

Arunachal Pradesh Land and Ecological Sites (Protection and Management) Act, 2018

ARUNACHAL PRADESH

India

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Act 13 of 2018

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Arunachal Pradesh Land and Ecological Sites (Protection and Management) Act, 2018(Act No. 13 of 2018)Last Updated 19th February, 2020(Received the assent of the Governor on 7th May, 2018)An Act to provide for preservation, protection, acquisition and maintenance of land and other ecological sites of the state and more specifically within the jurisdiction of the Administrative Headquarters and Urban Centres of the State and matters connected therewith or incidental thereto ;Whereas, it is expedient to provide for preservation, protection, regulation and maintenance of Government land meant for development of towns and settlements and other ecological sites of the State and more specifically within the jurisdiction of the Administrative Headquarters and Urban Centres of the State and to protect such land and ecological sites from unauthorized encroachers, wanton earth cutting, encroachment for habitation in the manner hereinafter appearing ;Be it enacted by the Legislature of the State of Arunachal Pradesh in the Sixty-ninth Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the Arunachal Pradesh land and Ecological (Protection and Management) Act, 2018.(2)It extends to the whole of Arunachal Pradesh.(3)It shall come into force on the date of its publication in the Official Gazette.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context -(a)"District Advisory Committee" means the District Advisory Committees constituted under Section 5 ;(b)"Deputy Commissioner" means the Deputy Commissioner of the district ;(c)"Designated area" means areas as may be notified by the Government under Section 4 ;(d)"Ecological Sites" means and includes

any area within the State of Arunachal Pradesh which is ecologically fragile, sensitive and prone to soil erosion other than the areas notified under forest laws as Reserve Forest, Anchal Reserve Forest, Village Reserve Forest, Community Reserve, Wildlife Sanctuaries, National Parks, Tiger Reserve, Elephant Reserve, Biosphere Reserve and protected Forests but are in existence as :- (i) permanent water source catchment or watershed areas of the locality ; (ii) all along drainage system like river, rivulets, small nallahs, feeding channels, any water bodies like ponds, lakes, swamps and marshy land having potentiality of becoming water sources ; (iii) and area/space having rich Biodiversity of flora and fauna requiring preservation of the locality ; (iv) and any local area having prone to soil erosion requiring adequate protection ; (v) any marshy land, ponds, lakes and swamp; (e) "Government", means the Government of Arunachal Pradesh ; (f) "Land", means any land including any local area which is not a reserve forest, wildlife sanctuary and ecological site declared under relevant Forest Acts and any other law for the time being in force; (g) "Community land" means any land belonging to or owned by a community which is under any customary or transitional law. (h) "private land" means the land belonging to an individual, family or a group which is recognised by custom or tradition or by way of registration. (i) "Prescribed" means prescribed by rules made under this Act; (j) "Registered Owner" means an owner of land whose name has been recorded in the land records as maintained by Government under the Arunachal Pradesh (Land Settlement and Records) Act, 2000 or any other revenue laws for the time being in force and who has valid registered deed in respect of the land in his/her name. (k) "Community" means residents of a village as a whole and includes a clan, sub-clan or kindred ; (l) "Competent Authority" in relation to any provision, means any officer appointed by the Government to be the competent authority for the purpose of that provision ; (m) "Government land" means any land acquired by the Government under any law for the time being in force or through donation of the public for establishment of Administrative Headquarter, Government Institutions and facilities under various wings of the Government or such land as defined under section-9 of the Arunachal Pradesh (Land Settlement and Records) Act, 2000.

3. Prohibition of Damage and destruction in the Designated Area.

- No person shall - (i) indulge in or undertake any earth cutting activities or carry any portion of land which is likely to cause a public nuisance or that is not in the interest of the general public or likely to cause damage to ecological system of the area ; (ii) remove, fill up, dredge or any form of land which may cause damage/ destruction of flora and fauna of the land. (iii) do any such activity which may cause damage or destruction of biodiversity and natural resources of any designated area.

4. Declaration of Designated Area.

(1) Government may, on its own motion or on receipt of a report from the District Advisory Committee declare any land or ecological sites as Designated Area by notification published in the Official Gazette and to take effect from the date specified in the said notification. (2) The notification under sub-section (1) shall clearly indicate the land and ecological sites in two distinct and separate lists containing full description and particulars including boundaries relating to the land and ecological sites specified in the respective lists. (3) The Government may fix appropriate identification marks or sign board etc., in the Designated Area concerned indicating that the area is

a Designated Area declared under section 4 of the Act.

5. Constitution of District Advisory Committees and Sub- Committees.

(1)The Government may, by notification in the Official Gazette, with effect from the date specified therein constitute a District Advisory Committee in each district and one Sub-Committee in each Administrative Headquarter or potential growth centre.(2)The District Advisory Committee constituted shall consist of the following members :-

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| (i) Deputy Commissioner | - Chairman |
| (ii) Town Planner/Asstt. Town Planner | - Member Secretary |
| (iii) Sitting MLA of the Town/Area under which theTown/ settlement falls | - Member |
| (iv) Zilla Chairperson of the District | - Member |
| (v) Chief Councillor/Municipal President of theUrban Local Body | - Member |
| (vi) Divisional Forest Officer (DFO) of theDistrict/Territorial | - Member |
| (vii) District Land Revenue & Settlement Officer | - Member |
| (viii) Chief Municipal Executive Officer/ MunicipalExecutive Officer, ULB | - Member |
| (ix) Soil Conservation Officer | - Member |
| (x) District Research Officer | - Member |

(3)The Sub-Committee for each Administrative Headquarter or Potential Growth Centre shall consist of the following members :-

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| (i) ADC/SDO/EAC/CO Concerned | - Chairman |
| (ii) Asstt. Town Planner | - Member Secretary |
| (iii) Sitting MLA of the Town/Area under which theTown/settlement falls | - Member |
| (iv) Zilla Parishad Member of the Town/ Area underwhich the Town/settlement falls | - Member |
| (v) Chief Councillor/Municipal President of theUrban Local Body | - Member |
| (vi) Range Forest Officer(RFO)/Territory | - Member |
| (vii) Municipal Executive Officer, ULB | - Member |
| (viii) Representative of L.M. Deptt. | - Member |

6. Powers and Functions of the District Advisory Committee.

(1)Subject to the provisions of this Act and the rules framed thereunder, the powers and functions of the District Advisory Committee shall be -(i)to recommend the Government any matter regarding administration, classification and management of the Designated Area ;(ii)to recommend the matters, which are, required to be included in the Management Plan ;(iii)to suggest measures concerning removal of encroachments from the Designated Area ;(iv)to facilitate research works for the development and protection and future prospect of the Designated Area ;(v)to take necessary action for improvement, protection and promotion of the Designated area ;(vi)to do any work as

may be assigned to it by the Government for carrying out the purpose of this Act.(2)The Sub-Committee shall submit report in respect of their jurisdiction to the District Advisory Committee who shall depute a Technical Committee for carrying out study.Provided that expert opinion of a geologist or soil scientist shall be obtained by the District Advisory Committee before making its recommendation to the State Government for matters relating to the ecological sites.

7. Meetings of District Advisory Committee.

(1)The District Advisory Committee shall hold their meetings in the concerned headquarter of the district or such other place or places as may be determined by the Chairman from time to time.(2)The procedure and conduct of business of the District Advisory Committee Meeting including quorum shall be such as may be prescribed.

8. Dissolution of the District Advisory Committee.

(1)The Government, may dissolve the District Advisory Committee if in its opinion the District Advisory Committee -(a)is not competent enough to perform or persistently defaults in discharging its duties or performing the functions assigned to it under this Act without reasonable cause or excuse ;(b)exceeds or abuses the powers assigned to it under this Act ;(c)is not functioning in a manner consistent with the provisions of this Act or the rules framed thereunder ;or(d)circumstances have so arisen that the Committee is rendered unable to discharge duties or to perform functions assigned to it under this Act ;or(e)it is otherwise expedient or necessary to dissolve the Committee.(2)The Government may by notification in the Official Gazette stating the reasons for doing so dissolve the District Advisory Committee for such period not exceeding one year at a time and declare that all the powers and duties of the Management Committee shall during the period of dissolution and until the new committee is reconstituted, be exercised and performed by such person or persons or authority as the Government may, from time to time appoint in this behalf.

9. Vacancies etc. not to invalidate the proceedings of the District Advisory Committee.

- No act or proceeding of the District Advisory Committee shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

10. Preparation of Management Plan.

(1)As soon as may be after declaration of a designated area, under section 4, the District Advisory Committee shall prepare, a Management Plan in respect of the concerned Designated Area, which shall contain amongst other -(a)information regarding purpose, importance and necessity for protecting the said designated area ;(b)the manners by which the Designated Area shall be managed, protected and preserved under the Act ;(c)removal of encroachment from the designated area, if any and(d)any other matter which may be considered necessary.(2)The Management Plan

prepared by the District Advisory Committee shall be submitted to the State Government for approval.(3)The State Government may approve the Management Plan prepared by the District Advisory Committee with or without modification.

11. Private Land.

- Where the land to be so designated is a private land or community land -(1)The Deputy Commissioner shall cause notice of the intention to declare any private or community land as Designated Area to be served upon such private land owner or community land not less than thirty days prior to declaration inviting objections if any.(2)The Deputy Commissioner shall dispose off the objection after giving a reasonable opportunity of being heard to land owner/ community members and then arrange to publish a draft notification in the Official Gazette.(3)Any Person aggrieved by such notification made by the Deputy Commissioner under sub-section (2) as regards the proposed Designated Area of which his plot of land forms a part may, within thirty days from the date of such notification, prefer an appeal before Secretary of Land Management Department/ Board of Land Revenue who will take up the case as if the case has been received under provisions of the Rules of the Arunachal Pradesh (Land Settlement and Records) Act, 2000 and dispose off accordingly.(4)After hearing the land owner or after disposal of appeals by the Appellate Authority, the Deputy Commissioner shall recommend the area for declaration as Designated Area to the Government.(5)After declaration of the Designated Area as Designated Area by the Government under section 4, the land owner shall comply with the provisions of section 3 of the Act.(6)If it is considered necessary or expedient in the interest of protection of the Designated Area, the Deputy Commissioner may take every effort to remove and rehabilitate elsewhere the land owner residing within the Designated area in accordance with provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.(7)Where in the opinion of the Deputy Commissioner, a very urgent condition prevails that requires taking over of such land belonging to a Designated Area by Government which is being occupied by any land owner, may take appropriate steps invoking the provisions of Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 to acquire the land with approval of the Government.

12. Duties of the Land Owners.

- The land owner in respect of an area declared as Designated Area shall -(1)If it is a hill land which is an ecologically fragile and sensitive zone -(a)take all possible measures to prevent probable landslide and destruction of fragile, ecological sensitive zone ;(b)take prior approval of the District Advisory Committee for construction of retaining wall including its design, if he/she proposes to construct retaining wall for protection of the hill from landslide ;(c)shall not undertake construction of any infrastructure on both upper and lower sides of hill slope involving earth cutting and proper muck and disposal plan, without prior approval of the District Advisory Committee ;(d)shall report to the Deputy Commissioner and District Advisory Committee of the District if there is any unnatural fault, crack on the hill slope or sliding of land/ or boulder, Bamboos and trees.(2)If it is an ecologically fragile and sensitive zone, shall take all possible measures to prevent and protect any kind of probable damage and destruction of natural resources and shall report to Deputy

Commissioner and District Advisory Committee of the District that of any incident that might lead to degradation of the ecologically fragile site.

13. Power of the Government to stop development and other activities.

- If in the opinion of the Government, any particular area within the meaning of hill and mountain, river, rivulets, lakes and ponds and marshy land, ecologically fragile and sensitive, rich biodiversity and prone to land erosion areas which are not declared as designated area is threatened with destruction by reason of commercial, industries or other developmental activities, the Government may order the stoppage of such activities in whole, in that area and direct the District Advisory Committee to submit report to the Government to stop the developmental activities in the larger interest of public.

14. Certain works within the Designated Area subject to obtaining of permit.

(1) No person shall enter and carry out any research work, survey soil testing and collection of a part/whole flora and fauna sample from any of the site of designated area without obtaining prior permission for the purpose from the concerned Deputy Commissioner. (2) The Deputy Commissioner or any authorized officer may issue permission to enter in designated area to carry out research work, survey, soil testing and collection of a part/ whole or part of flora and fauna for the research work only. (3) Such permission shall be subject to the following terms and conditions- (a) the application must be made to Deputy Commissioner in such form as may be prescribed. (b) the permit holder must complete the research work within the time specified on the permit and submit a report on the outcome of research work to the permit issuing authority; and (c) the permit holder must deliver possession of all items discovered, any species collected with a report after completion of research work in pursuant to the research permit, to the Deputy Commissioner. Provided that no person shall be granted permission under subsection (3) unless he/she is sponsored by a University, educational institution, company or a Government department.

15. Termination of Designated Area.

(1) Where it appears to the District Advisory Committee of any district that the continuation of any area as Designated Area is no longer necessary, the District Advisory Committee may recommend to the Government to terminate the said Designated Area. (2) Before making any such recommendation pursuant to sub-section (1), the District Advisory Committee shall give in respect of the proposed recommendation in not less than two widely circulated daily news papers giving at least thirty days time inviting claims, objections or suggestions from the public and where the land is privately owned, the notice shall be served to the land owner. (3) The Committee shall, consider the claims, objections and suggestions received within the 3 (three) months and convey its decision to the Government. (4) On receipt of the recommendation under sub-section (1), the Government may, by notification in the Official Gazette terminate such Designated Area and remove the area from the list of notification issued under section 4.

16. Powers of the District Advisory Committee requiring attendance etc.

- Subject to the provisions of this Act and the rules made thereunder, the Advisory Committee or any officer exercising powers under this Act shall have the powers of a Civil Court under the Code of Civil Procedure (1908), for the purpose of-(a)summoning and enforcing attendance of any person and examining him or her on oath as a witness ;(b)enquiring the discovery and production of any document for record;(c)receiving evidence on affidavit ;(d)requisitioning any public records or copy thereon from any court or office ;(e)issuing commission for the examination or witness of document ;(f)enforcing or executing orders including an order for restoration of possession as if such orders were decrees of a civil court;(g)remanding any case or proceeding to the officer from whose decree the appeal is preferred, and such officers shall record the substance of the evidence, if any, taken by him.

17. Penalty.

- Whoever fails to comply with or contravenes any of the provisions of this Act or the rules made thereunder or order or directions issued in this behalf shall, in respect of each such failure or contravention, be punished with imprisonment for a term not exceeding six months or with fine which may extend to Rs.50,000.00 (Rupees fifty thousand) or with both.Provided that for every subsequent breach(s), if the contravention is committed by the same person, shall be punished with imprisonment for a minimum period of one year which may extend to three years, with or without fine.

18. Cognizance of offence.

- No court inferior to that of a Judicial Magistrate of the First class shall try any offence under this Act.

19. Offences to be tried summarily.

- Offences under this Act shall be tried summarily under the provisions of the Code of Criminal Procedure, 1973;

20. Bar of Jurisdiction of Civil Court.

- No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of anything done, any action taken or order or direction issued by the Government or any other authority or officer in pursuance of any power conferred by or in relation to or his functions under this Act.

21. Protection of Action taken in good faith.

(1)No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.(2)No suit or legal proceedings shall lie

against the Government for any damage caused or likely to be caused for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

22. Delegation of Power.

- The Government may, by notification in the Official Gazette, delegate any of its powers, except powers under section 24 to be exercised by any authority subordinate to it subject to such reservation as may be specified in the notification.

23. Savings.

- If operation of any of the provisions of this Act causes serious loss to any person, then the Government, on the recommendation of the Advisory Committee, may dispose off the matter in a manner not inconsistent with the provisions of this Act.

24. Power to make rules.

(1)The State Government may, notification in the Official Gazette, make rules in respect of all or any other matters referred to in section 4.(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 :- (i)Classification of both land and ecological Sites and the uses of various areas and purposes ;(ii)the prohibition and restriction of the entry into special place and the control of activities within such areas;(iii)the procedures and safeguards of any kind of use, development or occupation of the land and natural resources;(iv)the sign, plaques and marks to be placed at a special place;(v)determining measures including financial incentives to encourage the identification, preservation and protection of such land and ecological sites and ;(vi)any other matters or thing necessary in the larger interest of the general public or incidental to the provision of this Act.(3)Every rule made under this section shall be laid as soon as may be after it is made, before the Arunachal Pradesh Legislative Assembly while it is in session which may modify the rules as deem fit and proper and if modification is carried by the Arunachal Pradesh Legislative Assembly, the rules shall thereafter have effect in such modified form as the case may be. However, any such modification or amendment shall be without prejudice to the validity of anything previously done under that rule.

25. Interpretation.

- If any question arises as to the interpretation of the provision of Act or the rules made thereunder, the same shall be referred to the Government whose decision thereon shall be final.

26. Power to remove difficulties.

- If any difficulties arises in giving effect to the provisions of this Act, the State Government may, by order do anything not inconsistent with the provisions of this Act, which appears to it necessary for removing the difficulties.