



**The Himachal Pradesh Urban Estates (Development and Regulation) Act,
1968**

Act 26 of 1969

Keyword(s):

Advertisement, Amenity, Building, Chief Administrator, Erect A Building, Estate Officer, Occupier, Official Gazette, Site, Transfer, Transferee, Urban Estate, Workshop

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THE HIMACHAL PRADESH URBAN ESTATES (DEVELOPMENT 535
AND REGULATION) ACT, 1968

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THE SCHEDULE

THE HIMACHAL PRADESH URBAN ESTATES
(DEVELOPMENT AND REGULATON) ACT, 1968

(Act No. 26 of 1969)¹

(Received the assent of the President of India, on the 7th November, 1969, and was published in R.H.P. Extra., dated the 20th March, 1970 at p. 237—246)

Amended, repealed or otherwise affected by—

A. O. 1973, published in R. H. P. Extra, dated the 20th January, 1973, p. 91—112.

An act to enact the law in relation to the development and regulation of Urban Estates in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Himachal Pradesh Urban Estates (Development and Regulation) Act, 1968.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “advertisement” means any word, letter, model, sign, playcard, board, notice, device or representation in any manner whatsoever, wholly or in part, intended for the purpose of advertisement, announcement or direction, and includes any structure used or adapted for the display of advertisements ;

(b) “amenity” includes road, water supply, street lighting, drainage, sewerage, public building, horticulture, landscaping and any other public utility service provided in an urban estate ;

(c) “building” means any construction or part of a construction which is sold, leased or transferred by the State Government under section 3 and which is intended to be used for residential, commercial, industrial or other purposes, whether in actual use or not, and includes any out-house, stable, cattle shed and garage and also includes any buildings erected on any land sold, leased or transferred by the State Government under section 3 ;

(d) “Chief Administrator” means an officer appointed as such by the State Government by notification to perform the functions of the Chief Administrator under this Act, in relation to one or more than one urban estate ;

1. For statement of Objects and Reasons, see R.H.P. Extra. dated the 30th November, 1968, p. 1199.

- (k) "erect a building" has the same meaning as is assigned to the expression "erect or re-erect any building" in [the Himachal Pradesh Municipal Act, 1968].
- (f) "Estate Officer" means a person appointed by the State Government by notification to perform the functions of an Estate Officer under this Act in one or more than one urban estate ;
- (g) "occupier" means a person , including a firm or other body of individuals, whether incorporated or not, who occupies a site or building, sold, leased or transferred in any manner whatsoever under this Act, and includes his successors and assignees ;
- (h) "Official Gazette" means the Rajpatra, Himachal Pradesh ;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "site" means any land which is transferred by the State Government under section 3 ;
- (k) "State Government" means the Government of Himachal Pradesh ;
- (l) "transfer" includes a sale or lease of a site or building under section 3 ;
- (m) "transferee" means a person, including a firm or other body of individuals, whether incorporated or not, to whom a site or building, is sold, leased or transferred in any manner whatsoever under this Act, and includes his successors and assignees ;
- (n) "urban estate" means any area declared to be an urban estate under sub-section (1) of section 3 ; and
- (o) "workshop" means any building or place in which or within the compound of which any manual labour is employed or utilised in aid of , or incidental to, any process for :—
- (i) the making of any articles or part thereof;
- (ii) the altering, repairing, ornamenting or finishing of any articles ;
- (iii) the adapting for sale of any article.

3. (1) Power of State Government to declare areas as urban estates and in respect of transfer of land and buildings in urban estates.—The State Government

1. Subs. for "the Punjab Municipal Act, 1911" by A. O. 1973.

may, by notification in the Official Gazette, declare any area comprising land belonging to or acquired by the State Government to be an urban estate for the purpose of this Act.

(2) The State Government may sell, lease or otherwise transfer, whether by auction, allotment or otherwise, any land or building belonging to the State Government in an urban estate on such terms and conditions as it may, subject to any rules made under this Act, think fit to impose.

(3) The consideration money for any transfer under sub-section (2) shall be paid to the State Government in such manner, in such instalments and at such rate of interest, as may be prescribed.

(4) The unpaid portion of the consideration money together with interest or any other amount, if any, due to the State Government on account of the transfer of any site or building, under sub-section (2) shall be a first charge on that site or building, as the case may be, and notwithstanding any thing contained in any other law for the time being in force, no transferee shall, except with the previous permission in writing of the Estate Officer, be entitled to sell, mortgage or otherwise transfer (except by way of lease from month to month) any right, title or interest in the site or building transferred to him under sub-section (2) until the amount, which is a first charge, under this sub-section, has been paid in full to the State Government.

4 (1) Power to issue direction in respect of erection of buildings.—For the purpose of proper planning or development of an urban estate, the State Government or the Chief Administrator may issue such directions, as may be considered necessary in respect of any site or building, either generally for the whole of the urban estate or for any particular locality thereof, regarding any one or more of the following matters, namely :—

- (a) architectural feature of the elevation or frontage of any building ;
- (b) erection of detached or semi-detached buildings or both and the area of the land appurtenant to such buildings ;
- (c) the number of residential buildings, which may be erected on any site in any locality ;
- (d) prohibition regarding erection of shops, workshops, ware-houses, factories or buildings of a specified architectural character or buildings designed for particular purposes in any locality ;
- (e) maintenance of height and position of walls, fences, hedges or any other structural or architectural construction ;
- (f) restrictions regarding the use of sites for purposes other than erection of buildings.

(2) Every transferee shall comply with the direction issued under sub-section (1) and shall, as expeditiously as possible, erect any building or take such other steps as may be necessary to comply with such directions.

5. Bar to erection of building in contravention of building rules.—(1)
No person shall erect or occupy any building in an urban estate in contravention of any building rules made under sub-section (2).

(2) The State Government may, by notification, make rules to regulate the erection of buildings and such rules¹ may provide for all or any of the following matters, namely :—

- (a) the material to be used for external and partition walls, roofs, floors, staircases, lifts, fire-places, chimneys and other parts of building and their position or location or the method of construction ;
- (b) the height and slope of the roofs and floors of any building which is intended to be used for residential or cooking purposes ;
- (c) the ventilation in, or the space to be left out in, any building or part thereof to secure free circulation of air or for the prevention of fire ;
- (d) the number and height of the storeys of any building,
- (e) the means to be provided for the ingress or egress to and from any building ;
- (f) the minimum dimensions of rooms intended for use as living rooms, sleeping rooms or rooms for the use of cattle ;
- (g) the ventilation of rooms, the position and dimensions of rooms, of projections beyond the outer faces of external walls of a building and of doors or windows ;
- (h) any other matter in furtherance of the proper regulation of erection, completion and occupation of buildings;
- (i) the certificates necessary and incidental to the submission of building plans, amended plans and completion reports.

1. Rules framed *vide* Not. N. 9-94/70 P.W.D., dated the 5th June, 1973 (Appended).

6. Power to require proper maintenance of site or building.—If it appears to the Chief Administrator that the condition or use of any site or building is prejudicially affecting the proper planning of, or the amenities in, any part of an urban estate or the interests of the general public there, he may serve on the transferee or occupier of that site or building, a notice requiring him to take such steps, and within such period as may be specified in the notice and thereafter to maintain it in such a manner as may be specified therein.

7. Levy of fee or tax for amenities.—(1) For the purpose of providing, maintaining or continuing any amenity in an urban estate, the State Government may levy such fees or taxes as it may consider necessary (which shall be in addition to any fee or tax for the time being leviable under any other law) in respect of any site or building on the transferee or occupier thereof.

(2) If the State Government considers it necessary or expedient so to do, having regard to the fact that the transferee or occupier is a religious or charitable institution or that he does not enjoy the amenity for which any fee or tax is levied, the State Government may, by general or special order, exempt wholly or partly any class of such transferees or occupiers from the payment of fees or taxes levied under sub-section (1).

8 (1) Power to apply certain provisions of the ¹[Himachal Pradesh Municipal Act, 1968] to an urban estate.—The Chief Administrator may, from time to time, by notification in the Official Gazette, and with the previous approval of the State Government, apply to an urban estate or any part thereof, with such adaptations and modifications not affecting the substance, as may be specified in the notification, all or any of the provisions of the Punjab Municipal Act, 1911 specified in the Schedule to this Act, in so far as such provisions are not inconsistent with the provisions of this Act.

(2) On the issue of a notification under sub-section (1), the Chief Administrator shall, in relation to an urban estate or any part thereof, as the case may be, exercise the same powers and perform the same functions under the provisions applied by such notification as a Municipal Committee or its President or Executive Officer or any other functionary of the Committee would exercise and perform if the urban estate were a municipality of the first class.

(3) While exercising the powers or performing the functions under the provisions of ¹[the Himachal Pradesh Municipal Act, 1968] as applied to an estate by a notification in the Official Gazette under sub-section (1), the Chief Administrator shall be subject to the control of the State Government and not to that of the Commissioner or Deputy Commissioner.

¹Subs. for "the Punjab Municipal Act, 1911" by A.O. 1973.

(4) The State Government may, from time to time, by notification in the Official Gazette, omit any provision of ¹[the Himachal Pradesh Municipal Act, 1968], from the schedule or add thereto any other provision of that Act and thereupon the schedule shall be deemed to have been amended accordingly.

(5) Every notification made under sub-section (1) shall be laid, as soon as may be after it is made, before the Himachal Pradesh Legislative Assembly while it is in session and if, before the expiry of the session in which it is so laid or the session immediately following, the House agrees to make any modification in the notification or the House agrees that the notification should not be made, the notification 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 notification.

9. Imposition of penalty and mode of recovery of arrears.—(1) Where any transferee makes any default in the payment of any consideration money or instalment thereof or any other amount due on account of the transfer of any site or building under section 3 or of any rent due in respect of any lease, or where any transferee or occupier makes any default in the payment of any fee or tax levied under section 7, the Estate Officer may direct that, in addition to the amount of arrears, a sum not exceeding that amount, to be determined by him shall be recovered from the transferee or occupier, as the case may be, by way of penalty.

(2) In the case of any default in the payment of an amount payable under this Act, the outstanding amount in default, together with any sum, if any, directed to be paid by way of penalty under sub-section (1), may be recovered from the transferee or occupier, as the case may be, in the same manner as an arrear of land revenue.

10. Forfeiture for breach of conditions of transfer.—In the case of non-payment of consideration money or any instalment thereof on account of the transfer of any site or building under section 3 or any rent due in respect of the lease of any such site or building or in case of the breach of any other conditions of such transfer, the Estate Officer may, if he thinks fit, resume the site or buildings so transferred and may further forfeit the whole or any part of the money, if any, paid in respect thereof.

11. Appeal and revision—(1) Any person aggrieved by an order of the Estate Officer made under section 9 or section 10 may, within thirty days of the date of the communication to him of such order, prefer an appeal to the Chief Administrator in such form and manner as may be prescribed:

1. Subs. for 'the Punjab Municipal Act, 1911, by A.O. 1973.

Provided that the Chief Administrator may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The Chief Administrator may, after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such order as he deems fit.

(3) The Chief Administrator may, either of his own motion or on an application received in this behalf, at any time, call for the record of any proceedings in which the Estate Officer has passed an order for the purpose of satisfying himself as to the legality or propriety of such order and may pass such order in relation thereto as he thinks fit:

Provided that the Chief Administrator shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

(4) Where a person is aggrieved by any order of the Chief Administrator deciding a case under sub-section (2) or sub-section (3), he may, within thirty days of the date of communication to him of such decision, make an application in writing to the State Government for revision against the said decision, and the State Government may confirm, alter or rescind the decision of the Chief Administrator.

12. Preservation and planting of trees—If it appears to the Chief Administrator that it is necessary or expedient to preserve or plant trees generally or of specified kind in an urban estate, he may, by notification in the Official Gazette, make an order (hereinafter referred to as the Trees Preservation Order) with respect to trees generally or such kind of trees as may be specified in that order, and such order may regulate, restrict or prohibit —

- (a) the cutting down, topping, lopping or wilful destruction of trees, except with the previous permission of the Chief Administrator and
- (b) the planting and replanting of any trees or kind of trees in any site or location therein as may be specified in the order.

13. Control of advertisements.—If it appears to the Chief Administrator that it is necessary or expedient to restrict or regulate the display of advertisements in an urban estate, he may, by notification, make an order (hereinafter referred to as the Advertisement Control Order) restricting or regulating the display of advertisements and such order may provide:—

- (a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which such advertisements may be displayed, and the manner in which they are to be affixed to land or building;

- (b) for requiring the permission of the Chief Administrator to be obtained for the display of advertisement ;
- (c) for enabling the Chief Administrator to require the removal of any advertisement which is being displayed in contravention of the order or the discontinuance of the use for the display of advertisements of any site which is being used for that purpose in contravention of the order ;
- (d) for fees to be charged for advertisements at places specified in the order.

14. Penalty for contravention of direction, etc.—Any person who contravenes the provisions of sub-section (2) of section 4 or section 6 shall, on conviction, be punishable with fine which may extend to five hundred rupees and to a further fine which may extend to twenty rupees for each day during which the offence is proved to have continued after the first day.

15. Penalty for contravention of Trees Preservations Order and Advertisements Control Order.—(1) If any person contravenes any provision of the Trees Preservation Order or of the Advertisements Control Order, he shall, on conviction, be punishable with fine which may extend to five hundred rupees and whoever, after having been convicted of the contravention of any provisions of either of the said Orders, continues to contravene the said provisions, shall, on a subsequent conviction, be punishable with fine as aforesaid and to a further fine which may extend to twenty rupees for each day of continued contravention after the previous date of conviction.

(2) The Court, while passing an order under sub-section (1), may direct that any tree or part thereof or any material used for advertisement, which is the subject of the contravention, shall be forfeited to the State Government or impose a fine of an amount which shall be equivalent to the value thereof.

16. Penalty for breach of rules.—Except as otherwise provided for in this Act, any contravention of any of the rules framed thereunder shall be punishable with fine which may extend to five hundred rupees, and in the case of a continuing contravention, with an additional fine, which may extend to twenty rupees, for each day during which such contravention continues after the first conviction; and the Court, while passing any sentence, on conviction of any person for the contravention of any rule, may direct that any property or part thereof, in respect of which the rule has been contravened, shall be forfeited to the State Government.

Illustration.—Where an unauthorised structure has been constructed or any obnoxious material or substance is collected or heaped on a site in an unauthorised manner or where an advertisement board has been set up in contravention of the Advertisements Control Order, such structure, material, substance or board shall be liable to forfeiture and not the site or building on which the same may be located or fixed:

Provided that if a building is begun, erected or re-erected in contravention of any of the building rules, the Chief Administrator shall be competent to require the building to be altered or demolished by a written notice delivered to the owner thereof within six months of its having begun or having been completed, as the case may be. Such notice shall also specify the period during which such alteration or demolition has to be completed and, if the notice is not complied with, the Chief Administrator shall be competent to demolish the said building at the expense of the owner :

Provided further that the Chief Administrator, may, instead of requiring the alteration or demolition of any such building, accept, by way of composition, such sum as he may deem reasonable.

17. Registration and licensing of architects, engineers and plumbers.—No architect or engineer, who does not possess the prescribed qualifications, shall be considered as duly qualified and no person other than duly qualified architect or engineer or any plumber shall be competent to certify any plan or completion of a building, or engage in any plumbing work, as the case may be, unless registered and licensed by the Chief Administrator.

18. Powers of entry in buildings or land.—The Chief Administrator may authorise any person, after giving twenty-four hours notice to the occupier or, if there be no occupier, to the owner of any building or land, at any time between sunrise and sunset—

- (a) to enter in and to survey, and to take levels or measurements of any building or land, or
- (b) to enter into any building or on any land for the purpose of examining works under construction or of ascertaining the course of sewers or drains, or
- (c) to enter into any building or on any land for the purpose of 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 made thereunder, and to take such measurements and do any other such acts as may be necessary for such purpose.

19. Procedure for Prosecution.—No court shall take cognizance of any offence punishable under this Act or any rule made thereunder except on the complaint of, or upon information given by, the Chief Administrator or any other person authorised by him in this behalf.

20. Bar of jurisdiction of Courts.—No order made or direction given by the State Government or any authority in exercise of any power conferred by or under this Act shall be called in question in any court.

21. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against the Chief Administrator, Estate Officer, or any other person acting under their direction in respect of any thing which is, in good faith, done or intended to be done in pursuance of this Act or of any rules, directions or orders made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government, the Chief Administrator, the Estate Officer or any other person in respect of any damage caused or likely to be caused in pursuance of this Act or any rules, directions or orders made thereunder.

22. Delegation.—(1) The State Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officer or authority subordinate to the State Government as may be specified in the notification.

(2) Save as otherwise provided in this Act, the Chief Administrator may, with the approval of the State Government, by an order in writing, delegate any of his powers and functions under this Act or the rules made thereunder to such other officer subordinate to him as may be specified in such order.

23. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules¹ for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

- (a) the terms and conditions on which any land or building may be transferred by the State Government under this Act;
- (b) the manner in which consideration money for any transfer may be paid;
- (c) the rate of interest payable, and the procedure for payment of instalments, interest, fees, rents or other dues payable under this Act;

1. Rules framed vide Not. No. 9-97/70—PWD dated the 8th August, 1972. (Appended)

- (d) the terms and conditions under which the transfer of any right, title or interest in any site or building may be permitted;
- (e) erection of any building or the use of any site;
- (f) levy of fees or taxes under section 7;
- (g) the terms and conditions for the breach of which any site or building may be resumed;
- (h) the conditions with regard to the buildings to be re-erected on sites transferred under this Act;
- (i) the form of notice and the manner in which notices may be served;
- (j) the form and manner in which appeals and applications under this Act may be filed and the fees leviable on such appeals and applications;
- (k) the matters referred to in sub-section (2) of section 5 ; and
- (l) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Himachal Pradesh while it is in session for a total period of not less than 14 days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rules should not be made, the rules 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 any thing previously done under that rule.

24. Repeal and savings.—The Punjab Estate (Development and Regulation) Act, 1964, (22 of 1964) as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966, (31 of 1966) is hereby repealed:

Provided that anything done or any action taken, including rules made, notification issued or proceedings commenced or continued under the provisions of the Act hereby repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE
(See section 8)

Provisions of the Himachal Pradesh Municipal Act, 1968 (19 of 1968)
Sections 90 to 92, 103, 104, 105, 107 to 109, 119 to 123, 124 to 130, 140 to 149, 150, 151 to 159, 164 to 170, 181, 188, 210, 211, 212, 213, 214, 215, 216, 217, 221, 222, 223, 224, 225, 225, 227, 228 to 238, 239, 240 to 242, 243 to 245, 247, 249, 251, 254 and 255)

1. The Schedule subs. by A.O. 1973.