

Arunachal Pradesh Heritage Act, 2015

ARUNACHAL PRADESH

India

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Act 8 of 2017

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Arunachal Pradesh Heritage Act, 2015(Act No. 8 of 2017)Last Updated 19th February, 2020(Received the assent of the Governor on 15th July, 2017)An Act to provide for conservation and protection of heritage sites which shall include buildings artifacts, structures, areas, streets and precincts of historic or cultural or environmental significance (heritage building, and heritage precincts) and natural or cultural or environmental significance and sites of scenic beauty and also to provide for conservation and protection of area of environmental sensitivity and matters connected therewith or incidental thereto ;BE it enacted by the Legislature of the State of Arunachal Pradesh in the Sixty sixth years of the Republic of India as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the Arunachal Pradesh Heritage Act, 2015.(2)It extends to the whole State of Arunachal Pradesh.(3)It shall come into force on the date of its notification in the Official Gazette.

2. Definitions.

- In this Act, unless the context otherwise requires-(a)"Act" means the Arunachal Heritage Act, 2015.(b)"Authority" means the Arunachal Pradesh Heritage Authority constituted under section 3.(c)"Conservation" means protection, maintenance, preservation and restoration of heritage areas, heritage buildings and heritage precincts sites and shall include only such developmental activity that will enhance the heritage significance of the heritage within the framework of the Act ;(d)"Development" with its grammatical connotations means the carrying out of building, engineering mining or other operations in or over or under, land or the making of any Material change, in any building or land or in the use of any building or change to heritage site including any material or structural change in or painting of any a heritage building, or in a heritage precinct or on a listed natural fracture and includes repair/renovation/alteration of any existing building, structure or erection or part of such building, structure or erection and reclamation, redevelopment and layout and sub-division of any land to develop shall be construed accordingly ;(e)"Development

right" means right to carry out development or to develop land or building or both and shall include the transferable development right in the form of right to utilize the floor area ratio of land utilizable either or the remainder of the land partially reserved for a public purpose or elsewhere, as may be provided in the heritage regulation as per the Master Plan ;(f)"Floor area ratio" means the ratio derived by dividing the total covered area of all floors by the area of the plot ;(g)"State Government" means the State Government of Arunachal Pradesh ;(h)"Heritage areas" means those areas of archaeological or historic or architectural or aesthetic or scientific or environmental or cultural significance including natural features and sites of scenic beauty (hereinafter referred to as "listed areas" or "heritage areas" which are included in a list published by a notification in the Official Gazette, by the State Government from time to time ;(i)"Heritage building" means and includes any building of one or more premises or any part thereof, of structure or artifact which requires conservation or preservation for historical or architectural or artistic or artisan or aesthetic or cultural environmental or ecological purpose and includes such portion of land adjoining such building or part thereof as may be required for fencing or covering or in any manner preserving the historical or architectural or aesthetic or cultural or environmental value of such building ;(j)"Heritage precincts" means and includes spaces that require conservation or preservation for historical and architectural or aesthetics or cultural or environmental or ecological purpose and walls or other boundaries of a particular area or place or building which may enclose such space by an imaginary line drawn around it ;(k)"Heritage sites" means those buildings, artifacts, structures, streets, area and precincts of historic or aesthetic or architectural or cultural or environmental significance (hereinafter referred to as "listed building" or "heritage buildings" and listed precinct or "heritage precincts") which are included in a list(s) published by notification in the Official Gazette, by the State Government from time to time ;(l)"Listing" means archaeological or other systematic study or documentation of heritage site to reveal its history and other special features and shall include the recording and analysis of artifacts, features and other material necessary for the purpose of determining the heritage value or environmental significance ;(m)"Owner" means and includes -(i)a joint owner invested with power of management on his own behalf and other joint owners and successors in title of any such owner ; and(ii)any manager or trustee exercising powers of management and the successor in office of any such manager or trustee ;(n)" Prescribed" means prescribed by regulations made under this Act ;(o)"Property" means both movable and immovable properties as the case may be.(p)"Regulations" means a regulation made by the Authority under section 18 of this Act by notification in the Official Gazette ;(q)"Section" means a section of this Act.

3. Constitution of Arunachal Pradesh Heritage Authority.

(1)The State Government shall constitute an Authority namely the Arunachal Pradesh Heritage Authority for the purpose of exercising all powers and function assigned to it under this Act.(2)The Authority constituted under sub-section (1) shall consist of the following Ex-Officio members :-

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| (i) Chief Secretary | - Chairman |
| (ii) Principal Secretary, Home | - Member |
| (iii) Development Commissioner | - Member |
| (iv) Secretary Urban Department | - Member |

(v) Secretary, Cultural Affairs	- Member Secretary.
(vi) Secretary, Tourism	- Member
(vii) Secretary, Panchayat	- Member
(viii) PCCF/CCF, Forest	- Member
(ix) Commissioner, PWD	- Member
(x) Secretary Planning	- Member
(xi) Secretary, IPR	- Member
(xii) Deputy Commissioner of concerned District where the proposed heritage site is located	- Member
(xiii) Zilla Chairperson of Concerned District where the proposed heritage site is located	- Member
(xiv) CMO/Executive Officer, Municipal Council where the proposed heritage site is located	- Member
(xv) A Representative from INTACH State chapter	- Member
(xvi) An Architect with ten years Experience and having membership of the Council of Architecture with Specialization in Urban Designs	- Member
(xvii) A Structural Engineer having experience of Institution of ten years and possessing membership of Engineers	- Member
(xviii) A Historian and an environmentalist having sound knowledge of the region with ten Years experience in the field	- Member
(xix) 3 (three) Representative from NGO's groups	- Member
(xx) Director, Town Planning	- Member
(xxi) Director, (Research)	- Member
(xxii) Local MLA of the Heritage site where the proposed heritage site is located	- Member

4. Powers and Functions of the Arunachal Pradesh Heritage Authority.

- The Arunachal Pradesh Heritage Authority shall have the following powers and functions under this Act, namely ;(a)to make regulations for the conservation, protection and administration of heritage sites, including the function of granting or refusing permission for development which may affect heritage sites or their surroundings ;(b)to list and grade the heritage sites ;(c)to advise the Government on conservation policies relating to heritage sites ;(d)to evolve guidelines for listing, grading and inspection for the conservation of heritage sites ;(e)to identify priorities for implementing conservation projects relating to heritage sites ;(f)to administer the Arunachal Pradesh Heritage Conservation Fund ;(g)to constitute, if deemed necessary, one or more committees and such committees to perform such functions as may be assigned to them, including the function of granting or refusing permission for development which may affect heritage sites or their surroundings ;(h)to monitor the implementation of heritage conservation plans and bring any lapses or shortcomings in the implementation thereof to the notice of the State Government ;(i)Grant of incentives including but not restricted to grant of development rights, if deemed necessary for conservation of heritage of environment ; and(j)Any other function as may be assigned

by the State Government ;

5. Appointment of officers and staff of the Authority.

- The Authority shall be provided with such officers and staff by the State Government to assist it in the preparation and implementation of heritage conservation plans.

6. Procedure for Declaration of Heritage Sites, etc.

(1)The identification of heritage sites will be done with reference to the prescribed criteria in the UNESCO's operational guidelines.(2)The State Government shall on receipt of the recommendation of the Authority for declaration of a heritage sites, may within 3 (three) months by a notification in the Official Gazette as well as publication in a prominent newspaper, give thirty days notice of its intention to declare as a heritage site, any buildings, artifacts structures, streets, areas and precincts of historic or aesthetic or architectural or cultural or environmental significance and natural feature of environmental significance and site of scenic beauty including, but not restricted to, a sacred grove, mountains, hills, hillocks, table lands, lakes, rivers, other water bodies and wet lands and the areas adjoining the same, open areas, wooded areas, points walk, rides bridle paths, by inviting objections or suggestions in writing from any person of the public or any organizations and any such notification published shall be affixed in a conspicuous place near the proposed site.(3)On the expiry of the said period of thirty days, the Authority may after considering the objections and suggestions, if any received by it, make a recommendation to the State Government for declaring such a heritage site(s), any building(s), artifact(s), structure(s), street(s), area(s) and precincts(s) of historic or aesthetic or architectural or cultural or environmental significance and natural feature of environmental significance and sites of scenic beauty including, but not restricted to, a sacred grove, mountains, hills, hillocks, table lands, lakes, rivers, other water bodies and wet lands and the areas adjoining the same, open areas, wooded areas, points walks, rides bridle paths as Heritage Site and thereafter the State Government may by a notification in the Official Gazette declare its intentions on the said recommendations as a heritage sites to be protected under this Act and grade as may be prescribed by regulations.(4)A heritage site so declared shall be graded according to its heritage significance by the Authority and that it will also determine the scope for changes in the heritage site, if required.

7. Acquisition of heritage site.

- The State Government may, by notification in the Official Gazette from time to time acquire or take possession of any heritage sites for maintenance.

8. Power to issue temporary protection orders.

- If the Authority considers that a property has or may have heritage value or environmental significance, or scenic beauty, is likely to be altered for any reason whatsoever, it may issue a temporary order to such owner or lessee of such property, an order of stopping work which prohibits

any alternation of the property for a period of up to one hundred and twenty days subject to such conditions or requirement as the Authority may consider appropriate.(2)The owner, if aggrieved by the said order shall be at liberty to file appropriate applications for alternations, modifications of the said order as issued by the Authority, who shall then dispose off the same by a speaking order at the earliest.

9. Preparation, Approval and Sanction of Heritage Conservation Plans.

(1)The Authority shall within such time as may be prescribed, prepare heritage conservation plans, in respect of heritage sites duly notified by the State Government under Section 7.(2)The heritage conservation plan may provide for all or any of the following matters namely;(a)regulation for preservation and administration of heritage sites,(b)listing and grading of heritage sites,(c)prescriptions for development control and conservation of heritage sites ;(d)specific design proposals in the case of heritage sites ;(e)specific urban design proposals in the case of heritage sites in order to preserve and protect the character of the areas.(f)proposals for incentives such as tax exemptions, transfer of development rights or acquisition of property, if found necessary, for the protection of the heritage value of such heritage sites, and(g)proposals on a case to case basis, for any relaxation of development control regulation necessary for the protection and enhancement of the heritage value of such heritage sites ; and Provided that all such provisions of heritage conservation plan shall, as far as possible, be in conformity with the Building Bye Laws applicable to the urban areas and the Master Plans. However, in case of any conflict, the heritage conservation plans shall take prevails over the building bye laws and other planning and land revenue rules and regulation.(h)Such other matter as may be deemed necessary.(3)After submission of the heritage conservation plans, but not later than such dates as may be prescribed, the State Government through the State Cabinet may, after consulting the Authority either approve such plans or approve them with such modifications as the State Government may consider necessary or return them to the Authority to modify the plans to prepare fresh plans in accordance with such direction and that the modified plans as prepared by the Authority shall be resubmitted to the State Government for its approval.(4)The heritage conservation plan approved by the State Government shall be published in the Official Gazette and in newspapers for inviting suggestions or objections from the public. Thereafter, the State Government shall consider the same and after getting opinion of the Authority, modify the heritage conservation plan accordingly, if necessary and grant sanction to the same;Provided that once the said plans are prepared by the Authority, all permissions for development that might affect the heritage sites shall be in conformity with the said plans.

10. Control of Developments.

(1)After the date of approval and sanction of the heritage conservation plans by the Government under section 9, all planning permissions and building licenses affecting heritage sites including the views and lines of sight of or from it shall be issued by the Authority only in conformity with the provisions of the heritage regulations made and the heritage conservation plans approved.(2)Any relaxation of the building bye laws or incentives provided under a heritage conservation plan or otherwise shall require the owner, lessee or power of attorney holder, as the case may be to execute a signed affidavit agreeing to maintain the listed heritage building in a state of good repair and to

preserve its heritage value with due maintenance and such owner, lessee or power of attorney holder, as the case may be, shall permit heritage inspections after due notice by the Authority and shall duly implement the suggestions made in this regard.(3)The owners, lessee and power of attorney holders of listed heritage sites shall not carry out development on heritage sites nor shall they demolish, alter or add to it or undertaken repairs thereof, without the prior permission of the Authority. Such permission may be refused or granted as they may be based on the findings of the inspections carried out by the Authority or any officers authorized the Authority.(4)In case, renovation/restoration/repair of a heritage building or a building in a heritage precinct, or a major development of natural feature listed by the Authority is recommended under extraordinary circumstances or major development of a listed natural feature by the Authority is recommended under extraordinary circumstances or major repair are to be undertaken as a result of the heritage inspection report, the Authority shall give thirty days notice in newspapers calling for objections and suggestions from the public and take a decision after considering the objections and suggestions received if any.(5)When the Authority comes to the conclusion that a listed heritage site is not being maintained properly or that such site needs repairs, the Authority shall serve a notice on the owner, lessee or power of attorney holder, as the case The Arunachal Pradesh Extraordinary Gazette, July 25, 2017 5 may be, to maintain the heritage properly or to repair the site within thirty days of the service of the notice and such steps as to carry out the necessary repairs and recover the cost may be and if the latter fails to make the payment, the amount shall be recoverable by the Government as arrears of land revenue.(6)A Conservation Cell with such staff as may be prescribed in the regulations shall be created by the Authority for the maintenance and restoration of all listed heritage buildings, heritage sites and heritage areas as per prescribed and established guidelines and which shall be headed by an officer and other technical persons with such specialization in conservation architecture as may be prescribed by the State Government.

11. Declaration of Heritage Building sites in Environmentally Sensitive Areas.

(1)The State Government may declare by a notification that within such areas of Heritage Building sites in environmentally sensitive areas, any class of industries, operations, construction or development activities shall be regulated, or shall not be carried out without certain safeguards.(2)Without affecting the generality of sub-section (1), such safeguards though shall apply ,but not restricted to the following land use such as conversion of land from green uses such as horticulture areas, agriculture, parks, open space, wetlands, grasslands etc. to non green use such as building, location and type of industries carrying out mining, tree felling, tourism activities ground water usages, use of plastic and other non-degradable substance hazardous substances, construction on hill slopes, discharge of effluents, soil waste disposal, noise pollution, traffic development at around or effecting heritage sites.(3)The State Government shall direct the said Heritage Authority to prepare a Master Plan in a time bound manner which will regulate such areas under such plan and other related matters. However, before declaring any area where a heritage building site falls in an environmentally sensitive area, the State Government shall, by notification in the Official Gazette and in newspapers invite suggestions and objections from the public within such period as may be prescribed in the said notice.

12. Constitution of Arunachal Pradesh Heritage Fund.

(1)The State Government may constitute a fund known as the Arunachal Pradesh Heritage Fund for the purpose of maintenance and improvement of heritage areas, heritage buildings, heritage precincts and heritage sites and other environmentally sensitive areas.(2)The State Government may, from time to time, allocate to the Authority such grants in aid out of the Consolidated Fund of the State and contributions to the fund may also be received by way of donations, grants etc. from individuals, trusts, local bodies, companies and other agencies involved in such heritage conservation activities,(3)The said Fund shall be liable to be audited by the Accountant General every year.(4)The Authority shall utilize the Fund for meeting the following expense, namely;-(i)The cost of acquisition of heritage buildings or heritages or heritage areas for the purpose of conservation.(ii)The expenditure for any development or works contemplated in the heritage conservation plan.(5)The State Authority may disburse funds to the owners, lessee or power of attorney holders of Sites/heritage building even if they are private property, for maintenance of the building in good condition, if such repairs are found necessary after the inspection as per sub-section (d) of section 4.(6)The State Authority shall be required to prepare its Annual budget in respect of the next financial year with its estimated receipts and expenditure under the fund and forward to State Government for approval of the same. The State Government shall thereafter accord the same with or without modification.

13. Dissolution of the Authority.

(1)Where the State Government is satisfied that the purpose for which the Authority was established under the Act have been substantially achieved so as to render the continued existence of the Authority in the opinion of the Government unnecessary, the State Government may, by notification in the Official Gazette, declare that the Authority shall stand dissolved with effect from such date as may be specified in the notification and constitute a new authority which shall be deemed to have been functional from the date of such dissolution.(2)On the issue of such notification;(a)all the properties, funds and dues which are vested in or realizable by the Authority shall vest in or be realizable by the State Government.(b)all liabilities which are enforceable against the Authority shall be enforcement against the State Government; and(c)for the purpose of carrying out and development which has not been fully carried out by the Authority and for the purpose of realizing properties, funds and dues referred to in clause (a) the functions of the Authority shall be discharged by the State Government.

14. Penalties.

(1)Whoever contravenes any provision of this Act or the regulations made thereunder or fails to comply with any directions or order lawfully given to him or any requisition lawfully made upon him, shall on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees, or with both and for any subsequent offences, with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees for each day of continuance of offences thereafter or with both.(2)In case of unlawful damages, neglect, demolition or effecting a major change to the whole or portion of

a heritage site, the offender shall forfeit his right to construct any further structure on the protection heritage sites for its development and the removal of the structure already constructed in contravention of the provisions of this Act, regulations or orders made or issued thereunder, shall be at the cost of the owner, lessee or power of attorney holder, as the case may be, or even the builder making the construction.

15. Compounding of offences.

(1)The State Authority by a general or special order in this behalf and for reasons to be recorded in writing, either before or after the institution of the proceedings, may compound an offence made punishable by or under this Act. Provided that no offence shall be compounded which is committed by a failure to comply with a notice, order or requisition issued by on behalf of the Authority unless and until the same has been complied with so far as the same is possible. (2)When an offence has been compounded, the offender, if in custody, shall be discharged and no further proceeding shall be taken against him in respect of the offence so compounded.

16. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or of any regulations made thereunder.

17. Powers to make Rules and Regulations.

(1)The State Government may by notification in the Official Gazette make Rules to carry out any of the purposes of this Act including prescription of the date for approval of conservation plans and for any matters which is to be, or may be prescribed under this Act or in respect of the Act, which no provision or insufficient provision and where such provision is, in the opinion said Government is required for its effective implementation. (2)Without prejudice to the generality of the powers of the State Government under sub-section (1) the Authority with the approval of the State Government may, make regulations to provide for all or any of the following matters, namely : -(a)gradation of the heritage sites declared as such for protection;(b)laying down of the essential qualifications for appointment to the various posts of the said Authority including its technical staff.(c)any other matters which may be prescribed under the Act.

18. Laying of Rules and Regulations.

(1)Every Rules and Regulations made by the Government and Authority under this Act shall as soon as may be it is made, may be laid before the State Legislature.

19. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty: Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act. (2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.