in writing:-

(a) grant a license in the prescribed form after the applicant has furnished to it a bank guarantee equivalent to ten percent of the estimated cost of the development work and has entered into an agreement with it containing such details as may be considered necessary including provisions for ensuring:-

(i) that the development shall be within the framework of the approved plan and shall conform to the provisions of the development control rules and applicable building rules, bye-laws; and

(ii) that the time schedule within which the development work is to be completed shall be adhered to;

(b) or refuse to grant a license after affording the applicant an opportunity of being heard.

(3) The license so granted shall be valid for a period of 3 (three) years. It may, however, be renewed for reasons to be recorded in writing from time to time for a period not exceeding 1 (one) year on payment of prescribed fee.

Additional provisions where cost of development work is to be realized in advance

72. Where a development work envisages realization in advance of the cost of development from the prospective allottees, the promoter shall deposit an amount equivalent to 25 (twenty-five) percent of the sum collected, from time to time, by him from the prospective allottees, within a period of 10 (ten) days of its realization, in a separate account to be maintained in a scheduled bank and pledged to the Authority. This amount can only be withdrawn on completion of the development work.

Provisions for economically weaker sections and Lower Income Groups

73. (1) Where a development work for which license is granted envisages provision of developed plots or built-up space, space percentage of the plots or built-up space shall be reserved for economically weaker sections and lower income groups of the society, as may be mutually agreed, and the cost of development of such reserved developed plots or built-up space shall be fully or partly, as may be agreed, distributed over developed plots or the built spaces meant for allottees other than economically weaker sections and lower income groups.

(2) The developed plots or built-up space reserved for economically weaker sections and lower income groups of the society shall be allotted by the promoter to only those beneficiaries who are identified by the Authority, at such cost as may be mutually agreed.

Recovery of capital or maintenance cost of amenities

74. Where a license has been granted for providing or maintaining or both providing and maintaining any amenity, utility, service or facility, the Authority may permit the promoter to recover the capital and maintenance cost by way of collection of users charges as may be agreed upon in the manner prescribed under regulations.

Development works in joint-sector

75. The Authority may enter into collaboration with a promoter or national or international agency to jointly undertake implementation of any development work within the framework of an approved plan on such terms and conditions as may be mutually agreed. Such collaboration may include provision for Economically weaker sections/Lower Income Groups housing facilities including shelter for economically weaker sections or sharing of developed plots and built spaces or sharing of profits:

Provided that where the collaboration is with an international agency, prior approval of the Government shall be necessary.

Rules for regulating development by private and joint sector

76. The Government shall frame rules for regulating development works by private-sector and under joint- sector.

CHAPTER XII

FINANCE, ACCOUNTS AND AUDIT

Fund of the Authority and its application

77. (1) The Authority shall have and maintain a separate fund called "development fund" to which shall be credited:-

(a) sum of money received from the Government or any other State, national or international agency, loans, advances, or otherwise for the performance of functions under this Act and for any other function which the Government may assign;

(b) all development charges or other charges or fees received under this Act or rules or regulations made thereunder;

(c) contribution from Municipalities under section 81;

(d) sum of money borrowed under section 111 from the market with the approval of Government by way of debentures, bonds and other means in accordance with the prescribed rules;

(e) sum of money earned from remunerative projects by way of rent or otherwise and disposal of its assets;

(f) sum of money earned from projects implemented under section 75;

(g) users' charges received by the Authority from the disposal of land, buildings and other properties; and

(h) any other sum of money received by the Authority from any other source for performing its function.

(2) The development fund shall be applied towards meeting: -

(a) the expenditure incurred in the administration of this Act;

(b) the cost of acquisition of land in the development area for the purpose of planned development;

(c) the expenditure for development of land in the development area;

(d) any expenses incurred by the Authority under this Act in connection with preparation of perspective plan, development plan and annual plan and planning and execution of projects and schemes unless expressly provided otherwise in this Act;

(e) the expenditure for such other purposes as the Government may direct; and

(f) the expenditure for such other purposes not inconsistent with this Act.

(3) The development fund account of every Authority shall be opened and maintained in the current or savings account of any bank as approved by the Government. Such surplus amount of money out of the aforesaid fund, as may determined by the Authority in this behalf, shall be only in Government approved securities.

(4) The Government may take such grants, advances and loans to the Authority as the Government may deem necessary for the performance of the functions of the Authority under this Act, and all such grants, loans and advances made shall be on such terms and conditions as the Government may determine.

Budget

78. The Board and every Authority, shall prepare in such form and at such time every year, as may be prescribed, a budget in respect of the financial year next ensuing, showing their estimated receipts and expenditure, such number of copies of the budget, as may be prescribed, shall be forwarded to the Government:-

(a) directly in the case of the Board;

(b) through the Board, in the case of the Authority.

Accounts and Audit

79. (1) The Board and every Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such forms as may be prescribed.

(2) The accounts maintained under sub-section (1) shall be subject to audit annually by the Accountant General of the State and any expenditure incurred by him in connection with such audit shall be payable by the concerned Authority to the Accountant General.

(3) The Accountant General or any person appointed by him in connection with the audit of accounts under sub-section (2), shall have the same right, privilege, and authority in connection with such audit as the Accountant General has in connection with the Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the concerned Authority. The accounts as certified by the Accountant General or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Government:-

(a) directly in the case of the Board;

(b) through the Board, in the case of the Authority.

Levy of users' charges

80. (1) In order to recover fully or partly the capital expenditure and the cost of maintenance of utilities, amenities, services or facilities provided by the Authority, it may levy and collect a charge from the users, (hereinafter called the users' charge).

(2) The amount of users' charges to be levied and its manner of assessment and collection shall be such as may be prescribed under regulations.

(3) The Authority may assign, on such terms and conditions, as may be agreed, the task of providing and maintaining any utility, amenity, service or facility, within the area of jurisdiction, to any person or agency including an association or body of individuals whether corporate or not and permit them to collect such users' charges from such beneficiaries and subject to such terms and conditions as may be prescribed under regulations.

Contribution by municipal bodies to the development fund

81. Every municipal body within the development area shall at the beginning of the financial year, contribute from municipal fund, a sum not less than ten percent of its total receipts from all sources during the last preceding year to the development fund of the Authority, as the Government may specify from time to time.

Annual reports

82. (1) The Board shall prepare every year on its activities, during that year and submit the report to the Government in such form on or before such date as may be prescribed and the Government shall cause a copy of the report to be laid before the State Legislature.

(2) The Authority shall prepare every year a report on its activities during that year clearly specifying sector-wise physical targets achieved along with regular financial statements and submit the report to the Government and the Board in such form on or before such date, as may be prescribed.

Central Provident fund

83. (1) The Board and the Authority shall constitute for the benefit of their whole-time paid members, officers and other employees, in such manner and subject to such conditions, as may be prescribed, such central provident fund as it may deem fit.

CHAPTER XIII

SUPPLEMENTAL AND MISCELLANEOUS PROVISIONS

Restrictions on use and development of land after declaration of development area

84. (1) On or after the date on which the declaration of development area under section 21 of this Act is notified:-

(a) no person shall within the area included in the development area, as the case may be, erect or proceed with any building work, remove, pull down, alter, make additions to or make any substantial repair to any building, part of building, a compound wall or any drainage work or remove any earth, stone or material, or sub-divide any land or charge the use of any land or building unless such person has applied for and obtained

necessary permission from the Authority in the case of development area under its jurisdiction;

(b) the Authority as the case may be, on receipt of such application, shall at once furnish the applicant with a written acknowledgement of its receipt and may, after an inquiry either grant or refuse such permission or grant it subject to such conditions as it may think fit impose. If no decision is communicated to the applicant within 3 (three) months from the date of such acknowledgement, the applicant shall be deemed to have been granted such permission;

(c) if any person contravenes the provisions contained in sub-section (a) or sub-section (b), the Authority, may direct such person by notice in writing to stop any work in progress, and after making inquiry in the prescribed manner, remove, pull down, or alter any building or other work or restore the land in respect of which such contravention is made to its original condition;

(d) any expenses incurred by the Authority, under sub-section (3) shall be a sum due to them under this Act which may be recovered from the person in default or the owner of the plot as arrears of land revenue; and

(e) no person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the Authority under sub-section (1).

(2) Wherever the Government, after the declaration of the development area under section 21, but before the publication of the Map and the Register under section 31, is satisfied that in any development area or part thereof, the change of the land use or any building operation or any other operation as mentioned in sub-section (1) therein:-

(a) is likely to cause injurious disturbance of surface or any land or soil, or is considered detrimental to the preservation of the soil, prevention of landslip or protection against erosion; or

(b) is likely to make it difficult to plan and develop the area in question in accordance with the provisions of this Act. The Government may by notification published in the Official Gazette, freeze the existing land use, for a period not exceeding 3 (three) years;

(c) on the issuance of a notification under this sub-section:-

(i) no person shall change the use of any land or carry out any development of land other than the change for the purpose of agriculture without the written permission of the Authority in the case of the development area; and

(ii) no local authority or officer or other authority shall, notwithstanding anything contained in any other law for the time being in force, grant permission for the change in use of land without the written permission of the Authority in the case of the development area;

(d) any permission which the Authority, as the case may be, may grant under this sub-section shall be subject to such conditions and restrictions as may be imposed in this behalf by the Government.

Power of entry

85. (1) The Chief Town Planner or an officer authorized by him or any officer authorized in this behalf by the Board or the Authority, as the case may be, may enter into or upon any land or building with or without assistants or workmen within the area under their respective jurisdiction under this Act for the purpose of:-

(a) making an enquiry, inspection, measurement or survey or taking levels or photographs of such land or building;

(b) setting out boundaries and intended lines of works;

(c) making such levels, boundaries and lines by placing marks and cutting trenches;

(d) examining works under construction and ascertaining the course of sewers drains;

(e) digging or boring into the sub-soil;

(f) ascertaining whether any land is being or has been developed in contravention or any provision of this Act or rules or regulations made thereunder; and

(g) doing any other thing necessary for the efficient administration of this Act:

Provided that:-

(i) in the case of any building used as a dwelling house or upon any enclosed part of garden attached to such a building, no such entry shall be made without the consent of the occupier thereof. If no consent is given, entry can be made by giving such occupier at least 24 (twenty-four) hours' notice in writing of the intention to enter;

(ii) sufficient opportunity shall in every instance be given to enable women, if any, to withdraw from the land or the building;

(iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made to the social and religious usages of the occupants of the land or building entered.

(2) The powers of the Chief Town Planner or the Board under sub-section (1) shall extend to the whole of the State of Sikkim and the powers of the Authority under sub-section (1) shall extend to its development area and such other area which the Government may have directed to be included in a development plan.

(3) Any person who obstructs the entry of a person empowered or authorized under this section to enter into or upon any land or building or molests such person, after such entry, shall be punishable with imprisonment for a term which may extend to 6 (six) months or fine which may extend to three thousand rupees, or with both.

Service of notice etc.

86. (1) All documents including notices and orders required by this Act or any rule or regulations made thereunder to be served upon any person shall, save as otherwise provided in this Act or rule or regulation made thereunder, be deemed to be duly served:-

(a) where the document is to be served on a Government department, Railway, local authority, statutory authority, company, corporation, society or other body, if the document is addressed to the head of the Government Department, General Manager of the Railway, Secretary or Principal Officer of the local authority, statutory authority, company corporation, society or any other body at its principal, branch, local or registered office, as the case may be, and is either:-

(i) sent by registered post of such office; or

(ii) delivered at such office;

(b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either:-

(i) sent by registered post; or

(ii) delivered at the said place of business;

(c) in any other case, if the document is addressed to the person to be served and:-

(i) is given or tendered to him; or

(ii) if such person cannot be found, is affixed on conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or the building to which it relates; or

(iii) is sent by registered post to that person.

(2) Any document which is required or authorized to be served on the owner or occupier of any land or building may be addressed "the owner" or "the occupier" as the case may be, of that land or building (naming or describing that land or building) without further name or description, and shall be deemed to be duly served:-

(a) if the document so addressed is sent or delivered in accordance with clause (c) of sub-section (1); or

(b) if the document so addressed or a copy thereof so addressed is delivered to some person on the land or building.

(3) Where a document is served on a partnership in accordance with this section, the document is deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property, the officer authorized in this behalf by the Board, or the Authority, as the case may be, by notice in writing require the occupier, if any, of the property to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) A servant is not a member of the family within the meaning of this section.

Public notice how to be made known and the notices, etc. to fix reasonable time

87. (1) Every public notice given under this Act or rules or regulations made thereunder shall be in writing under the signature of such officer as may be authorized in this behalf by the Board, or the Authority and shall be widely made known in the locality to be affected there by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by advertisement in a local newspaper or digital media and such other means which such authorized officer may consider fit.

(2) Where any notice, order or other document issued or made under the Act or any rule or regulation made thereunder, requires anything to be done for the doing of which no time is fixed in this Act or rule or regulation made thereunder, the notice, order or other document shall specify a reasonable time for doing the same.

Authentication of orders and documents

88. All permissions, orders, decision, notices and other documents of the Chief Town Planner; the Board; or the Authority shall be authenticated by the signature of such officer as may be authorized by the Chief Town Planner or the Board or the Authority, as the case may be, in this behalf.

Mode of proof of records

89. A copy of any receipt, application, plan, notice, order, entry in a register, or other document in the possession of the Board or the Authority, if duly certified by legal keeper thereof or other person authorized by the Board, or the Authority shall be received as *prima facie* evidence of the matters and transactions therein recorded in every case where, and to the same extent as the original entry or document would, if produced, have been admissible to prove such matters.

Restriction on the summoning of officers and servants of the Board and the Authority

90. No Chairperson, Vice-Chairperson, member or officer or servant of the Board or the Authority shall in any legal proceedings to which the Board or the Authority is not a party, be required to produce any register or document the contents of which can be proved under the preceding section by a certified copy, or to appear as a witness to prove the matters and transactions recorded therein, unless by order of the Court made for special cause.

Prohibition to supply electricity, water etc.

91. Any agency charged with the duty of supplying electric energy to buildings or installations within a development area, shall not give electric connection and any agency charged with the duty of supplying water and rendering such other services to buildings or installations in a development area shall not give aware connection or render such other services to any newly constructed building or convert to permanent domestic use any connection already taken unless the application for such connection is accompanied by a No Objection Certificate from the concerned Authority.

Transfer to authority for purposes of development of land or building vested in local authority

92. **(1)** Whenever any building or any street, square or other land, or any part thereof, which is situated within any development area and is vested in any local authority is required for the purposes of development by the Authority, it shall give notice accordingly to the Executive Officer of the concerned local authority, and such building, street, square, other land or part thereof, shall, notwithstanding anything contains in the law under which the said local authority is constituted, thereupon vest in the Authority.

(2) Where any property vests in the Authority under sub-section (1) and the Authority makes a declaration that such property shall be retained by it for a period to be specified in the declaration, the property shall, in the expiration of said period, revert to the local authority.

(3) Where a declaration is made under sub-section (2), no compensation shall be payable by the Authority to the concerned local authority in respect of the property so vested in the Authority.

(4) Where any land or building vests in the Authority under sub-section (1) and no declaration is made under sub-section (2) in respect of the land or the building, the Authority shall pay to the local authority concerned as compensation a sum equal to the market value of such land or building as on the date of notice under sub-section (1):

Provided that the land of equal market value may be given in exchange, or lieu of compensation.

(5) If, in any case, where the Authority has made a declaration in respect of any land under sub-section (2) and retains or disposes of the land contrary to the terms of the declaration so that the land does not revest in the local authority the Authority shall pay to the concerned local authority compensation in respect of such land in accordance with the provisions of sub-section (3).

(6) If any question or dispute arises:-

(a) as to whether compensation is payable under sub-section (3) or sub-section (4); or

(b) as to the amount of compensation paid or proposed to be paid under sub-section (3) or sub-section (4); or

(c) as to whether any building or street, or a square or other land or any part thereof is required for the purposes of development by the Authority;

The matter shall be referred to the Government whose decision thereon shall be final.

Restriction on power of a local authority to make rules, regulations or bye-laws in respect of certain matters

93. **(1)** Notwithstanding anything contained in any law for the time being in force, no rule, regulation or bye-law shall be made or amended by a local authority in respect of matters specified in sub-section (2), unless the Authority, upon consideration of the rule, regulations or bye-law, certifies that it does not contravene any of the provisions or any perspective plan or any development plan or regulations pertaining to planning or building standards.

(2) The matters referred to in sub-section (1) are the following, namely:-

(a) water supply, drainage and sewerage disposal;

(b) erection or re-erection of buildings, including grant of building permissions, licenses and imposition of restriction on use and sub-division of land and building;

(c) sub-division of land into building sites, roads and lanes, recreational sites and sites for community facilities; and

(d) development of land, improvement schemes, and housing and re-housing schemes.

Power of Authority to require local authority to assume

94. Where any area has been developed by the Authority it may require the local authority within whose local limits the area so developed is situated, to assume responsibility for the maintenance of the amenities which have been provided in the area by the Authority and for the provision of the amenities which have not been provided by

responsibility in certain cases

the Authority but which in its opinion should be provided in the area, on terms and conditions agreed upon between the Authority and that local authority, and where such terms and conditions cannot be agreed upon, on terms and conditions settled by the State Government in consultation with the local authority on a reference of the matter to State Government by the Authority.

Restriction on registration of documents

95. Notwithstanding anything contained in the law for the time being in force in Sikkim, no deed or document in respect of transfer, by way of sale, gift, exchange, lease, mortgage with possession or otherwise of any land, or sub-division of any land or building situated within a development area shall be registered by the authority competent to register such deed or document under the provisions of the said Act 'Sikkim Town and Country Planning Act' unless such deed or document is accompanied by a no-objection certificate from the concerned development Authority, in the form prescribed under rules:

Provided that the competent authority may register any transfer:-

(a) where the land is owned by a person and the transfer is made without involving any further divisions;

(b) where the lease is made in relation to a part or whole of a building; and

(c) where the mortgage is made for procuring the loans for construction or improvement over the land either from Government or from any other financial institution constituted or established under any law for the time being in force or recognized by the Government.

Offences by companies

96. **(1)** If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of and responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to the proceeded against and be punishable accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent of or connivance of, or is attributable to any neglect on the part of any Director, Manager, Secretary or any other officer of the company, such Director, Manager or other officer shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this section :-

(a) "**Company**" means a body corporate and includes a firm or other association of individuals; and

(b) "**Director**" in relation to a firm, means a partner in the firm.

Penalty for obstructing contractor or removing mark

97. If any person:-

(a) obstructs, or molests any person engaged or employed by the Board or the Authority or any person with whom the Board or the Authority has entered into a contract, in the performance or execution by such person of his duty or of anything which he is empowered or required to do under this Act; or

(b) removes any mark set up for the purpose of indicating any level or direction necessary for the executive of works authorized under this Act, he shall be punishable with fines as prescribed by the Authority from time to time.

Sanction of prosecution

98. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Board or the Authority concerned or any officer authorized by the Board or the Authority, as the case may be, in this behalf.

Compound of offences

99. **(1)** The Board or the Authority concerned or any person authorized in this behalf may either before or after the institution of the proceedings compound any offence made punishable by or under this Act.

(2) When an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

Cognizance of offence

100. **(1)** Notwithstanding anything contained in any other provisions of any other Act it shall be competent for the Court of Judicial Magistrate of First Class to take cognizance of offences under this Act.

(2) An officer of the level of Under Secretary or above shall be the competent authority to file a complaint under the provision of this Act.

(3) All complaints shall be filed within a period of 3 (three) months from the date of occurrence or commission of the offence.

Right to appear by recognized agent

101. Every party to a proceeding before the Board or the Authority constituted under this Act, shall be entitled to appear either in person or by his agent authorized in writing in that behalf.

Jurisdiction of courts

102. No Court inferior to that of a Magistrate of the First Class shall try an offence punishable under this Act.

Fine when realized to be paid to the concerned Authority

103. All fines realized in connection with prosecution under this Act shall be paid to the Authority in the prescribed manner.

Members and officers to be public servants

104. Every member and every officer and other employees of the Board and the Authority shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Protection of action taken in good faith

105. No suit, prosecution or other legal proceedings shall lie against any person deemed to be a public servant under section 98 for anything which is done or intended to be done in good faith under this Act or any rules or regulation made thereunder.

Duty of police officer to assist

106. It shall be the duty of every police officer:-

(a) to co-operate with the Authority for carrying into effect and enforcing the provisions of this Act or any rule or regulation made thereunder;

(b) to communicate without delay to the proper officer or employee of the Authority any information which such police officer receives of a design to commit, or of the commission of, any offence against this Act or any rule or regulation made thereunder; and

(c) to assist any officer or employee of the authority reasonable demanding the aid of such police officer for the lawful exercise of any power vested in him under this Act or any rule or regulation made hereunder.

Finality of orders

107. Save as otherwise expressly provided in this Act, every order passed or direction or notice issued by the Government or the Board, the Chief Town Planner or the Authority, as the case may be, under this Act shall be final and shall not be questioned in any suit or other legal proceeding.

Validation of acts and proceedings

108. **(1)** No act done or proceeding taken under this Act shall be questioned on the ground merely of:-

(a) the existence of any vacancy in, or any defect in the constitution of the Board, or an Authority;

(b) any person having ceased to be member of the Board or the Authority;

(c) any person associated with the Board or an Authority under the provisions of sections 109 having voted in contravention of the said section; or

(d) the failure to serve a notice on any person, where no substantial injustice has resulted from such failure; or

(e) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Board or the Authority, minutes of the proceedings of which have been duly signed as prescribed, shall be taken to have been duly convened and to be free from all defects and irregularities.

Temporary association of persons

109. (1) The Board and the Authority may associate with themselves in such manner and for such purposes, as may be prescribed, any person whose assistance or advice they may consider necessary in performing any of their functions assigned to them under this Act.

(2) Any person associated under sub-section (1) shall have the right to take part in the discussions in the meeting of the Board and the Authority relevant to the purpose but shall not have the right to vote and shall not be construed as a member for any other purpose.

Power to delegate

110. (1) The Board may, by a resolution, direct that any power exercisable by it under this Act or rules or regulations made thereunder, may also be exercised by any Authority, or by any District Planning Committee and the municipal bodies constituted under the Sikkim Municipalities Act, 2007 or a Panchayat constituted under the Sikkim Panchayat Act, 1993 as the case may be, or by any officer of the Board or the Government or the Authority, or the District Planning Committee or the municipal body or a Panchayat as may be mentioned therein, in such cases and subject to such conditions, if any, as may be specified therein.

(2) The Chief Town Planner may, by an order in writing, delegate any power exercisable by him under this Act or rules or regulations made thereunder, to any officer of the Board or the Government or any Authority or the District Planning Committee or the municipal bodies or a Panchayat in such cases and subject to such conditions, if any, as may be specified therein.

(3) The Authority by a resolution direct that any power exercisable by it under this Act or rules or regulations made thereunder, except the power to prepare perspective plan, development plan, annual plans or development schemes or to make regulations may also be exercisable by any other local authority or any officer of the Government of the Authority or the District Planning Committee or the municipal bodies or a Panchayat in such cases and subject to such conditions, if any, as may be specified therein:

Provided that the delegation to an officer of the Government shall require prior Government sanction.

(4) The Town Planning Member may, by an order in writing, delegated any power exercisable by him under this Act or rules or regulations made thereunder to any officer subordinate to him such cases and subject to such conditions, if any, as may be specified therein.

Power of the Authority to borrow money

111. (1) The Authority may from time to time, borrow at such rate of interest and for such period and upon such terms, as the Government may approve, any sum of money required for efficient performance of the functions assigned to it under this Act and rules and regulations made thereunder.

(2) The Authority shall maintain a sinking fund for the repayment of money borrowed under sub-section (1) and shall pay every year into the sinking fund such sum as may be sufficient for repayment within the period fixed of all money so borrowed.

(3) The sinking fund shall be applied in or towards, the discharge of the loan for which such fund was created and until such fund is wholly discharged, it shall not be applied for any other purpose.

Control by the Government and the Board

112. (1) The Board and the Authority shall carry out such directions as may be issued to them, from time to time, by the Government for the efficient administration of this Act and Authority shall also carry out such directions as may be issued, from time to time, by the Board for the purpose.

(2) In case of any dispute in connection with the exercise of its powers and discharge of its functions by the Board or any Authority under this Act, the decision of the government on such disputes shall be final.

Suspension of the development plan in emergency by Government

113. If the Government is satisfied that a grave emergency exists which necessitates the suspension of any approved development plan, annual plan or the development schemes or part thereof it may, by notification in the Official Gazette, suspend such plan, annual plan or development scheme or part thereof for such period, as it may consider necessary.

Return and information

114. (1) The Board and the Authority shall furnish to the Government such plans, reports, return and other information, as the Government may, from time to time require.

(2) The Authority, urban local bodies and the panchayats shall furnish to the Board, such plans, reports, returns and other information, as the Board may, from time to time, require.

Effects of laws

115. (1) Save as provided hereinbefore, the provisions of this Act and the rules and regulations made thereunder shall have effect

notwithstanding anything inconsistent therewith constrained in any other law.

(2) Notwithstanding anything contained in any such other law, when permission for development has not been obtained under this Act, such development shall not be deemed to be lawfully undertaken or carried out by reason only of the fact that permission, approval or sanction required under such other law for such development has been obtained.

Power to fix land values within the development area

116. (1) Notwithstanding anything contained in any law for the time being in force, every Authority at an interval of every 5 (five) years, after conducting such enquiry, as may be considered necessary, fix, by notification in the Official Gazette and in a local newspaper, the values of land in respect of each locality in a development area.

(2) Different values may be fixed for different localities in a development area after taking into consideration the use to which the land is put at the time of enquiry under sub-section (1).

(3) The notification fixing the values of land under sub-section (1) shall require prior Government approval.

Provisions of the perspective plan to stand modified in certain cases

117. After the coming into operation of a development plan of an area, the approved perspective plan of the same area shall stand modified or altered to the extent the proposals in the development plan are at variance with the perspective plan.

Power to make agreement

118. The Board or the Authority may enter into agreement with any person, body, agency, promoter, company, society or the Government for discharging their duties and performing their functions assigned to them under this Act.

Power to make rules

119. (1) The Government may, after consultation with the Authority only with regard to the matters concerning the Authority, may make rules by notification in the Official Gazette, to carry out all or any of the purposes of this Act and prescribed forms for any proceedings for which it considers that a form should be provided:

Provided that such consultation with the Authority shall not be necessary on the first occasion of the making of the rules under this section, but the Government shall take into consideration any suggestions which the authority may make in relation to the amendment of such rules after they are made.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the functions and powers of the Board and the Authority;

(b) the term of office and conditions of service of the members of the Board and the Authority;

(c) the qualification or disqualification for being chosen as members of the Board and the Authority;

(d) the time and place for holding of and the procedure to be followed in the meetings including quorum of the Board and the Authority;

(e) the powers and duties of the officers and employees of the Board;

(f) the qualifications, functions, powers and duties of the Chief Town Planner and the Town Planning Member of the Authority including their conditions of service;

(g) the manner of nomination of representatives of local authorities under this Act;

(h) procedure for exclusion from or inclusion in a development area under section 21;

(i) the terms and conditions of the members of the Development Committee constituted under sub-section (3) of section 23;

(j) the form in which the Map and the Register is to be prepared under section 30;

(k) the form in which the application for permission for development shall be made, particulars to be furnished and documents and plans which shall accompany such application together with the fee;

(l) the amount of fee to be paid for revalidation of permission under section 47;

(m) the manner in which and the purpose for which any Authority may associate with itself any person under the provisions of this Act;

(n) the control and restriction in relation to the appointment of officers and employees of the Board and the Authority including conditions of service of such officers and employees;

(o) the form and content of the perspective plan, the development plan, the annual plan and the development schemes and the procedure to be followed in connection with their preparation, submission and approval and the form and the manner of their publication;

(p) the manner of appeal to the Authority under clause (b) of sub-section (3) of section 51;

(q) the composition, management and conduct of functional agencies under sub-section (2) of section 61;

(r) the manner of auction of additional built-up space under sub-section (2) of section 62;

(s) the manner and procedure by which land shall be acquired through negotiated settlement under section 66;

(t) the manner of disposal of land by the Authority under section 67;

(u) the procedure to be followed in granting license and the license fee to be paid by promoters under sub-section (1) of section 70; the form of application and documents to accompany, the amount of application fee, the format of the license form and the fee to be charged for revalidation of the license under section 71;

(v) manner in which development work by private sector and joint sector shall be regulated under section 76;

(w) the manner in which an acquisition notice is to be served, and claim for compensation is to be made, the time within which such claim is to be made and the procedure to be followed for assessment of compensation;

(x) the form of the budget of the Board and the Authority, the date on or before it shall be prepared, the manner of preparing it and the number of copies that has to be sent to the Government under section 78;

(y) the details and documents to accompany the application for change of use of agricultural land under section 8;

(z) the form and the date before which the annual reports are to be submitted under section 82;

(aa) any other matter which has to be or may be prescribed by rules or any other matter for efficient administration of the objectives of this Act.

(3) **(a)** The Government shall have powers to make rules (a) in respect of conditions on which officers and employees of the Authority may be appointed, reduced in rank, suspended, discharged, removed or dismissed;

(b) in respect of accounts to be maintained by the Authority;

(c) in respect of returns, statements, reports and accounts be submitted by the Authority to the Government;

(d) prescribing and defining the mutual relationship to be observed between the Authority and the local authority in any matter in which they are jointly interested;

(e) in respect of principles, guidelines, planning standards, building regulations, conditions and restrictions in accordance with which development may be undertaken or regulated;

(f) in respect of authentication of development plans at the time of approval by the Government and custody thereof and the procedure of its production before courts for verification;

(g) in respect of calling of tenders, security amount, acceptance of tenders, issue of work orders, entering into contract, execution of works, compromise of claims, and matters ancillary thereto;

(h) in respect of the stages of which the development of any particular feature of a zone may be carried out;

(i) in respect of the local enquiries or other hearings that may be made before a development plan is approved;

(j) in respect of the manner in which the Government land after transfer to the Authority shall be dealt with;

(k) in respect of matters relating to leasing or hiring out or transfer of any property belonging to the Authority and matters ancillary or consequential thereto;

(l) in respect of the powers to be exercised and the functions to be performed by the members of the Authority including the Chairman and the Vice-Chairman.

(4) In making any rule, the Government may provide that a breach thereof, shall be punishable with fine which may extend to one thousand rupees and in the event of the continuance of the offence, with an additional fine which may extend to thirty rupees for every day during which such breach continues after conviction for the first such breach.

Power to make regulations

120. (1) The Authority may, with the previous approval of the Government make regulations not inconsistent with this Act and the rules made thereunder to carry out the purposes of this Act; and without prejudice to the generality of this power such regulations may provide for: -

(a) the powers and duties of the officers and employees of the Authority; the salaries, allowances and conditions of service of its officers and employees;

(b) the terms and conditions of the continuance of use of any land used otherwise than in conformity with a perspective plan or development or an annual plan;

(c) the summoning and holding of meetings of a Committee constituted under section 27, the time and place where such meeting are to be held, the conduct of business at such meeting and the number of members necessary to form a quorum under sub-section (b) of section 27;

(d) the fee and allowances payable to the members of the Committee (other than the members of the Authority) for attending the meeting of the Committee or any other work of the Authority under sub-section (c) of section 27;

(e) works for the maintenance, improvement and other alterations of any building for which permission shall not be required under section 44;

(f) the form in which application for permission under sub-section (1) of section 45, the particulars to be contained in and the documents to be accompanied with such application;

(g) the manner in which order under sub-section (2) of section 45 shall be communicated to the applicant under sub-section (5) of section 45;

(h) the amount of leviable users charges and its manner of collection under sub-section (2) and terms and conditions including beneficiaries form which users' charges may be collected under sub-section (3) of section 80;

(i) the principles, guidelines, planning norms and standards, building regulations, conditions and restrictions in accordance with which development may be undertaken or regulated; and

(j) any other matter which has to be or may be prescribed by regulations and or any matter for efficient administrating of the objectives of this Act.

(2) Until the Authority is established under this Act, any regulation which may be made under sub-section (1), may be made by the Government and any regulation so made may be altered or rescinded by the Authority in exercise of its powers under sub-section (1).

(3) The regulations so made shall be published in the Official Gazette and shall come into force on the date of such publication.

Cancellation of regulation by the Government

121. The Government may, in consultation with the Authority and after previous publication of their intention, rescind any regulation made by the Authority, and thereupon such regulations shall cease to have effect.

Laying of rules before State Legislature

122. **(1)** All rules made under this Act shall be laid before the State Legislature, as soon as may be, after they are made and shall be subject to such modifications as the Legislature may make during the session in which they are so laid or the session immediately following.

(2) All rules so made and after action completed under sub-section (1), shall be published in the Official Gazette and shall come into force on the date of such publication.

Dissolution of the Authority

123. **(1)** Where the Government is satisfied that the purpose for which any Authority was constituted under this Act has been substantially achieved so as to render the continued existence of such authority unnecessary, the Government may, by notification in the Official Gazette, declare that the Authority shall be dissolved and cease to exist with effect from such date as may be specified in the notification and the Authority shall be deemed to be dissolved and cease to exist accordingly.

(2) From the said date:-

(a) all properties, funds and dues which are vested in, or realizable by the Authority shall vest in or be realizable by the Government or any agency or agencies, as may be specified by the government in this behalf;

(b) all liabilities which are enforceable against the Authority shall be enforceable against the Government;

(c) for the purpose of realizing properties, funds and dues referred to in clause (a), the functions of the Authority shall be discharged by the Government.

Repeal and Savings

124. **(1)** The Sikkim Urban and Regional Planning and Development Act, 1998, and The Sikkim State Authority for Planning and Development Act, 2007 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or purporting to have been done or taken (including any rules, notifications or orders made or issued) in exercise of any power, conferred by or under the said Act shall, so far as it is not consistent with the provisions of this Act, be deemed to have been done or taken under this Act.

SURAJ CHETTRI (SSJS)
L.R.-CUM-SECRETARY
LAW & PARLIAMENTARY AFFAIRS DEPARTMENT.

S.G.P.G. - 317/ Com. 4/Gazette /13 Nos./ Dt:- 15.06.2024

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
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GOVERNMENT OF SIKKIM
LAW & PARLIAMENTARY AFFAIRS DEPARTMENT
GANGTOK

No. 11(656)L&PAD/2021/35 **Dated: 16.01.2026**

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on the 17th day of December, 2025 is hereby published for general information:-

THE SIKKIM TOWN AND COUNTRY PLANNING (AMENDMENT) ACT, 2025

ACT NO. 24 OF 2025

AN

ACT

to amend the Sikkim Town and Country Planning Act, 2024.

BE it enacted by the Legislature of Sikkim in the Seventy-sixth Year of the Republic of India as follows: -

Short title, extent and commencement

1. (1) This Act may be called the Sikkim Town and Country Planning (Amendment) Act, 2025.

(2) It extends to the whole of Sikkim.

(3) It shall come into force on the date of its publication in the Official Gazette.

Amendment of section 58

2. In the Sikkim Town and Country Planning Act, 2024 (hereinafter referred to as the "principal Act"), in section 58, for existing marginal heading, the following shall be substituted, namely:

"Scope of Development Scheme"

Omission of section 122

3. In the principal Act, section 122 shall be omitted.

The Repeal and savings

4. (1) Sikkim Town and Country Planning Ordinance, 2025 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of the powers conferred by or under that Ordinance shall be deemed to have been done or taken 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 or such action was taken.

SURAJ CHETTRI (SSJS)
L.R.-cum-SECRETARY
LAW & PARLIAMENTARY AFFAIRS DEPARTMENT