

Uttarakhand Special Area (Planned Development and Promotion of Tourism) Act, 2013

UTTARAKHAND

India

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Act 16 of 2013

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Uttarakhand Special Area (Planned Development and Promotion of Tourism) Act, 2013(Uttarakhand Act No. 16 of 2013)Last Updated 11th March, 2020An Act Whereas it is expedient to provide for the constitution of an Authority for planned development and Promotion of Tourism and Allied Activities in certain areas in the State as Tourist Destinations and for matters connected therewith and incidental thereto;It is hereby enacted in the Sixty-fourth Year of the Republic of India, as follows: -Chapter - I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Uttarakhand Special Area (Planned Development and Promotion of Tourism) Act, 2013.(2)It extends to Special Area specified in the Schedule and such other areas as the State Government may, by notification specify,(3)Act or its provisions shall be deemed to have come into force on such date as may be notified by the State Government by publication in the Government Gazette.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a)'Allied Activities' means the activities connected directly or indirectly which may, in the opinion of Government, facilitate or catalyze the growth of tourism or facilitate the visitors or tourists in the area including infrastructure facilities such as roads, water, sewage, guest houses, hotels, motels, shops, shopping malls, emporiums, housing, clubs, etc.:(b)'Amenities' includes parking, roads, streets, water and electric supply, street lighting, open spaces, parks, recreation grounds, playgrounds, natural features, drainage, sewerage, collection, treatment and disposal of waste, toilets, public works and other utilities, services and conveniences:(c)'Authority' means the Authority constituted under section 4 of the Act:(d)'Building'

includes any structure or part of a structure with whatever material constructed which is used or intended to be used as a place for human dwelling or custody of property or performance of worship or for carrying an occupation trade or business;(e)'Development' with its grammatical variations means, the planned development of any area by carrying out Landscape Architecture, Structural designs, buildings, Engineering works or other operations in or over or under land, or making any material change in any building, land or water source in such area and includes infrastructure facilities for attraction, promotion of tourism and for socio- economic development of such area;(f)'Master Plan' includes a Landscape sketch, drawing or plan specifying sector plans, landscape drawing with optimum utilization of water resource for sports, gaming, entertainment and surroundings for serene beauty, rest and reoccupation and like other activities;(g)'Gaming' includes fishing, Spear fishing, Horse Riding, Go Karting, Archery and such other gaming activities as may be provided in the Rules or Regulations;(h)'Regulation' means a regulation made under this Act by the Special Area Authority;(i)'Rule' means a rule made under this Act by the State Government;(j)'Special Area' means the area specified in the Schedule -I and any other area specified as such in any Government Notification thereto;(k)'Sports' means all sorts of sports conducive to the area including gaming and water sport;(l)'Water Sports' includes sports on the water surface, under water and in the water and such other sports as may be provided in the Rules or Regulations under this Act. Words and expressions used in this Act but not defined shall have the meanings respectively assigned to them in the Uttaranchal River Valley (Development And Management) Act, 2005, the Uttar Pradesh Urban Planning and Development Act, 1973, the Uttar Pradesh Special Area Development Authority Act, 1986 and the like law adopted vide Adaptation and Modification Order by the Uttarakhand State, subject to the context herein and thereof.

Chapter - II Establishment of Special Area Authority

3. Declaration of Special Development Area.

(1)If the State Government is of opinion that any area is of special tourism importance in the State and it needs to be developed in a planned manner, it may, by notification, declare such area to be a special development area for the purposes of this Act and also if required, propose theme of development.(2)State Government may also impose such restriction on any development, constructions, including any type of dealing (sale, exchange) in the land, etc. which may, in the opinion of the State Government, affect the proposed development in the special area declared under sub-section (1) of section 3.(3)State Government may also transfer such Government land to the Authority as may be required for the propose development.

4. The Special Area Authorities.

(1)The State Government may, by notification, for the purpose of this Act, constitute an Authority to be called (Name of the area) Special Area Tourism Development Authority.(2)The Special Area Authority shall be a body corporate and shall consist of the following members, namely:-

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| (a) The Secretary, Tourism, Government of Uttarakhand | ex-officio
(Chairman); |
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- | | |
|--|--------------------------|
| (b) The Secretary, Finance, Government of Uttarakhand | ex- officio
(member); |
| (c) The Secretary, Planning, Government of Uttarakhand | ex- officio
(member); |
| (d) The Secretary, PWD, Government of Uttarakhand | ex- officio
(member); |
| (e) The Secretary, Urban, Government of Uttarakhand | ex- officio
(member); |
| (f) The Secretary, Housing, Government of Uttarakhand | ex- officio
(member); |
| (g) The Secretary, Panchayat, Government of Uttarakhand | ex- officio
(member); |
| (h) The Secretary, Forest, Government of Uttarakhand | ex- officio
(member); |
| (i) Chief Town Country Planner, Government of Uttarakhand | ex- officio
(member); |
| (j) District Magistrate of the district, any part of, which is included in the special development area | ex- officio
(member); |
| (k) Five persons to be nominated by the State Government, who shall be persons of ability, integrity and standing and having adequate knowledge or experience of or have shown capacity in dealing with problems relating to environment, landscape architecture, tourism, sports especially related to water, commerce, economics, public affairs, etc. | Members; |
| Such other members, not exceeding two, as may be nominated by the State Government to represent, other interests in the environment protection, sustained development, tourism and sports preferably related to water gaming; | Members; |
| (m) Chief Executive Officer | Member
Secretary. |

(3) A member referred to in Clause (b), (c), (d), (e), (f), (g) and (h) of sub-section (2) may instead of attending a meeting of the Authority himself, depute an officer, not below the rank of Additional Secretary ex-official in the department, and a member referred to in clause (j) of sub-section (2) may, likewise depute an officer not below the rank of Additional District Magistrate ex-official. The officer so deputed shall have the right to take part in the proceeding of the meeting and shall also have the right to vote.

(4) The Special Area Authority may associate with itself, in such manner and for such purpose as may be determined by regulations, any person whose assistance or advice it may desire in complying with any of the provisions of this Act.

(5) Any person associated under sub-section (4) shall have the right to take part in the discussion of the Authority relevant to the purpose for which he has been associated, but he shall not be entitled to vote.

(6) The terms of office of the nominated members under clause (k) and (l) of sub-section (2) of this section shall be such as the State Government may determine by order : Provided that the State Government may anytime for the reasons recorded in writing terminate membership of the nominated member before expiry of the term so determined under this sub-section.

(7) The nominated member of the Authority may

anytime by writing under his hand addressed to the State Government resigned from his office, and on such resignation being accepted he shall be deemed to have vacated his office.(8)No act or proceedings of the Authority shall be invalid merely by reason of the existence of any vacancy in, or defect in the constitution thereof or any irregularity in the procedure thereof not affecting the merits of the case.

5. Staff of the Authority.

(1)The State Government may appoint suitable person as the Chief Executive Officer of the Authority who shall exercise such powers and perform such duties as may be prescribed.(2)The Authority may, with the prior approval of State Government create such posts, as it considers necessary, for the efficient discharge of its functions under this Act and may, subject to any rules that may be made in this behalf, make appointments on such posts and determine the terms and conditions including designations of persons so appointed.(3)The qualifications and terms and conditions of service of officers and employees, appointed under sub-section (2), shall be such as may be prescribed.(4)The officers and employees appointed under sub-section (2) shall perform and discharge functions and duties as may be prescribed.(5)The Chief Executive Officer and other officers, ad-visors and employees of the Authority shall be entitled to receive from the funds of the Authority the salaries and allowances as may be prescribed.

Chapter - III Functions and Powers of the Special Area Authority

6. Functions of the Authority.

- The functions of the Special Area Authority shall be -(1)to promote and secure tourism development in a planned manner of the Special Area for which it has been constituted;(2)to undertake development and prepare a Master plan for the Special area coupled with preservation of eco-system as a consequence for promotion of tourism and allied activities;(3)to implement the plan so prepared after its approval by the State Government;(4)for the purpose of implementation of the plan, to acquire land by purchase, lease, exchange, gift or by any other sort of transfer and to hold, develop, manage and grant licenses or any other kind of permission with restrictive covenants as may be prescribed;(5)to carry out limited building, construction, engineering activities and to develop resources, infrastructure and other avenues for facilitating tourism and like including those related to water recourse and its surroundings;(6)to execute works in connection with supply of water and electricity and to provide such utilities and amenities;(7)to dispose-off sewage and to provide and maintain other services and amenities;(8)to take steps and perform the duties for development and preservation of eco- system conducive to tourism, including water sports and gaming with facilities for the rest & reoccupation with serene atmosphere;(9)to provide for the management of the Special Area in the same manner as is done by Nagar Nigam under the Uttar Pradesh Nagar Nigam Adhiniyam, 1959 in its application to State of Uttarakhand adopted vide Adaptation and Modification Order by the Uttarakhand State;(10)to otherwise perform all such functions as are necessary or expedient for the purpose of the planned development of the Special Area and for purposes incidental thereto :Provided that the functions specified in clause (10) shall not be performed unless so required by the State Government.

7. Powers of the Authority.

- The Special Area Authority shall -(1)for the purpose of administration have the powers which a Nagar Nigam has under the Uttar Pradesh Nagar Nigam Adhiniyam, 1959 vide Adaptation and Modification Order of the Uttarakhand State ;(2)for the purpose of taxation have the powers which Nagar Nigam has in relation to a city under the Uttar Pradesh Nagar Nigam Adhiniyam, 1959 (as applicable in the State of Uttarakhand) vide Adaptation and Modification Order by the Uttarakhand State. Chapter - IV Master Plan for Special Area

8. Preparation of Master Plan.

(1)The Authority shall, as soon as may be, prepare a master plan for the Special area for which it has been constituted;(2)The Master plan shall-(a)define the various sectors into which such area may for the purposes of development, preservation of ecology, promotion of tourism and indicate the land, water source, hillock and other areas in each sector proposed to be used and the stages by which any development shall be carried out;(b)serve as a basic pattern of framework within which the development plans for various sectors may be prepared with minimum displacement of local populace;(c)indicate projects which can be developed through central / state schemes or through public private partnership formats.(3)The master plan may provide for any other matter necessary for the proper development of such area within the scope of the Act.(4)Pending preparation of the master plan in accordance with the powers vested in sub-section (1) of section 8, Authority with the approval of the State Government may impose such restriction on the construction or development of land falling under the Special Area notified under sub-section (1) of section 4 which is required for planned development of the Special area.(5)Any person shall perform any development or construction activity in the Special Area after obtaining prior approval of the Authority in a manner as may be prescribed in the Rules.

9. Sector Plans.

(1)Simultaneously with the preparation of the master plan or as soon as may be thereafter, the Authority shall proceed with the preparation of a sector plan for each of the sectors referred to in sub-section (2) of section 9.(2)A sector development plan may -(a)contain a site-plan and land use-plan for the development of the sector and show the approximate locations and extent of land uses proposed in the sector for such things as public buildings, huts, utility structures and other public works and utilities, roads, housing, recreation, structures related to sports including water sports and gaming, limited market facility, schools, hospitals and public and private open spaces and other categories of public and private uses;(b)specify the standards of population density and structure density;(c)show every area in the sector which may in the opinion of the Authority be required or declared for development or redevelopment and as tourist attraction spot or sector and in particular, contain provisions regarding all or any of the following matters, namely -(i)the division of any site into plots for construction of buildings without disturbing the eco-system;(ii)the allotments or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and other public purposes;(iii)the development of any area into a township or colony and the restriction and conditions subject to which such development may be undertaken or carried

out.(iv)the construction of building on any site and the restrictions and conditions in regard to the open spaces to be maintained in or around buildings and height and character of building;(v)the alignment of buildings of any site;(vi)the architectural features of the elevation or frontage of any buildings to be constructed on any plot or site;.(vii)the number of residential buildings which may be constructed in any sector on any plot or site;(viii)the amenities to be provided in relation to any site or buildings on such site whether before or after the construction of buildings and the person or authority by whom or at whose expense such amenities are to be provided;(ix)the prohibitions or restrictions regarding construction of shops, workshops, warehouses or factories or buildings of a specified architectural feature or buildings designed for particular purposes in the locality;(x)the maintenance of walls, fences, hedges or any other structural architectural construction and the height at which they shall be maintained;(xi)the restrictions regarding the use of any site for purposes other than construction of buildings;(xii)landscape preservation, development and modernization, balancing the human habitation with nature around;(xiii)any other matter which is necessary for the proper development of sector or any portion thereof according to the plan.

10. Procedure for preparation of plan and submission of the same.

(1)Before preparing any master plan under section 8 or 9 finally, the Authority shall prepare a draft plan and publish a notice in such form and manner as may be prescribed, inviting objections and suggestions by such date being not less than thirty (30) days from the date of the publication of the notice, as may be specified in the notice.(2)The Authority shall also give reasonable opportunity to every local authority, within whose local limits any land touched by the plan is situated, to make any representation with respect to the plan.(3)After considering all such objections, suggestions and representations as may be received, the Authority shall finally prepare the plan in consultation with Bhagirathi River Basin Development Authority constituted under sub-section (1) of section 3 of the Uttarakhand River Valley (Development and Management) Act, 2005 for the area falling in the Command Area under clause (f) of section 2 of the aforesaid Act and submit it to the State Government for its approval.(4)The State Government may either approve the plan without modification or with such modifications as it may consider necessary or reject the plan with directions to the Authority to prepare a new plan according to such directions.(5)Upon notification of the master plan under section 11, such master plan shall be deemed to be finalized in accordance with this Act and also in accordance with the Uttaranchal River Valley (Development and Management) Act, 2005.

11. Date of commencement of plan.

- Immediately after a plan has been approved under section 10, the State Government shall cause it to be published in the Gazette and in such other manner as may be prescribed and the plan shall come into operation with effect from the date of its publication in the Gazette.

12. Amendment of plan.

(1)The Authority may, with the approval of the State Government, make such amendments in the plan prepared under section 8 or 9 as it thinks fit.(2)The Provisions of sections 8, 9 and 10 shall,

mutatis mutandis apply to any amendment made under this section. Chapter - V Development of Lands

13. Development of land around Special Area.

(1) After the establishment of the Authority no development of land shall be undertaken or carried out or continued in that area by any person or body including a department of Government or any undertaking in public or private sector, unless, permission for such development has been obtained in writing from the authority in accordance with the provisions of this Act. (2) After the coming into operation of any of the plans in any such area no development shall be undertaken or carried out or continued in that area unless such development is also in accordance with such plans.

14. Application for permission and Appeal.

(1) Every person or body desiring to obtain the permission referred to in section 13 shall make an application in writing to the Authority in such form and containing such particulars in respect of the development to which the application relates as may be prescribed. (2) Every application under sub-section (1) shall be accompanied by such fee as may be prescribed by the regulations. (3) On the receipt of an application for permission under sub-section (1), the Authority or such person as may be authorised by it in this behalf after making such inquiry as is considered necessary in relation to any matter specified in clause (c) of sub-section (2) of section 9 or in relation to any other matter, shall, by order in writing, either grant the permission, subject to such conditions, if any, as may be specified in the order or refuse to grant such permission : Provided that before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause : Provided further that the Authority may, before passing any order on such application, give an opportunity to the applicant to make any correction therein or to supply any further particulars or documents or to make good any deficiency in the requisite fee with a view to bringing it in conformity with the relevant rules or regulations. (4) (a) Where permission is refused, the grounds of such refusal shall forthwith be recorded in writing and communicated to the applicant. (b) Any person aggrieved by an order under sub-section (4) may appeal to the State Government against that order within thirty (30) days from the communication thereof and the State Government may pass such orders as it thinks fit. (c) The Authority shall keep in such form as may be prescribed a register of application for permission under this section. (d) The said register shall contain such particulars, including information as to the manner in which application for permission have been dealt with, as may be laid down in the regulations, and shall be available for inspection by the public at all reasonable hours on payment of such fee as may be laid down in the regulations.

15. Uses of land and buildings in contravention of Plans.

- After coming into operation of any of plan in a sector, no person shall use or permit to use any land or building in that sector otherwise than in conformity with such plan: Provided that it shall be lawful to continue to use, upon such terms and conditions as may be prescribed, any land or building for and to the extent for and to which it is being used upon the purpose on the date on which such plan comes into force. Chapter - VI Acquisition and Disposal of land

16. Compulsory acquisition of land.

(1) If in the opinion of the State Government, any land is required for the purpose of development or for any other purpose under this Act, the State Government may acquire such land under the provisions of the Land Acquisition Act, 1984 : Provided that the Authority shall also have the power to take steps for the compulsory acquisition of any land or any interest therein required for the execution of master plan after its approval by the State Government or for performing any other duties or functions of the Authority and such acquisition of any land or any interest therein shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act : Provided further that any person from whom any land is so acquired may, after the expiration of a period of five (5) years from the date of such acquisition, apply to the State Government for restoration of that land to him on the ground that the land has not been utilized within the period for the purpose for which it was acquired, and if the Government is so satisfied it shall order restoration of the land to him on re-payment of the charges which were incurred in connection with the acquisition together with interest at the rate of twelve percent (12%) per annum and such development charges, if any, as may have been incurred after acquisition. (2) Where any land has been acquired by the State Government, 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 such Authority of the compensation awarded under that Act and of the charges incurred by the State Government in connection with the acquisition or otherwise as deemed appropriate by the State Government.

17. Contractual acquisition of land.

- Notwithstanding anything in section 16, where any land is needed for the purpose of a master plan or for performing any other duties or functions of the Authority, the Authority may enter into an agreement with any person for the acquisition by purchase, lease or exchange, or otherwise of his rights and interests in such land either wholly or in part, on payment of an amount proportionate to the loss or deprivation caused to the enjoyment of the land.

18. Disposal of Land by the Authority.

(1) Subject to any directions given by the State Government in this behalf, the Authority may dispose off any land acquired by the State Government and transferred to it, without undertaking or carrying out any development thereon, or any such land after undertaking or carrying out such development as it think fit to such persons, in such manner, and subject to such terms and conditions as it considers expedient for securing the development of the Special areas according to plan. (2) Nothing in this Act shall be construed as enabling such Authority to dispose of land by way of gift, but subject thereto, references in this Act to the disposal of land shall be construed as references to the disposal thereof in any manner by way of sale, exchange or lease with respect to residential sector and by way of Lease or License for commercial sector and rest merely on Leave and License or by the creation of any easement, right or privilege or otherwise not transferring any absolute right. Chapter - VII Finance, Accounts and Audit

19. Fund of the Authority.

(1)The Authority shall have and maintain its own fund to which shall be credited :-(a)all moneys received by the Authority from the State Government or the Central Government by way of grants, loans, advanced or otherwise;(b)all moneys borrowed by the Authority from sources other than the State Government or the Central Government by way of loans or debentures;(c)all fees, tolls, cess and charges and like received by the Authority under the Act;(d)all moneys received by the Authority from the disposal of lands, buildings and other properties movable and immovable; and(e)all moneys received by the Authority by way of rents and profits or in any other manner or from any other source.(2)The fund shall be applied towards meeting the expenses to be incurred by the Authority in the administration of this Act and for no other purposes.(3)Subject to any directions of the State Government, the Authority may keep in current account of any Scheduled Bank such sum of money out of its funds as it may think necessary for meeting its expected current requirements and invest any surplus money in such manner as it thinks fit.(4)The state Government may, after due appropriation made by Legislature by law in that behalf, make such grants, advances and loans to the Authority as that Government may deem necessary for the performance of the functions of the authority under this Act, and all grants, loans and advances, made shall be on such terms and conditions as the State Government may determine.(5)The Authority shall maintain a sinking fund for the repayment of money borrowed under sub-section (3), and shall pay every year to the sinking fund such sum as may be sufficient for repayment within the period fixed, of all money so borrowed.(6)The sinking fund or any part thereof shall be applied in, or towards, the discharge of the loans for which such fund was created, and until such loans are wholly discharged, it shall not be applied for any purpose.

20. Power of Authority to Borrow.

(1)The Authority may, from time to time, subject to the provisions of this Act, borrow any sum by way of loan, debentures, bonds, whether secured or not, from the Central Government or State Government or such other sources including Banks and financial Institutions.(2)The rules made by the State Government for the purposes of this section may empower the Authority to borrow by the issue of debentures and to make arrangements with bankers.(3)All debentures issued by the Authority shall be in such form as the Authority, with the sanction of the State Government, may from time to time determine.(4)Loans borrowed and debentures issued under this section may be guaranteed by the State Government as to the repayment of principal and the payment of interest at such rate as may be approved by the State Government.(5)The Authority shall, if so required, have power to create security over its property by way of mortgage, charge or as the case may be for availing the Loan from Banks and financial Institutions or for issuing the debentures with the prior approval of the State Government.(6)The Authority may also invest its funds in Banks, financial institutions or such other securities as may be approved, notified by the Government for the purpose.

21. Budget of the Authority.

- The Authority shall prepare in such form and at such time every year as the State Government may specify, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the Authority.

22. Accounts and Audit.

(1)The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form as the State Government may specify.(2)The accounts of the Authority shall be subject to audit as per the Uttarakhand Audit Act, 2012 :Provided that in addition to the audit as per the Uttarakhand Audit Act, 2012, the State Government may get the audit done from Comptroller and Auditor General of India as per the Comptroller and Auditor Generals (Duties, Power and Conditions of Service) Act, 1971 or on such terms and conditions, in such manner, for such period and at such time as may be agreed upon between him and the State Government.(3)The accounts of the Authority, audited as per sub-section (2) above, together with audit report thereon shall be forwarded annually to the State Government who may issue such directions to the authority as deemed fit and the Authority shall be bound to comply with such directions.

23. Annual Report.

- The authority shall prepare for every year a report of its activities during that year and submit a report to the State Government in such form and on or before such date as State Government may specify.

24. Pension and Provident Fund.

(1)The authority may constitute for the benefit of its whole time paid members or its officers and other employees in such manner and subject to such conditions, as the State Government may specify, such pension and/or provident funds and/or schemes of group insurance and /or any other superannuation benefit as may deem fit.(2)Where any such pension or provident fund has been constituted, the State Government may declare that the provisions of the provident Funds Act, 1925, shall apply to such fund as if it were a Government Provident Fund.Chapter - VIII Public Private Participation

25. Power of State Government to enter into agreements for development and Promotion of Tourism by Private Participation.

(1)Notwithstanding anything contained in this Act, the state Government may enter into an agreement with any person in relation to the development, maintenance and promotion of Tourism of the whole or any part of the Special Area on such terms and conditions as deemed appropriate in accordance with this Act, Rules, Regulations thereto and Scheme for the purpose made in pursuance

to this Act.(2)The person referred to in sub-section (1) is entitled to collect and retain fees at such rate, for services or benefits rendered by him as the State Government may, by notification in the Official Gazette, specify having regard to the expenditure involved in development, building, maintenance, management and operation of the whole or part of such Special Area, interest on the capital invested, reasonable return, the number of Tourists, Tourist activities and the period of such agreement.(3)A person referred to in sub-section (1) shall have powers to regulate and control the Tourist related activities in accordance with the provisions not contrary to this Act, Rules, Regulations and Scheme as may be framed under this Act forming subject-matter of any such Public Private Partnership agreement, for proper management thereof.

Chapter - IX Supplemental Provisions

26. Powers of entry.

- Subject to any rules that may be made in this behalf, the authority may authorize any person to enter into or upon any land or building with or without assistants or workmen for the purpose of -

(1)making any inquiry, inspection measurement or survey or taking levels of such land or building;(2)examining works under construction and ascertaining the course of sewers and drains;(3)digging or boring into the sub-soil;(4)setting out boundaries and intended lines of work;(5)making such levels, boundaries and lines by placing marks and cutting trenches;(6)ascertaining whether any land is being or has been developed in contravention of the Development plan or in contravention of any condition subject to which permission has been granted, or doing any other thing necessary for the efficient administration of this Act.

Explanation. - Every person authorized to enter into or upon any land or building under this section, shall while so acting in pursuance of such authority be deemed to be a public servant for the purposes of section 21 of the Indian Penal Code.

27. Order of demolition of building.

(1)Where any development has been commenced or is being carried on or has been completed in contravention of the master plan or sector plan or without the permission, approval or sanction referred to in section 14 or in contravention of any conditions subject to which such permission, approval or sanction has been granted, then without prejudice to the provisions of section 26 the authority may make an order, directing that such development shall be removed by demolition, filling or otherwise by the owner thereof or by the person at whose instance the development or has been commenced or is being carried out or has been completed, within such period not being less than fifteen days as may be specified in the order and on his failure to comply with the order, may remove or cause to be removed such development and expenses of such removal shall be recoverable from the owner or the person at whose instance the development was commenced or was being carried out or was completed, as arrears of land revenue and no suit shall lie in the Civil Court for recovery of such expenses:Provided that no such order shall be made unless the owner or the person concerned has been given a reasonable opportunity to show cause why the order should not be made.(2)The provisions of this section shall be in addition to and not in derogation of any other provisions relating to demolition of buildings contained in any other law for the time being in force.(3)Any person aggrieved by an order passed under sub-section (1) may within thirty days from

the date of such order, prefer an appeal to the Secretary, Tourism, State Government and the decision of the Secretary, Tourism, State Government in such appeal shall be final.(4)The provisions of the Code of Civil Procedure, 1908, shall mutatis mutandis apply to the hearing and disposal of any appeal under this section, as if It were an appeal from original decree under the Code.(5)It shall be lawful for the Secretary Tourism, State Government to pass such interlocutory or interim orders including stay of operation of the order appealed against, as he considers necessary for the ends of justice.

28. Power to stop development.

(1)Where any development has been commenced or continued in contravention of the master plan or sector plan or without the permission, approval or sanction referred to in section 15 or in contravention of any condition subject to which such permission, approval or sanction has been granted, then, without prejudice to the provisions of sections 27 and 28, the Authority or such officer as may be authorized by it in this behalf, may make an orders requiring the development to be discontinued on and from the date of the service of the order, and such order shall be complied with accordingly.(2)Where such development is not discontinued in pursuance of the order under sub-section (1) the Authority, or such officer may require any police officer to remove the person by whom the development has been commenced and all the assistants and workmen from the place development within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.(3)Any person failing to comply with an order under sub-section (1) or sub-section (2) shall be punishable as prescribed by the Government.(4)No compensation shall be admissible to any person for any damage which he may sustain in consequence of the removal of any development under section 26 or the discontinuance of the development under this section.(5)The provisions of this section shall be in addition to and not in derogation of other provision relating to stoppage of building operation contained in any other law for the time being in force.

29. Power of the Authority to provide amenity or carry out development at the cost of owner in the event of his default and to levy cess in certain cases.

(1)If the Authority is satisfied that any amenity has not been provided but which ought to be provided or that any development of the land for which permission, approval or sanction had been obtained under this Act or under any law in force before the commencement of this Act has not been carried out, it may after affording the owner of the land or the person providing or responsible for providing the amenity a reasonable opportunity to show cause, by order require him to provide the amenity or carry out the development within such time as may be specified in the order.(2)If any amenity is not provided or any such development is not carried out within the time specified In the order, then the Authority may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit:Provided that before taking any action under this sub-section, the Authority shall afford a reasonable opportunity to the owner of the land or to the person providing or responsible for providing the amenity to show cause as to why such action should not be taken.(3)All expenses incurred by the Authority or the agency employed by it in providing the amenity or carrying out the development together with interest at such rate, as the

State Government may, by order fix from the date when a demand for the expenses is made until payment may be recovered by the Authority from the owner or the person providing or responsible for providing the amenity as arrears of land revenue, and no suit shall lie in the Civil Court for recovery of such expenses.(4)The expenses incurred by the Authority or the agency employed by it under this section shall be certified by such Authority and such certificate shall be, final.

30. Powers of Authority to require local authority to assume responsibilities in certain cases.

- Where any area has been developed by the Authority, 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 provisions of the amenities which have not been provided by 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, then on a reference of the matter to the State Government by the Authority or, terms and conditions settled by the State Government in consultation with the local authority.

31. Betterment charge.

- Where in the opinion of the Authority, as a consequence of any development scheme having been executed by it in any special development area, the value of any property, in that area which has been benefited by the development, has increased or will increase, such Authority shall be entitled to levy in such manner as may be prescribed upon the owner of the property or any person having an interest therein a betterment charge at such rate as may be prescribed in respect of the increase in value of the property resulting from the execution of the development :Provided that no betterment charge shall be levied in respect of lands owned by Government :Provided further that where any land belonging to Government has been granted by way of lease or licence by Government to any person, then that land and any building situate thereon shall be subject to a betterment charge under this section.

32. Payment of betterment charge.

(1)The betterment charge levied under this Act shall be payable in such number of instalments, and each instalments shall be payable at such time and in such manner as may be fixed by regulation, made in that behalf.(2)Any arrear of betterment charge shall be recoverable as an arrear of land revenue.

33. Power to levy charge on the consumption of sale of electricity.

- Notwithstanding anything contained in any other law for the time being in force, there may be levied by the Authority, with the previous sanction of the State Government, cess at a rate, not exceeding ten paise per kwh, on the consumption or sale of electricity in the special development

area.

34. Mode of recovery of moneys due to the Authority.

- Any money certified by the Authority as due to it on account of fees or charge, or from the disposal of lands, buildings or other properties, movable or immovable or by way of rents and profits may, if the recovery thereof is not expressly provided for in any other provision of this Act, be recovered by such Authority as arrears of land revenue, and no suit shall lie in the Civil Court for recovery of such money.

Chapter - X Offences and Penalties

35. Offence of contravention in particular.

(1) Any person who undertakes or carries out development of any land in contravention of the Development plan or without the permission, approval or sanction under this Act or in contravention of any condition subject to which such permission, approval or sanction has been granted, shall be punishable with fine which may extend to L ten thousand, and in the case of a continuing offence with further fine which may extend to L five hundred for every day during which such offence continues after conviction for the first commission of the offence. (2) Any person who uses any land or buildings in contravention of the provisions of section 14 or in contravention of any terms and conditions prescribed under the proviso to that section shall be punishable with fine which may extend to L five thousand and in the case of continuing offence, with further fine which may extend to two hundred and L fifty for every day during which such offence continues after conviction for the first commission of the offence. (3) Any person who obstructs the entry of a person authorized under of section 26 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 six months, or with fine which may extend to L one thousand, or with both.

36. Offence regarding Contravention in general.

- If any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made there under, he shall be punishable with imprisonment for a term which may extend to three months or with fine not exceeding L ten thousand or with both.

37. Offence by companies.

(1) If the person committing an offence under this Act is a company every person who, at the time of the offence was committed, was in charge of and was 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 be proceeded, against and punished 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 by a company with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.(3)Every company shall at such interval as may be prescribed file a statement, with the authority, specifying the name, designation and address of the person or persons in charge of and responsible to such company for the conduct of its affairs in relation to matters provided under this Act.Explanation. - For the purposes 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.

38. Composition of offence.

(1)Any offence made punishable by or under this Act, except offence under sub-section (3) of section 35, may either before or after the institution of proceedings be compounded by the Authority or any officer authorized by it in that behalf on such terms and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf.(2)Where an offence has been compounded under sub-section (1) above, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence.

39. Cognizance of Offence.

- No court inferior to that of Magistrate of the first class shall try an offence punishable under this Act on a complaint in writing made under the signature of an officer duly authorised by the Authority in this behalf.

40. Members and officers to be public servants.

- The Chairman, every member and every officer of an Authority established under this Act shall be deemed to be a public servant within the meaning of the section 21 of the Indian Penal Code, 1860 (Act No. 45 of 1860).

41. Fines when realized to be paid to the Authority.

- All fines realized in connection with prosecutions under Act shall be paid and credited to the Authority.Chapter - IX Miscellaneous

42. Control by the State Government.

(1)The Authority shall carry out to such directions as may be issued to it from time to time by the State Government for the efficient administration of this Act.(2)If in, or in connection with the exercise of its powers and discharge of its functions by the Authority under this Act any dispute arises between such Authority and the State Government the decision of the State Government on such dispute shall be final.(3)The State Government may, at any time either on its own motion or on

application made to it in this behalf, call for the records of any case disposed off or order passed by the Authority or any officer authorized by it to perform any function under this Act for the purpose of satisfying itself as to the legality or propriety of any order, passed or direction issued and may subject to any order passed by the Secretary Tourism under sub-section (3) or sub-section (5) of section 27, pass such order or issue such direction in relation thereto as It may think fit Provided that the State Government shall not pass any order prejudicial to any person without affording such person a reasonable opportunity of being heard.(4)Every order of the State Government made in exercise of the powers conferred by this Act shall be final and shall not be called in question in any court.

43. Returns and inspections.

(1)The Authority shall furnish to the State Government such reports, returns and other, information as that Government may, from time to time require.(2)The State Government may give such directions on such reports, returns and other information, as it thinks fit, and it shall be the duty of the Authority to carry out such directions.

44. Power of State Government to give directions.

(1)In the discharge of their duties, the Authority and its officers and other servants shall be bound by such directions on matters of policy as may be given to them by the State Government.(2)If any dispute arises between the State Government and the Authority as to whether a question is or is not a question of policy, the decision of the State Government shall be final.

45. Delegation of powers.

(1)The State Government may by notification, delegate to any, officer, or authority subordinate to it all or any powers conferred on it by or under this Act other than the power to make rules.(2)Subject to the provisions of this Act and to such restrictions as may be imposed by the State Government by a general or special order, the Authority or the Chairman may, by an order in writing, delegate any officer subordinate to the Authority all or any powers exercisable by the Authority or the Chairman, as the case may be, under this Act, or the rules made thereunder.

46. Dissolution of Authorities.

(1)Whenever in the opinion of the State Government the continued existence of any Authority constituted under this Act is unnecessary or undesirable, the State Government may, by notification, declare that such Authority shall be dissolved from such date as may be specified therein and the Authority shall stand dissolved accordingly.(2)As 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 State Government;(b)all liabilities which are enforceable against the Authority shall be enforceable against the State Government, for the purpose of realizing properties, funds and dues referred to in clause (a), the function of the Authority shall be discharged by the State Government;(c)all powers

and functions to be exercised or discharges by the Authority under this Act or the rules framed thereunder shall be exercised or discharged by such person in the prescribed manner as may be appointed or designated by the State Government in this behalf.

47. Authentication of orders and documents.

- All permissions, orders, decisions. Notices and other documents of the Authority shall be authenticated by the signature of the Secretary to the Authority or any other officer authorized by the Authority in that behalf.

48. Bar of Jurisdiction.

- On and from the date of enforcement of this Act and establishment of an Authority under the Act, no civil court shall have, or be entitled to exercise, any jurisdiction, powers or authority in relation to matters specified in this Act.

49. Protection of action taken in good faith.

- No. suit, prosecution or other legal proceedings shall lie against the Authority, its members, officers exercising any of the powers under the Act for anything which is done or omitted to be done in good faith.

50. Power to make Regulation.

- The authority may with the previous approval of the State Government make such regulations as are required to be made under this Act or the rules framed thereunder and otherwise may subject to the provisions of this Act and rules made thereunder, make regulations generally to carry out the provisions of this Act.

51. Power to make Rules.

- The State Government may make rules for carrying out the provisions of this Act including for the matters like tourism, gaming, water sports and matters incidental to the provisions of this Act and every rule made under this Act shall be laid ,as soon as may be after it is made, before State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agree in making any modification in the rule or the House agree that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

52. 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 may appear to be necessary for removing the difficulty : Provided that no order shall be made under this section after the expiry of a period of two (2) years from the commencement of this Act, shall be laid, as soon as may be after it is made, before the House of State Legislature. (2) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislature of the State.

53. Application of other Laws not barred.

- The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other Law for the time being in force as long as the provisions of other laws are not inconsistent with this Act.

54. Overriding effect of the Act.

- Upon coming into force of this Act any area declared herein or in any Notification hereafter under this Act for development and Promotion of Tourism under the provisions of this Act, such area, if included in the master plan or the zonal development plan under the Uttar Pradesh Urban Planning and Development Act, 1973 in its adoption to State of Uttarakhand adopted vide Adaptation and Modification Order by the Uttarakhand State or any other master plan or development plan under any other like Law, shall with effect from the date of such declaration or Notification under this Act be deemed to be excluded from any such plan and notwithstanding such exclusion anything done or any action taken under the referred Acts, shall be deemed to have been done or taken under this Act, as if this Act were in force at all material times: Provided that the provisions of this Act are in addition to and not in derogation of the provisions of the Uttaranchal River Valley (Development and Management) Act, 2005 except for the process of Development, Master plan, Adjudication and Appeal where provisions of this Act shall prevail in absence of harmony : Provided further that the State Government may, if so deemed appropriate by Notification demarcate or clarify the areas for functional operations or otherwise for any anomaly or dispute for smooth functioning of different Authorities in achieving the purpose of this Act.

Schedule

(a) Tehri Special Area for Development and Promotion of Tourism and other allied activities. << description on area to be covered under this authority >> (b) Char Dham Special Area for Development and promotion of Tourism and other allied activities. << description on area to be covered under this authority >>