

Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985

SIKKIM

India

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Act 11 of 1985

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Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985(Act No. 11 of 1985)Last Updated 13th March, 2020An Act to provide for the allotment of house sites regulation of construction, alteration and repair of buildings in Sikkim and for matters connected therewith.Whereas house site's have been allotted without consulting the Sikkim Public Works Department and other concerned Departments;Whereas such allotment of sites have resulted in encroachment of septic, water supply tanks, land within compound of Government quarters, within the notified green belt and effecting and likely to cause land slides during monsoons; and Whereas it is expedient to bring about an equitable and proper distribution of house sites and promote planned, organized and systematic growth of towns and bazaars in the State of Sikkim and matters connected therewith.Be it enacted by the Legislative Assembly of Sikkim in the Thirty-sixth Year of the Republic of India as follows:

Chapter 1

1.

(1)This Act may be called the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985.(2)It shall extend to the whole of Sikkim.(3)It shall come into force at once.

2.

In this Act, unless the context otherwise requires:(a)"allotment" means allotment of sites for construction of building for the purpose of residence, commerce, residential cum-commercial or any other trade or industry;(b)"building" includes a house, out-house, stable, privy, urinal, shed, hut,

wall (other than a boundary wall, not exceeding ten feet in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever, and includes any temporary shed erected on ceremonial or festive occasions;(c)"family" means father, mother and their minor children and includes major children living jointly with the parents.(d)"Government" means the Government of Sikkim in the Local Self Government and Housing Department and includes such other officers of the said Department and of any other Department as may be authorised by the Government for carrying out the purposes of this Act.(e)"notified area" means any area notified for purposes" of Chapters II and III of this Act;(f)"notified green belt" means the green belt area notified by the Government vide notification No. 6 ILSGHD dated the 10th April, 1982 and 'includes such other area, which may be so declared by the Government, by notification, from time to time;(g)"notification" means a notification published in the Official Gazette;(h)"person" means any individual and includes any member of the family any society or association of persons, whether incorporated or not, and all legal and juristic persons;(i)"prescribed" means prescribed by rules made under this Act;(j)"salami" means the amount payable by a person for allotment of a site under the provisions of this Act but does not include ground rent or other rates taxes or fees payable under this Act or any other law in force in this State.

Chapter II

3.

(1)The Government shall, from time to time, by notification, declare any area as a notified area for the purposes of this Act.(2)The Government shall, within six months but not later than one year from the date of commencement of this Act, prepare a plan indicating the area(i)for residential purposes(ii)for commercial purposes;(iii)for residential-cum-commercial purposes;(iv)for industrial purposes(v)for public and semi-public open places, parks, play grounds and Community Hall.(3)The Government -shall indicate and specify sites for residential, commercial and industrial purposes.(4)The Government shall publish within fifteen days from the preparation of such plan with details as mentioned in subsection (2), by notification, and in such other manner as may be specified in this behalf.

4.

(1)The Government may allot sites on application made by any persons in such form and in such manner as may be prescribed.(2)An allottee shall pay such salami as may be notified by the Government, from time to time.(3)The Government shall, by notification, fix different rates of salami for purposes of allotment on the basis of the area, user and location.

5.

(1)All allotments in which the registration whether complete or not and those falling under the notified green belt shall stand cancelled.Explanation. - Allotments for purpose of sub-section (1) mean allotments of house sites on which construction is not completed.(2)The salami paid by the allottee shall be refunded within one month from the date of commencement of this Act.(3)Subject

to section 6 such of the allottees whose sites have been cancelled under sub-section (1) shall be given preference for allotment of sites in notified area as notified under sub-section (3) of section 3 if an application is made to that effect.(4)The sites allotted under this Act may be cancelled on grounds of fraud, misrepresentation of facts or bonafide mistake:Provided that no order of cancellation shall be made unless the person concerned has been given an opportunity of making representation.

Chapter III

6.

The Government shall not allot more than one site to one family in the State.

7.

(1)No construction shall be undertaken in any notified area without obtaining the prior permission of the Government.(2)The Government shall make regulations regulating ,the construction of building in any notified area.(3)While granting permission for construction of buildings, the Government shall give due consideration to the cultural and traditional values of the people of Sikkim.(4)All permissions for the construction of buildings which are obtained prior to the commencement of this Act shall stand cancelled.

8.

The Government may demolish any construction or building which have been commenced, continued or completed in contravention of the provisions of the Act or the regulations made thereunder.

9.

(1)If at any time it appears to the State Government that any structure in any notified area (including under this expression any building, wall or other structure and anything affixed to or projecting from any building, wall or other structure) is found unsafe for human habitation or in any way dangerous to any person occupying, resorting to or passing by such structure or any other structures or place in the neighborhood thereof the State Government may, by a written notice of not less than seven days, require the owner or occupier(a)to demolish or to repair such structure in such manner as may be specified in the notice; or(b)to repair protect or enclose such structure in such manner as may be specified in the notice.(2)Where it appears 'to the State Government that immediate action-is necessary for the purpose of preventing imminent danger to any person or property, it shall be the duty of the State Government itself to take such immediate action; and in such case it shall not be necessary for the State Government to give notice, if it appears to it that the object of taking immediate action shall be defeated by the delay incurred in giving notice.(3)Where any owner or occupier fails to comply with the notice served upon him, the State Government may demolish or remove such structure or fixture under sub-section (1) or sub-section (2) and recover the expenses of such demolition or removal from the owner or occupier, as the case may be.

10.

If, upon considering the facts and circumstances of a case, the Government is satisfied that any building already constructed before the commencement of this Act in contravention of the existing laws, rules, notifications, orders or directions and does not fall under the notified green belt, it may pass order for regularization of such construction on payment of such fees as may be fixed by the Government by notification In this behalf.

Chapter IV

11.

Without prejudice to any other actions to be taken under the provisions of this Act, any person who contravenes the provisions of this Act or rules, regulations, notifications, orders or directions issued thereunder, shall be punishable with a simple imprisonment not less than six months or with a fine not less than rupees five hundred or with both.

12.

All offences under this Act or rules or regulations made thereunder shall be cognizable and shall be triable by a Judicial Magistrate of the First Class.

13.

All complaints shall be filed by an Officer not below the rank of an Under Secretary to the Government after obtaining the approval of the Government.

14.

All complaints shall be filed within one year from the date of an offence.

15.

No action, civil or criminal shall lie against, any officer of the Government for anything which is in good faith done or intended to be done in pursuance of this Act or rules or regulations made thereunder.

16. Power to make rules.

- The, State Government may, by notification, in the Official Gazette, make rules to carry out the purposes of this Act.

17. Power to make regulations.

- The State Government may, by notification, in the Official Gazette, make regulations regulating constructions of buildings and all other connected matters.

18. Present Rules and Bye-laws to continue.

- All bye-Laws rules, regulations and notifications in force concerning constructions of buildings shall continue to be in force as though they are regulations made under this Act till they are altered, amended or varied.