

The Goa Town and Country Planning (Amendment) Bill, 2020

(Bill No. 21 of 2020)

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BILL

further to amend the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975).

BE it enacted by the Legislative Assembly of Goa in the Seventy-first Year of the Republic of India as follows:-

1. **Short title and commencement.**- (1) This Act may be called the Goa Town and Country Planning (Amendment) Act, 2020.

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

2. **Amendment of section 2.** --- In section 2 of the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975) (hereinafter referred to as the “principal Act”), in clause (10), the expression “, mining, quarrying” shall be omitted.

3. **Amendment of section 16.**--- In section 16 of the principal Act, following proviso shall be inserted, namely:-

“Provided that, nothing in this section shall apply to the activity undertaken in pursuance of the permission/licence granted under the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act No. 67 of 1957) and rules made thereunder.”.

4. **Amendment of section 16A.**--- In section 16A of the principal Act, for sub-section (1) the following sub-section shall be substituted, namely:-

“(1) No person shall undertake any work of development in contravention of any provision of the regional plan as in force, except the project/schemes/development works under taken by the Central Government or the Government either by itself or through its servant or agent or any other person or any activity undertaken in pursuance of the permission/licence granted under the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act No. 67 of 1957) and rules framed thereunder, and all such development work shall be in conformity with the provisions of the regional plan.”.

5. **Amendment of section 17A.**--- In section 17A of the principal Act, the following proviso shall be inserted, namely:-

“Provided that, nothing in this section shall apply to the activity undertaken in pursuance of the permission/licence granted under the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act No. 67 of 1957) and rules made thereunder.”.

6. **Amendment of section 44.**--- In section 44 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:-

“Provided that, no such permission shall be required to undertake any activity for which permission/licence is granted under the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act No. 67 of 1957) and rules made thereunder.”.

### **Statement of Objects and Reasons**

The Bill seeks to amend section 2, 16, 16-A, 17-A and 44 of the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975) suitably so as to exclude the activities undertaken in pursuance of the permissions/licences granted under the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957) and rules made thereunder.

### **Financial Memorandum**

Approximately Rs. 1 crore will be generated by way of renewing/approving the grant of quarrying leases which are unable to process now due to conflict in legislature and from issue of new quarrying leases.

### **Memorandum Regarding Delegated Legislation**

No delegated legislation is involved in this Bill.

Porvorim – Goa  
27<sup>th</sup> July, 2020

(Chandrakant Kavlekar)  
Hon’ble Dy. C.M./Min (TCP)

Assembly Hall,  
Porvorim – Goa  
27<sup>th</sup> July, 2020

(Namrata Ulman)  
Secretary to the Legislative  
Assembly of Goa

**Governor's Recommendation under Article 207  
of the Constitution of India**

In pursuance of Article 207 of the Constitution of India, I, Shri. Satya Pal Malik, the Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Town and Country Planning (Amendment) Bill, 2020.

## ANNEXURE

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### Extracts of Section 2, 16, 16-A, 17-A and 44 of the Goa Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975)

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**2. Definitions.**— In this Act, unless the context otherwise requires,—

<sup>1</sup>[(1) “accommodation reservation” means to accord a permission by the Government to owner of land, that is required for public amenity specified in Development Plan or Regional Plan, by the Planning and Development Authority, municipal corporation, municipal council or village panchayat, as the case may be, to use the potential of such land in the form of built-up space guided by permissible Floor Area Ratio, in addition to the built-up space required for such amenity, in lieu of payment of compensation for such land and such amenity, transferred in favour of such authority;]

2 [(1A)] “agriculture” includes (i) horticulture, farming, growing of crops, fruits, vegetables, flowers, grass, fodder and trees; (ii) any kind of cultivation of soil; (iii) breeding and keeping of livestock including cattle, horses, donkeys, mules, pigs, fish, poultry and bees; (iv) the use of land which is ancillary to the farming of land or any other agricultural purposes; but does not include the use of any land attached to a building for the purposes of garden to be used along with such building; and the expression “agricultural” shall be construed accordingly;

(2) “amenities” include the utilities such as roads and streets, open spaces, parks, recreational grounds, playgrounds, water and electric supply, street lighting, sewerage, drainage, public works and other utilities, services and conveniences;

(3) “area of bad lay-out or obsolete development” means the area which is defined by a Development Plan as an area of bad lay-out or obsolete development and includes other lands contiguous or adjacent thereto;

(4) “Board” means the Goa, Daman and Diu Town and Country Planning Board constituted under section 4;

(5) “building operations” includes—

- (a) erection or re-erection of a building or any part of it;
- (b) roofing or re-roofing of a building or any part of a building or an open space;
- (c) any material alteration or enlargement of a building;
- (d) any such alteration of a building as is likely to affect an alteration of its drainage or sanitary arrangements or materially affect its security; and
- (e) the construction of a door opening on any street or land not belonging to the owner of a building;

(6) “Chief Town Planner” means the Chief Town Planner appointed under section 3;

(7) “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:—

- (i) with a view to making profit, hospitals or nursing homes exceeding twentyfive beds; and
- (ii) hotels, restaurants and boarding houses not attached to educational institutions; and the expression “commercial” shall be construed accordingly;

(8) “commercial use” includes the use of any land or building or part thereof for purposes of commerce or for storage of goods, or as an office, whether attached to any industry or otherwise;

(9) “court” means a court under the Code of Civil Procedure, 1908 (Central Act V of 1908);

(10) “development” with its grammatical variations and cognate expressions, means the carrying out of building, engineering, mining, quarrying or other operations in, on, over or under, land, <sup>2</sup>[ ] 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;

(11) “Development Plan” means an Outline Development Plan or a Comprehensive Development Plan prepared under this Act;

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(12) “engineering operations” includes the formation or the laying out of means of access to a road or the laying out of means of water supply, drainage, sewerage or of electricity cables or lines or of telephone lines;

(13) “Government” means the Government of Goa, Daman and Diu, and includes the Administrator of the Union territory appointed by the President under article 239 of the Constitution;

(14) “industrial use” includes the use of any land or building or part thereof for purposes of any industry;

(15) “industry” includes the carrying on of any manufacturing process Central Act as defined in the Factories Act, 1948, and the expression “industrial”<sup>63 of 1948</sup> shall be construed accordingly;

(16) “land” includes benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(17) “land use” means the major use to which a plot of land is being used on any specified date;

(18) “local authority” means a municipal council or a village panchayat;

(19) “local newspaper” in relation to any planning area, means any newspaper published or circulated within that area;

(20) “notification” means a notification published in the Official Gazette;

(21) “occupier” includes—

(a) a tenant;

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

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

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

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

(22) “owner” in relation to any property, includes the person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager, or receiver for another person, or for any religious or charitable purpose, the rents or profits of such property;

(23) “Planning and Development Authority” means any Planning and Development Authority constituted under this Act;

(24) “planning area” means any area declared to be a planning area under this Act;

(25) “plot” means a continuous portion of land held in one ownership;

(26) “prescribed” means prescribed by rules made under this Act;

(27) “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;

(28) “reconstituted plot” means a plot which is altered either in ownership or in any other manner by a town planning scheme;

(29) “re-location of population” means in relation to an area of bad lay-out 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 or 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;

(30) “residence” includes the use for human habitation of any land or building or part thereof including gardens, grounds, garages, stables and out-houses if any, appertaining to such building; and the expression “residential” shall be construed accordingly; 4 [(30A) “transferable development right” means a right to transfer the potential of a land required for

public purpose by the Planning and Development Authority, municipal corporation, municipal council or a village panchayat, as the case may be, expressed in terms of total permissible built-up area, for utilization by the owner himself or transfer by him to someone else, from the present location to a specified area, as additional built-up space over and above the permissible limit in that area in lieu of the payment of compensation for such land;]

5 [(30B) “transferable development right for posterity” means the right to sell, transfer or surrender the development right or potential of land zoned as agricultural land or land in other areas such as heritage site, water body, riverine land, farm land, khazan land, private forest, land under Coastal Regulation Zone and the like to alternate sites as identified in the Development Plan or Regional Plan;”].

(31) “Union territory” means the Union territory of Goa, Daman and Diu;

(32) words and expressions used in this Act and not defined herein but defined in the Goa, Daman and Diu Municipalities Act, 1968, shall have 7 of 1969.

the same meanings as are respectively assigned to them in that Act

16. **Effect of regional plan.**— On and from the date of publication of the regional plan under section 15 for an area, all development programmes undertaken within that area by any private institution or by any other person shall conform to the provisions of such regional plan. However, public projects/schemes/development works, undertaken by the Central Government or the Government, shall be in conformity with the rules framed and procedures laid down by the Government for such projects/schemes/development works.]

**16A. Development to conform to regional plan.**— <sup>4</sup>{(1) No person shall undertake any work of development in contravention of any provision of the regional plan as in force, except the projects/schemes/development works undertaken by the Central Government or the Government, either by himself or through his servant or agent or any other person and all such development work shall be in conformity with the provisions of the regional plan.}

(2) Whoever undertakes any work or development in contravention of the regional plan as in force, shall be punished with <sup>56</sup>[simple imprisonment which may extend to one year, or with fine of Rs. 10.00 lakh, or with both].

(3) An offence under this section shall be cognizable.]

23 [17A. **Prohibition on cutting of hilly land and filling up of low lying land, etc.**— No occupier of any hilly or sloppy land or any low lying land shall, by himself or through his servants or agents or any other persons, undertake the work of cutting of any hilly or sloppy land or filling up of any low lying land, in, over or upon any hilly or sloppy land, as the case may be, without obtaining the prior written permission from the <sup>7</sup>[Chief Town Planner (Land Use).]

**Explanation:** —For the purpose of section 17A. —

(i) “low lying land” means and includes any land below 50 cms. or more than from the adjoining ground level;

(ii) “hilly land or sloppy land” means and includes any land having a gradient of 1:10 or more.

**44. Grant of permission.**— (1) Any person intending to carry out any development in respect of, or change of use of, any land shall make an application in writing to the Planning and Development Authority for permission in such form and containing such particulars and accompanied by such documents and plans as may be prescribed.

(2) (a) In the case of a Department of the Central or Union territory Government or local authority intending to carry out any development in respect of, or change of use of any land, the Department or authority concerned shall notify in writing to the Planning and Development Authority of its intention to do so, giving full particulars thereof accompanied by such documents and plans as may be prescribed, at least two months prior to the undertaking of

such development or change, as the case may be, and shall obtain permission in respect thereof.

(b) Where the Planning and Development Authority has raised any objection in respect of the conformity of the proposed development or change of use either to any Development Plan under preparation or to any of the regulations in force at the time, or due to any other material consideration, the Department or authority concerned, as the case may be, shall, either make the necessary modifications in the proposals for such development or change of use to meet the objections raised by the Planning and Development Authority or submit the proposal for such development or change of use together with the objections raised by the Planning and Development Authority to the decision of the Government.

(c) The Government on receipt of such proposals together with the objections of the Planning and Development Authority shall, in consultation with the <sup>8</sup>[Chief Town Planner (Land Use)], either approve the proposals with or without modifications or direct the Department or authority concerned, as the case may be, to make such modifications in the proposals as they consider necessary in the circumstances.

(3) On an application having been duly made under sub-section (1), and on payment of the development charges, if any, as may be assessed under Chapter IX, the Planning and Development Authority may—

(a) pass an order —

- (i) granting permission unconditionally; or
- (ii) granting permission subject to such conditions as it may think fit to impose; or
- (iii) refusing permission; or

(b) without prejudice to the generality of clause (a), 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 the land so permitted shall be discontinued; or
- (ii) for regulating the development or use of any land under the control of the applicant or for the carrying out of works on any such land as may appear to the Planning and Development Authority expedient for the purpose of the permitted development.

(4) The Planning and Development Authority in dealing with the applications for permission under this section shall have regard to —

- (i) the provisions of any Development Plan which has come into operation;
- (ii) the proposals or provisions which it thinks are likely to be made in any Development Plan under preparation, or to be prepared; <sup>910</sup>[ ]

52 [(iii) to the relevant bye-laws or regulations of the local authority concerned; and] (iv) any other material consideration.

(5) When permission is granted subject to conditions or is refused, the grounds for imposing such conditions or such refusal shall be recorded in writing in the order and such order shall be communicated to the applicant in the manner prescribed.

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