

Shri Kashi Vishwanath Special Area Development Board Varanasi Act, 2018

UTTAR PRADESH

India

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Act 31 of 2018

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Shri Kashi Vishwanath Special Area Development Board Varanasi Act, 2018(U.P. Act 31 of 2018)Statement of Objects and Reasons. - Sri Kashi Vishwanath Temple situated at the bank of holy river Ganga in District Varanasi is one of the important jyotirlinga of the twelve jyotirlingas of Lord Shiva due to which it is of international repute. It is also a special place of Uttar Pradesh State in the perspective of tourism. In view of the Mythological, Religious, Spiritual, Cultural significance of the areas related to it, extension or beautification of the accessible paths from Ganga river to the Temple Complex and related major routes and existing ancient temples to their lives intact, develop their reinvigorated strengthening ambitious scheme has been prepared by the State Government with the help of the Central Government. In order to maintain the continuous existence of the pilgrims, devotees, tourists in the available area marked in the map, after completing the development of infrastructure for quality and timely completion, it has been decided to make a law to provide for the establishment of Shri Kashi Vishwanath Special Area Development Board Varanasi to create, formulate, implement, regulate and maintain the Special Area under its jurisdiction for developing and maintaining the cultural, spiritual, mythological and architectural aesthetics in such area to promote tourism in consonance with the rich cultural heritage thereof.Since the State Legislature was not in session and immediate legislative action was necessary to implement the aforesaid decision the Shri Kashi Vishwanath Special Area Development Board Varanasi Ordinance, 2018 (U.P. Ordinance 8, 2018) was promulgated by Governor on June 29, 2018.This Bill is introduced to replace the aforesaid Ordinance.Received the assent of the Governor on September 1, 2018 and published in the U.P. Gazette, Extraordinary Part I, Section (Ka), dated 1st September, 2018, pp. 12-19.An Act to provide for the establishment of Shri Kashi Vishwanath Special Area Development Board to create, formulate, implement, regulate and maintain the Special Area under its jurisdiction for developing and maintaining the cultural, spiritual, mythological and architectural aesthetics in such area to promote tourism in consonance with the rich cultural heritage thereofIt is hereby enacted in the Sixty-ninth Year of the Republic of India as follows-

1. Short title and commencement.

(1) This Act may be called Shri Kashi Vishwanath Special Area Development Board Varanasi Act, 2018. (2) It shall be deemed to have come into force on June 29, 2018.

2. Definitions.

(1) In this Act, unless the context otherwise requires, - (a) "Additional Chief Executive Officer" means the Additional Chief Executive officer to be appointed by the State Government or the Commissioner to assist the Chief Executive Officer and to perform the responsibility of the Chief Executive Officer in his absence; (b) "Amenities" includes roads and streets, water and electric supply, street lighting, open spaces, parks, natural features, drainage sewerage, public works and other utilities, services and conveniences; (c) "Board" means Shri Kashi Vishwanath Special Area Development Board established under Section 3; (d) "Building" includes any structure or part of a structure constructed with whatever material which is used or intended to be used as a place for human dwelling, or custody of livestock or property or performance of worship or for carrying on any occupation, trade or business; (e) "Chief Executive Officer" means the Chief Executive Officer appointed by the State Government; (f) "Commissioner" means the Commissioner of Varanasi division; (g) "Development" with its grammatical variations means the planned development of any area by carrying out building, engineering or other operations in, on, over or under land or making any material change in any building or land in such area; (h) "District Magistrate" means the District Magistrate of Varanasi; (i) "Rehabilitation plan" means a plan which shall be prepared by the Board, as may be required according to approved rules and regulations, in order to settle and rehabilitate residents, owners, occupants who are to be relocated for implementation of development plan for the Special Development Area, as prepared by the Board and approved by the State Government; (j) "Special Development Area" means the Special Development Area notified under the marked boundaries in the notified sajra bandobast plan located in revenue district Varanasi, Uttar Pradesh having following wards-

SI. No.	Name of Ward	Extension of Ward
		D - 1 Lahori Tola D - 2 Dharmkoop D - 3 Meerghaat D - 5 Tripura
1	Dashashwamedh Bhairvi (Ansh)	D - 6 Rani Bhawani Gali D - 7 Shakarkand Gali D - 8 Kaalika Gali D - 10 Saakshi Gali D - 11 Kotwalpura
2	Garhwaasi Tola	CK - 1 Pathaani Tola CK - 9 Manikarnika CK - 10 Brahmnaal CK - 28 Paanch Pandwa CK 31 Gyaanwaapi CK - 34 Lahori Tola

or such areas as may be notified by the State Government from time to time; (k) "Transferee" means a person to whom any property is or being transferred to him by the Board for such purpose as may be prescribed. (2) Words and expressions used in this Act but not defined shall have the meanings respectively assigned to them in the Uttar Pradesh Urban Planning and Development Act, 1973.

3. Establishment of the Board.

(1)The State Government shall by notification, establish a 'Board' to be known as Shri Kashi Vishwanath Special Area Development Board Varanasi to exercise the powers conferred and perform the functions assigned to it under this Act.(2)The Board shall be a body corporate.(3)The Head Quarter of the Board shall be at Varanasi.

4. Composition of Board.

- (i) A person to be appointed by the State Government-Chairperson(ii)The Chief Executive Officer-Member Secretary(iii)The District Magistrate, Varanasi-Member(iv)Additional Chief Executive Officer-Member(v)Vice Chairman, Varanasi Development Authority, Varanasi-Member(vi)Senior Superintendent of Police, Varanasi-Member(vii)Nagar Aayukt, Nagar Nigam Varanasi-Member(viii)Chief/Senior Treasury Officer, Varanasi-Member(ix)Chief Medical Officer. Varanasi-Member(x)Superintending Engineer, PWD, Varanasi-Member(xi)Superintending Engineer, Jal Nigam, Varanasi-Member(xii)Superintending Engineer, Purvanchal Vidhyut Vitaran Nigam Ltd., Varanasi-Member(xiii)The Secretary, to the Government of Uttar Pradesh, Housing Department or his nominee not below the rank of Special Secretary-Member (ex officio)(xiv)The Secretary, to Government of Uttar Pradesh, Tourism Department or his nominee not below the rank of Special Secretary-Member (ex officio)(xv)The Secretary to the Government, of Uttar Pradesh, Religious Affairs Department or his nominee not below the rank of Special Secretary-Member (ex officio)(xvi)The Secretary to the Government, of Uttar Pradesh, Finance Department or his nominee not below the rank of Special Secretary-Member (ex officio)(xvii)The Secretary to the Government, of Uttar Pradesh, Urban Development Department or his nominee not below the rank of Special Secretary-Member (ex officio)(xviii)Three persons, to be nominated by the State Government in consultation with the Chairperson, who shall be experienced in art, architecture, culture, history or literature-Member.(2)The Chairperson and the Members other than ex officio Members shall hold office at the pleasure of State Government.(3)No actions or proceeding of the Board shall be invalid by reason of the existence of any vacancy in, or defect in the Constitution of the Board.

5. The Staff of the Board.

(1)The Board shall have such permanent and temporary staff to run its office and day to day work;(2)The Board may, with the approval of State Government, create posts of the officers and employees of the Board;(3)The terms and conditions of the service including salaries and allowances of the staff appointed under sub-section (1) shall be finalised with the approval of the State Government;(4)For the purpose of carrying out its functions under this Act the Board may requisite the services of any officer or employee with the approval of the State Government;(5)Staff referred in sub-section (1) shall be under the administrative and disciplinary control of the chairperson, who will be the appointing authority but perform their duties under the direct control of the Chief Executive Officer.

6. Power and functions of the Board.

(1)The Chief Executive Officer will be the executive head of the Board who will act and pass orders in accordance with the provisions of this Act or the rules and regulations made under this Act;(2)(a)The Board shall, as soon as may be, prepare a plan for the Special Development Area-(i)The plan shall define various sectors into which such area may for the purposes of development indicate the land in each sector which is proposed to be used and the stages by which any development shall be carried out; serve as a basic pattern of frame-work, within which the development plans for various sectors may be prepared;(ii)The plan may provide for any other matter necessary for the proper development of such area;(b)The Board shall prepare a plan to rehabilitate, as may be required, and get it approved by the State Government in order to settle and rehabilitate residents, owners or occupants; who are to be relocated, for implementation of development plan for the Special Development Area;(c)The Board shall make and execute a long-term plan to conserve the heritage that falls under its jurisdiction and shall ensure that the surrounding are according to the Sajra Bandobast Plan after due approval of the State Government.(3)(i)Subject to the directions given by the State Government, the Board may acquire any building or land through mutual negotiations, purchase, donation, transfer, lease, rent or otherwise. It may also acquire any land, buildings in accordance with the provisions of law for the time being in force and shall publish a public notice in the local newspaper/gazette inviting persons who may have any claim or interest in such property, to file their claim;(4)The State Government may vest any land to the Board, whether under its control or under the control of any local body by such terms and conditions as it may deem fit;(5)The Board may sell, lease, rent or otherwise transfer whether by auction, allotment or otherwise any land or building belonging to the Board in the Special Development Area with the prior approval of the State Government in such manner and on such terms and conditions as may be prescribed;(6)The Board may on payment of such fees and on such conditions grant renew licence for such period as may be prescribed by regulations and renew to carry out any profession or trade in the Special Development Area;(7)For the purposes of proper planning and development of the Special Development Area, the Board may issue such directions as it may consider necessary, regarding,-(a)ban on erection or occupation of any building in contravention of regulations;(b)protection of architectural features of the elevation or frontage of any building;(c)layout and alignment of buildings on any site;(d)restrictions and conditions in regard to open spaces to be maintained in and around buildings and height and character of buildings;(e)number of residential buildings that may be erected on any site;(f)erections of shops, workshops, warehouses, factories or buildings;(g)maintenance of height and position of walls, fences, hedges or any other structure or architecture constructions;(h)maintenance of amenities;(i)restrictions of use of any site for a purpose other than that for which it has been allocated;(j)the means to be provided for proper (i) drainage of waste water (ii) disposal of waste, and (iii) disposal of town refuse;(k)the materials to be used for external and partition walls, roofs, floors and other parts of buildings and their position or location or the method of construction;(l)the certificates necessary and incidental to the submission of plans, amended plans and completion and/or occupancy certificates.

7. Power to regulate proper maintenance of site or building.

- If it appears to the Board that the condition or use of any site or building is pre-judicially affecting or is likely to affect the proper planning of the amenities in any part of the Special Development Area, it may serve a notice on the transferee, occupier or owner of that site or building requiring him/her to take such steps and within such period as may be specified in the notice and thereafter to maintain it in such manner as may be specified therein and in case such transferee, occupier or owner fails to take such steps or to maintain it thereafter, the Board may itself take steps for proper maintenance thereof and realise the cost incurred on it from such transferee, occupier or owner.

8. Levy of taxes and service charges.

(1)For the purposes of providing, maintaining, or continuing amenities in the Special Development Area, the Board may with the prior approval of the State Government, levy such taxes or service fee as it may consider necessary in respect of any site or building on the transferee or occupier thereof:Provided that the total incidence of such tax shall not exceed twenty five per cent of the annual value of such site or building.Explanation. - For the purposes of this section, the expression 'annual value' shall have the same meaning as provided in Section 174 of the Uttar Pradesh Municipal Corporation Act, 1959;(2)If the Board considers it necessary or expedient in the public interest it may, by a general or special order, exempt wholly or partly - any such transferee or occupier or any class thereof from the taxes levied under sub-section (1).

9. Penally.

(1)Where a transferee makes any default in the payment of any consideration and money or installment thereof or any other amount due on account of the transfer of any site or building by the Board or any rent due to the Board in respect of any lease, or where any transferee, occupier or owner makes any default in the payment of any fee or tax levied under this Act, the Chief Executive Officer may impose penalty of a sum not exceeding the amount to be recovered from the transferee, occupier or owner in addition to the amount of arrears, as the case may be.(2)In the case of non-payment of consideration money or any installment thereof on account of the transfer by the Board of any site or building or in case of any breach of any condition of such transfer or breach of any provision of this Act or the rules made there under or the site or building so transferred and may further forfeit the whole or any part of the money, if any, paid in respect thereof.(3)Where the Chief Executive Officer orders to require any site or building, the Collector may on his requisition, cause possession thereof to be delivered to him and may for that purpose use or cause to be used such force as may be necessary.

10. Power to inspect and enter into the building or land.

(1)The Chief Executive Officer or any person authorised by him may enter into any open premises or building with or without assistance, for the purposes of-(a)making any inquiry, inspection, measurement or survey or taking levels of such land or building;(b)examining works under

construction or of ascertaining the course or sewers or drains;(c)ascertaining whether any building is being or has been erected or re-erected without sanction or in contravention of any sanction given under this Act or the rules and regulations made thereunder and to take such measurements and do any such other acts as may be necessary for each purpose;(d)doing any other thing necessary for the efficient administration of this Act:Provided that:(i)no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier or if there be not occupier, the owner of the land or building;(ii)sufficient opportunity shall in every instance, be given to enable women if any to withdraw from such land or building;(iii)due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.(2)Any person, residing in or being in charge of such land or building shall on demand of such officer or other person allow him free ingress their to and afford all reasonable facility for such inquire, inspection, measurement, survey or examination or other activities as mentioned in sub-section 1.

11. Fund.

- The Board shall have and maintain its fund to which shall be credited,-(a)all moneys received by the Board from the State Government by way of grants, loans advances or otherwise;(b)all moneys borrowed by the Board from sources other than the State Government by way of loans or debentures;(c)all fees, tolls and charges received by the Board under this Act;(d)all moneys received by the Board from the disposal of lands, buildings and other movable and immovable properties; and(e)all moneys received by the Board by way of rents and profits or in any other manner or from any other sources;(f)in addition to the funds under foregoing clauses the Board shall have the powers to raise its own funds through such revenue sources as may be approved by the State Government.(2)The fund shall be utilised towards meeting (he expenses incurred by the Board in the administration of this Act.(3)Subject to any directions of the State Government, the Board 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.

12. Budget and Accounts.

(1)The Board shall prepare its budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the Board and get it duly approved by the State Government.(2)The Board shall maintain proper accounts and other relevant records and prepare annual statement of accounts including the balance sheet in such form as may be prescribed.(3)The accounts of the Board shall be subject to audit annually by the examiner, Local Fund Accounts.

13. Power to make rules.

- The State Government may by notification make rules for carrying out the purposes of this Act.

14. Power to make regulations.

- The Board may with the prior approval of the State Government make such regulations as are required to make under this Act or the rules framed thereunder.

15. Power to issue directions.

(1)The State Government shall have power to issue directions and the Board shall be bound to carry out such directions from time to time for the efficient administration of the Act.(2)If in, or in connection with, the exercise of its powers and discharge of its functions by the Board under this Act any dispute arises between the Board and the State Government the decision of the State Government, on such dispute shall be final.

16. Power to delegate.

(1)The State Government may by general or special order, direct that any power exercisable by it under this Act except the power to make rules, may also be exercised by such officers or the Board in such cases and subject to such conditions, if any, as may be specified therein.(2)The Board may, by general or special order direct that any power exercisable by it under this Act except the power to make regulations or bye-laws, may also be exercised by such officer or local authority, in such cases and subject to such conditions, if any. as may be specified therein.(3)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 Chairperson and the Chief Executive Officer may, by an order in writing, delegate, any officer subordinate to the Board all or any powers exercisable by the Board or the Chairperson, as the case may be, under this Act, or the rules made thereunder.

17. Power of the State Government to call for records.

- The State Government may, at any time either on its own motion or on application made to it in this behalf call for any record and may in case or an order passed by the Board or any officer authorised by it to perform any function under this Act for the purpose of satisfying itself as to the legality or propriety of any order, pass such order or issue such direction in relation thereto as it may think fit:Provided that the State Government shall not pass an order prejudicial to any person without affording such person a reasonable opportunity of being heard.

18. Annual Report.

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

19. Exemption.

- Notwithstanding anything contained in this Act the State Government may by notification in the Gazette, exempt, subject to such conditions and restrictions, if any, as may be specified in such notification any land or building or class of lands or building or buildings from all or any of the provisions of this Act or rules or the regulations made thereunder.

20. Offences.

(1) No person shall use or permit to be used any land, site, premises or building in special development area in contravention of any plan prepared or direction by the Board or any officer. (2) Whoever fails to comply the direction or order of the Board or any person authorised by it or does any act or omission in violation of any plan or direction referred to in sub-section (1) shall be punished with imprisonment of one year or with fine which shall not be less than one, thousand rupees or with both.

21. Offences by companies.

(1) If the person committing an offence under this Act is a company, every person, who, at the time 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 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 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 also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 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.

22. Cognizance of offences.

(1) No court shall take cognizance of any offences under this Act except on a complaint in writing made under the signature of an officer duly authorised by the Board in this behalf. (2) Offences punishable under this Act shall be tried by a court not inferior to the Magistrate of first class.

23. Composition of Offences.

(1) Any offence made punishable by or under this Act may either before or after the institution of proceedings, be compounded by the Chief Executive Officer or any officer authorised by him in that

behalf by General or Special order on such terms, including any term as regards payment, of a composition fee, as the Chief Executive officer or such officer may think fit.(2)Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

24. Members and officers to be public servants.

- The Chairperson, every member and every officer of the Board shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (Act 45 of 1860).

25. Sanction of prosecution.

- No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Chairperson.

26. Authentication of orders and documents.

- All permissions, orders, decisions, notices and other documents of the Board shall be authenticated by the signature of the Chief Executive Officer or any other officer authorised by the Chief Executive Officer in this behalf.

27. Suit and other proceedings.

- 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 under this Act or any rules or regulations made thereunder.

28. Term of members and chairperson.

- The term of the chairperson and members of Board other than ex officio members of the Board shall be three years; Provided that the Chairperson or a member of the Board shall, notwithstanding the expiration of the term thereof shall continue to hold office till his/her successor enters upon the office.

29. Dissolution of Board.

(1)Where the State Government is satisfied that the purposes for which the Board was established under this Act have been substantially achieved so as to render the continued existence of the Board in the opinion of the State Government unnecessary, the State Government may by notification in the Gazette declare that the Board shall be dissolved with effect from such date as may be specified in the notification; and the Board shall be deemed to be dissolved accordingly.(2)From the date referred to in sub-section (1),-(a)all properties, funds and dues which are vested in, or releasable by the Board shall vest in or be reliable by the State Government;(b)all lands placed at the disposal of

the Board shall revert to the State Government;(c)all liabilities which are enforceable against the Board shall be enforceable against the State Government.(3)For the purpose of carrying out any development which has not been duly carried out by the Board and for the purpose of realising properties, funds and dues referred to in clause (a) of sub-section (2) the functions of the Board shall be discharged by the State Government.

30. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act the State Government may, by order, make such provisions not inconsistent with this Act as may appear to it to be necessary or expedient for the removal of the difficulty:Provided that no such power shall be exercised after the expiry of a period of two years from the commencement of this Act.

31. Overriding effect.

- The provisions of this Act shall apply notwithstanding any thing to the contrary contained in any law of the State of Uttar Pradesh for the time being in force.

32. Repeal and saving.

(1)Shri Kashi Vishwanath Special Area Development Board Varanasi Ordinance, 2018 (U.P. Ordinance 9 of 2018) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the Ordinance, referred to in sub-section (1) shall be deemed to have been done or taken under this Act as if the provisions of this Act were in force at all material times.