

No. 168/XXXVI(3)/2013/26(1)/2013

Dated Dehradun, April 05, 2013NOTIFICATIONMiscellaneous

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of 'The Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013' (Adhiniyam Sankhya 25, of 2013)

As Promulgated by the Governor of Uttarakhand and assented on 04 April, 2013.

**The Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013**

[Uttarakhand Act No. 25 of 2013]

An

Act

further to amend the Uttar Pradesh Urban Planning and Development Act, 1973 (U.P. Act No. 11 of 1973) (as applicable in the State of Uttarakhand) to the context of State of Uttarakhand.

Be it enacted in the Sixty-fourth Year of the Republic of India by the Uttarakhand Legislative Assembly as follows :-

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| <b>Short title and commencement</b> | 1. (1) This Act may be called the Uttarakhand Urban and Country Planning and Development (Amendment) Act, 2013.<br>(2) It shall come into force at once.  |
| <b>Amendment of section 1</b>       | 2. The Uttar Pradesh Urban Planning and Development Act, 1973, (hereinafter referred to as Principal Act), in sub-section (1) of section 1, the following sub-section shall be substituted; namely<br>“(1) This Act may be called the Uttarakhand Urban and Country Planning and Development Act, 1973 to the context of the State of Uttarakhand.” |

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**Amendment of 3.  
Section 2**

In section 2 of the principal Act —

(a) clause (d) shall be substituted as follows; namely:-

“(d) “bye-law” means a bye-law made under this Act by Uttarakhand Housing and Urban Development Authority (hereinafter referred to as the State Authority) or the Local Development Authority with the previous approval of the State Government;”

(b) clause (dd) shall be substituted as follows; namely:-

“(dd) ‘Chairman’ and ‘Vice-Chairman’ means the Chairman and the Vice-Chairman respectively of the Development Authority;

(c) After clause (dd), a new clause (ddd) shall be inserted as follows; namely:-

“(ddd) “City development charge” means the charge levied on a private developer under section 38-A for the development of land;”

(d) clause (g) shall be substituted as follows; namely :-

(g) “the Development Authority or the Authority” in relation to the whole of the State Area shall be ‘The Uttarakhand Housing and Urban Development Authority’ (hereinafter referred to as the State Authority) and in relation to any development area shall be the Local Development Authority (hereinafter referred to as the Local Authority) constituted and notified under section 4 of the Act :

Provided wherever in this Act the word “Authority” appears, it shall be construed as the Local Authority until and unless expressly provided as the State Authority :

Provided further that the Urban Local Bodies and Village Panchayats will also be construed as Local Development Authority/ Local Authority under this Act if so declared by the State Government by issuing Notification under sub-section (1-A) of section 4 of this Act defining the extent of their development area(s). Concerned Officer/ person of such Urban Local Bodies and Village Panchayats shall exercise powers as determined by the State Government

by the Gazette Notification under sub-section (1-A) of section 4 of this Act.”

(e) clause (ggg) shall be substituted as follows; namely:-

“(ggg) “development fee” means the fee levied upon a person or body under section 15 for construction of road, drain, sewer line, electric supply and water supply lines in the development area by the Local Development Authority;

(f) After clause (ggg), two new clauses (gggg) and (ggggg) shall be inserted as follows; namely:-

“(gggg) “Development Plan” means the Master Plan or Zonal Development Plan approved and published by the State Government under section 12 of the Act;

(ggggg) ‘Chief Town and Country Planner’ means the Head of the Town and Country Planning Department of the State Government;”

(g) After clause (h), two new clauses (hh) and (hhh) shall be inserted as follows; namely:-

“(hh) “land use conversion charge” means the charge levied on a person or a body under section 38 –A for the change of land use in the Master Plan or the Zonal Development Plan;”

(hhh) ‘license fee’ means the fee levied on a privat developer under section 39-B seeking license for assembly and development of land within the development area;”

(h) After clause (ii), a new clause (iii) shall be inserted as follows; namely:-

“(iii) “private developer” means an individual, company or association, body of individuals whether incorporated or not, owning or assembling or agreeing to own or assemble, whether by purchase or otherwise, land for development and to whom a license has been granted under section 39-B of this Act.”

(i) clause (j) shall be substituted as follows; namely:-

“(j) “regulation” means a regulation made under this Act by the State Authority or the Local Development Authority with the prior approval of the State Government;

(j) clause (k) shall be substituted as follows; namely:-

“(k) “rules” means a rule made under this Act by the State Government or the State Authority;

ndment of 4.  
m 3

In section 3 of the principal Act, a new proviso shall be inserted, as follows; namely :--

“Provided any area covered under the U.P. Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) (as applicable in the State of Uttarakhand) is declared as a Development Area under this Section, the provisions of the U.P. Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) shall stand repealed for the said area.”

ndment of 5.  
14

In section 4 of the Principal Act –

(a) sub-section (1) shall be substituted as follows; namely :--

“(1) The State Government may by notification in the Gazette constitute for the purposes of this Act, an authority to be called the 'Uttarakhand Housing and Urban Development Authority' for all the development areas in the State with headquarter at such place as the State Government may specify and Local Development Authority for any development area.”

(b) after sub-section (1), two new sub-sections (1-A) and (1-B) shall be inserted as follows; namely:-

“(1-A) The State Government may by notification in the Gazette declare the Urban Local Bodies and Village Panchayats as Local Development Authority/ Local Authority defining the extent of their development area. The State Government by the said Notification may also define the powers of such Local Authorities and define the designations of the persons/ officers to exercise the powers under this Act. The State Government may also declare/ designate/appoint the Chairman of such Local Development Authorities under this Sub Section for the purpose of exercising the powers under this Act. Such Urban Local Bodies and Village Panchayats declared as Local Development Authority under this sub section, shall act for the purpose of development as per the provisions of this Act.

local authority or to such persons, in such manner and subject to such terms and conditions as it considers expedient for securing the development according to plan.

- (2) Nothing in this Act shall be construed as enabling the State 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, whether by way of sale, exchange or lease or by the creation of any easement, right or privilege or otherwise.
- (3) Notwithstanding, anything contained in sub-section (2), the State Authority may create a mortgage or charge over such land (including any building thereon) in favour of the Life Insurance Corporation of India, the Housing and Urban Development Corporation, or a banking company or any other financial institution approved by general or special order in this behalf by the State Government.”

**Amendment of  
section 20**

18. In section 20 of Principal Act :--

- (1) in sub-section (1), (2), (3), (4), (5) and (6) in place of word “authority”, the words “Local Development Authority” shall be substituted.
- (2) after sub-section (7), two new sub-sections (8) and (9) shall be inserted as follows; namely:-
- “(8) The Local Development Authority shall contribute a fixed proportion of their net income to the State Authority as decided by the State Authority.
- (9) The State Authority shall, from the funds so collected under sub-section (8) above, decide the quantum of the fund to be allocated and shall allocate the same amongst the Local Development Authorities created under section 4 of this Act.”

insertion of  
section 20-A

19. After section 20 of the Principal Act, a new section 20-A shall be inserted as follows; namely:-

**“20-A. Funds of the State Authority –**

- (1) The State Authority shall have and maintain its own fund i.e. funds received from the Local Development authorities as well as the funds allocated by the State Government to it.
- (2) The fund shall be applied towards meeting the expenses incurred by the State Authority in the administration of this Act or for any other purposes/functions entrusted by it to the concerned Local Development Authority.
- (3) The State Authority shall have the power to decide the quantum of fund to be allocated and to allocate the same amongst the Local Development Authorities/Local bodies in order to strengthen them financially.
- (4) Subject to any directions of the State Government, the State Authority may keep in current account of any Scheduled Bank such sum of money out of its fund as it may think necessary for meeting its expected current requirement and invest any surplus money in such manner as it thinks fit.
- (5) The State Government may, after due appropriation in that behalf, make such grants, advances and loans to the State Authority as the State Government may deem necessary for the performance of the functions of the State Authority under this Act and all grants, loans and advances made shall be on such terms and conditions as the State Government may determine.
- (6) The State Authority may borrow money by way of loans or, debentures or from such sources (other than the State Government) and on such terms and conditions as may be approved by the State Government.
- (7) The State Authority shall maintain a sinking fund for the repayment of moneys borrowed under Sub-section (5) and (6) and shall pay every year into the sinking fund such sum as may be sufficient for repayment of all moneys so borrowed within the period fixed.

		(8) The sinking fund or any part thereof shall be applied in or towards, the discharge of the loan for which such fund was created, and until such loan is wholly discharged it shall not be applied for any other purpose."
Amendment of section 21	20.	In section 21 of Principal Act in place of word "authority", the words "Local Development Authority" shall be substituted.
Insertion of section 21-A	21.	After section 21 of the Principal Act, a new section 21-A shall be inserted as follows; namely:- "21-A. <b>Budget of the State Authority</b> – The State Authority shall prepare in such 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 State Authority."
Amendment of section 22	22.	In sub-section (1), (2), (3), (4) and (5) of section 22 of Principal Act in place of word "authority", the words "Local Development Authority and State Authority as the case may be" shall be substituted.
Amendment of section 23	23.	In section 23 of Principal Act in place of words "authority", the words "Local Development Authority and State Authority as the case may be" shall be substituted.
Amendment of section 24	24.	In section 24 of Principal Act in place of word "authority", the words "Local Development Authority and State Authority as the case may be" shall be substituted:
Amendment of section 27	25.	In sub-section (1), (2), (3), (4) and (5) of section 27 of Principal Act in place of words "Vice-Chairman", the words "Vice Chairman of the concerned Local Development Authority Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchaya

declared as Local Development Authority/ Local Authority under this Act." shall be substituted.

Amendment of  
Section 28

26. In sub-section (1), (2), (3), (4), (5) and (6) of section 28 of Principal Act in place of words "Vice-Chairman", the words "Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act." shall be substituted.

Amendment of  
Section 28-A

27. In sub-section (1), (2), (3), (4) and (5) of section 28-A of Principal Act in place of words "Vice-Chairman", the words "Vice Chairman of the concerned Local Development Authority/ Person(s) or Officer(s) designated to perform the functions under this Act, of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act." shall be substituted.

Amendment of  
Section 32

28. In sub-section (1) of section 32 of Principal Act in place of words "Vice-Chairman", the words "Vice Chairman of the concerned Local Development Authority / Person(s) or Officer(s) designated to perform the functions under this Act. of the Urban Local Bodies and Village Panchayats declared as Local Development Authority/ Local Authority under this Act." shall be substituted.

Amendment of  
Section 37

29. In section 37 of Principal Act in place of words "section 41", the words "section 7-B" shall be substituted.

Insertion of  
Section 37-A

30. After section 37 of the Principal Act, a new section 37-A shall be inserted as follows; namely:-

**"37-A. Bar of jurisdiction of Civil Courts.**

(1) No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can

be taken and disposed of by any authority empowered by this Act under the rules or regulations made under this Act.

- (2) No suit shall lie against the State Government or any State or Local Authority for any relief in respect of any matter covered by this Act.
- (3) All suits, appeals, revisions, application for review and other incidental or ancillary proceedings including all proceedings under Order 39 of the First Schedule to the Code of Civil Procedure, 1908 (Act No. V of 1908) arising out of such suits, pending before any court subordinate to the High Court and all revisions arising out of interlocutory orders pending before the Courts subordinate to High Court, relating to any matter covered under this Act, on the date of commencement of this Act, shall stand transferred to the Chairman of the concerned Local Development Authority or the State Authority, as the case may be and Local Development Authority or the State Authority shall decide the cases in the same manner as if they were instituted before them under sections 27 and/or 28 or section 7-B of this Act respectively :

Provided that the Local Development Authority or the State Authority, as the case may be, subject to the provisions of sections 27 and or 28 or section 7-B of this Act respectively, shall commence the proceedings from the stage at which the case stood transferred as aforesaid with any pleadings presented or any oral or documentary evidence produced in the court as if the same were presented or produced before them.”

**Insertion of  
section 38-A**

31. After section 38 of the Principal Act, a new section 38-A shall be inserted as follows; namely:-

**“38-A. Power of Local Development Authority to levy land use conversion charge and city development charge –**

- (1) Where in any development area the land use of a particular land is changed as a result of amendment of Master Plan or Zonal

Development Plan under Section 13 on request of the land owner, the Local Development Authority shall be entitled to levy land use conversion charge on the owner of such land and in such manner and at such rates as may be prescribed :

Provided that the land use conversion charge shall not be recovered during consideration of the application made for land use change, rather only such processing fee as prescribed by the local development authority to meet the expenses on examining the matter and inviting objections in the news papers, shall be deposited by the applicant alongwith application. Only after the application found finally acceptable, the land use conversion charge shall be recovered from the owner of land by the concerned Local Development Authority prior to final notification under sub-section (4) of Section 13 of this Act :

Provided further that where the land use of a particular land is changed as a result of coming into operation of Master Plan or Zonal Development Plan, no land use conversion charge shall be levied upon the owner of such land.

- (2) Where in any development area, a license has been granted to private developer for assembly and development of land, the Authority shall be entitled to levy city development charge on the private developer of such land and in such manner and at such rates as may be prescribed by the State Government.”

32. After section 38 of the Principal Act, a new section 38-A shall be inserted as follows; namely:-

**“39-B. License for Assembly and Development of Land –**

The Local Development Authority /State Authority may grant license to private developer for assembly and development of land within its development area in such manner and for such period as may be prescribed.”

- Amendment of section 41** 33. In section 41 of Principal Act :--
- (1) sub-section (1) in place of word "authority", the words "State Authority or the Local Development Authority, as the case may be" shall be substituted.
- (2) sub-section (2) shall be substituted as follows; namely :--
- "(2) If in, or in connection with, the exercise of its powers and discharge of its functions by the State Authority, Local Authority, the Chairman or the Vice-Chairman of the Local Development Authority or Local Development Authority created under sub-section (1-A) of section 4 under this Act any dispute arises between the State Authority, Local Authority, and even between the two Local Authorities or their respective Chairman or the Vice-Chairman or any other person / officer appointed/ designated under sub-section (1-A) of section 4 for the Local Development Authorities created under sub-section (1-A) of section 4 of this Act the decision of the State Government on such dispute shall be final."
- (3) Sub-section (3) shall be deemed hereby repealed.
- Insertion of section 46-A** 34. After section 46 of the Principal Act, a new section 46-A shall be inserted as follows; namely:-
- "46-A. Authentication of orders and instruments of the State Authority—**
- All permissions, orders, decisions, notices and other documents of the State Authority shall be authenticated by the signatures of the Chief Administrator or any other officer authorized by the Chief Administrator of the State Authority in that behalf."
- Insertion of section 47-A** 35. After section 47 of the Principal Act, a new section 47-A shall be inserted as follows; namely:-
- "47-A. Members and officers of the State Authority to be public servants –**
- Every member, every officer and every employee of the State

Authority shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.”

- Amendment of Section 48** 36. In section 48 of Principal Act, before the word “Act”, the words “section 26 of” shall be inserted.
- Amendment of Section 51** 37. After sub-section (3) of section 51 of the principal Act, a new sub-section (4) shall be inserted as follows; namely:-  
“(4) The Chief Administrator of the State Authority may by general or special order direct that any power exercisable by him under this Act may also be exercised by the Addl. chief Administrator of the State Authority in such cases and subject to such conditions, if any, as may be specified therein.”
- Amendment of Section 55** 38. In section 55 of Principal Act :--  
(1) sub-section (1) after the words “State Government”, the words “or State Authority” shall be inserted;  
(2) sub-section (3) shall be deemed hereby repealed.
- Amendment of Section 56** 39. In section 56 of Principal Act :--  
(1) in sub-section (1) and (2) in place of word “authority”, the words “the State Authority or the Local Development Authority or the Local Development Authority created under sub-section (1-A) of section 4 of this Act, as the case may be,” shall be substituted.  
(2) after clause (b) of sub-section (2) a new clause (bb) shall be inserted; namely :--  
“(bb) The powers and duties of the Chief Administrator, Addl. Chief Administrator and Finance Controller of the State Authority.”  
(3) after clause (c) of sub-section (2), a new clause (cc) shall be inserted; namely :--  
“(cc) The salaries, allowances and conditions of service of the Chief Administrator, Additional Chief Administrator, Finance

Controller, and other officers and employees.”

(4) in clause (f) of sub-section (2) in place of the words “authority”, the words “the State Authority or the Local Development Authority or the Local Development authority created under sub-section (1-A) of Section 4 of this Act, as the case may be,” shall be substituted.

**Amendment of section 57** 40.

In section 57 of Principal Act in place of the word “authority”, the words “the State Authority or the Local Development Authority or the Local Development authority created under sub-section (1-A) of section 4 of this Act, as the case may be” shall be substituted.

**Amendment of section 58** 41.

In sub-section (1) and (2) of section 58 of the Principal Act, in place of the word “authority”, the words “the State Authority or the Local Development Authority or the Local Development authority created under sub-section (1-A) of section 4 of this Act, as the case may be” shall be substituted.

**Amendment of section 59** 42.

In section 59 of the Principal Act :--

(1) after clause (a) of sub-section (1) a new clause (aa) shall be inserted; namely :--

“(aa). The operation of the U.P. Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) (as applicable in the State of Uttarakhand) in relation to the area declared as a Development Area under section 3 of this Act, shall stand repealed as from the date of the declaration of development area and the Special Area Development Authority constituted under the U.P. Special Area Development Authorities Act, 1986 (U.P. Act No. 9 of 1986) for that area as from that date, shall stand dissolved.”

(2) In clause (b) of sub-section (1) after the word “suspended” the words “and repealed” shall be inserted.

(3) in clause (b) and (c) of sub-section (1) after the words “clause (a)”, the words “and clause (aa)” shall be inserted.

- (4) in clause (c) of sub-section (1) after the words "Uttar Pradesh Municipal Corporation Act, 1959", the words "or the Uttar Pradesh Special Area Development Area, Act, 1986" shall be inserted.
- (5) after clause (c) of sub-section (1), a new clause (d) shall be inserted; namely :--  
“(d) All Development Authorities constituted under the present Act, before the commencement of this Act, shall continue to exist and will be deemed to be Local Development Authorities as if constituted by this Act, and any act/ function discharged by them in such capacity shall be deemed to have been done or taken under this Act.”
- (6) in sub-section (3) after the words "Uttar Pradesh (Regulation of Building Operations Act,1958", the words "or the Uttar Pradesh Special Area Development Authorities Act, 1986" shall be inserted.
- (7) in proviso to sub-section (3) after the words "Municipal Corporation", the words "or the Uttar Pradesh Special Area Development Authorities Act, 1986 or in relations to the functions specified under The U.P. Special Area Development Authorities Act, 1986" shall be inserted.
- (8) in sub-section (4) after the words "Municipal Corporation", the words "or the Special Area Development Authority" shall be inserted.
- (9) in clause (f) of sub-section (6) after the words "Uttar Pradesh (Regulation of Building Operations Act, 1958", the words "and all appeals under the U.P. Special Area Development Authorities Act, 1986" shall be inserted.
- (10) in the explanation of clause (f) of sub-section (6) after the words "Uttar Pradesh Municipal Corporation Act, 1959", the words "or under the provisions of the Uttar Pradesh Special Area Development Authorities Act, 1986." and after the words "with or

for the Municipal Corporation”, the words “or the Special Area Development Authority” and after the words “Adhiniyam”, the words “or the U.P. Special Area Development Authorities Act, 1986 or in relations to the functions specified under the U.P. Special Area Development Authorities Act, 1986” shall be inserted.

(11) in sub-section (8) after the words “Municipal Corporation concerned”, the words “or the Special Area Development Authority” and after the words “Uttar Pradesh Municipal Corporation Act, 1959” the words “or the U.P. Special Area Development Authorities Act, 1986” shall be inserted.

(12) in sub-section (9) after the word “Trust”, the words “or the Special Area Development Authority” and after the words “or trust”, the words “or the State Government” shall be inserted.

(13) in sub-section (13) after the words “Special Avas Parishad Schemes”, the words “and all the functions under the U.P. Special Area Development Authorities Act, 1986” shall be inserted.

(14) after sub-section (14), a new sub-section (15) shall be inserted; namely :--

“(15) No act / acts or proceedings/ functions of the Development Authorities in the State of Uttarakhand constituted under the U. P. Urban Planning and Development Act, 1973, done or performed before the commencement of this Amendment Act, so far as they are not inconsistent with the provisions of this act, shall be invalidated after the commencement of this Amendment Act, and all acts and functions performed by them before the commencement of this act so far as they are not inconsistent with the provisions of this act shall be deemed to have been done or performed under the provisions of this Act.”

By Order,

D. P. GAIROLA,  
Principal Secretary.