



The Gazette of Uttarakhand

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 35

Dehradun, Day, Month date, 2016,

...th, (.....)

PART - IV

GOVERNMENT OF UTTARAKHAND

LAW (B) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Theth, 2016.

No.....—The Uttarakhand Heritage Act, 2016 (Act No. .. of 2016) is hereby published for general information.

UTTARAKHAND ACT NO. OF 2016.

(As passed by the Uttarakhand Legislative Assembly)

Received the assent of the Governor on Ord Month, 2016.

Published in the Gazette of Uttarakhand Extra-Ordinary issue dated Ord Month, 2016.

THE UTTARAKHAND HERITAGE ACT, 2016.

An

Act

to provide for conservation and protection of heritage sites which shall include buildings, artifacts, structures, areas, streets and precincts of historic or cultural or environmental significance (heritage buildings and heritage precincts) and natural features of environmental significance and sites of scenic beauty and also to provide for conservation and protection of areas of environmental sensitivity.

Be it enacted by the Legislature of the State of Uttarakhand in the Sixty-third Year of the Republic of India as follows -

Short title, extent and commencement.

1. (1) This Act may be called the Uttarakhand Heritage Act, 2016.

(2) It extends to the whole State of Uttarakhand.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act

any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires, -

(a) "Act" means the Uttarakhand Heritage Act, 2016.

(b) "Authority" means the Uttarakhand Heritage Authority constituted under Section 6;

(c) "conservation" means protection, preservation and restoration of heritage areas, heritage buildings and heritage precincts sites and shall include only such developmental activity that will enhance the heritage significance of the heritage within the framework of this Act;

(d) "development" with its grammatical variations means the carrying out of building, engineering mining or other operations in or over or under, land or the making of any material change, in any building or land or in the use of any building or land or change to heritage site including any material or structural change in or painting of any heritage building, or in a heritage precinct or on a listed natural fracture and includes demolition of any existing building, structure or erection or part of such building, structure or erection and reclamation, redevelopment and layout and sub-division of any land "to develop" shall be construed accordingly;

(e) "development right" means right to carry out development or to develop land or building or both and shall include the transferable development right in the form of right to utilise the floor area ratio of land utilisable either or the remainder of the land partially reserved for a public purpose or elsewhere, as may be provided in the heritage regulation as per the Master Plan;

(f) "floor area ratio" means the ratio derived by dividing the total covered area of all floors by the area of the plot;

(g) "Uttarakhand" means the State of Uttarakhand;

(h) "heritage areas" means those areas of archaeological or historic or architectural or aesthetic or scientific or environmental or cultural significance including natural features and sites of scenic beauty (hereinafter referred to as "listed areas" or "heritage areas" which are included in a list(s) published by a notification in the Official Gazette, by the Authority from time to time;

(i) "heritage building" means and includes any building of one or more premises or any part thereof, of structure or artifacts which requires conservation or preservation for historical or architectural or artistic or artisanry or aesthetic or culture or environmental or ecological purpose and includes such portion of land adjoining such building or part thereof as may be required for fencing or covering or in any manner preserving the historical or architectural or aesthetic or culture or environmental value of such building;

(j) "heritage precincts" means and includes spaces that require conservation or preservation for historical and architectural or aesthetics or cultural or environmental or ecological purpose and walls or other boundaries of a particular area or place or building which may enclose such space by and imaginary line drawn around it;

(k) "heritage sites" means those buildings, artifacts, structures, streets, area and precincts of historic or aesthetic or architectural or cultural or environmental significance (hereinafter referred to as "listed buildings" or "heritage buildings" and listed precinct or "heritage precincts") and those natural features of environmental significance and

site and scenic beauty including but not instructed to, sacred groves, mountains, hills, hillocks, lakes, river and other water rides, bridle paths (hereinafter referred to as "listed natural fractures") which are included in a list(s) published by notification in the Official Gazette, by the Authority from time to time;

(l) "listing" means archaeological or other systematic study or documentation of a heritage site to reveal its history and other special features and shall include the recording and analysis of artifactss, features and other material necessary for the purpose of determining the heritage value or environmental significance;

(m) "owner" includes-

(i) a joint owner invested with power of management on his own behalf and other joint owners and successors in title of any such owner; and

(ii) any manager or trustee exercising powers of management and the successor in office of any such manager or trustee;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "regulations" means a regulations made by the Authority under section 18 of this Act by notification in the Official Gazette;

(p) "rules" means rules prescribed under this Act; and

(q) "section" means a section of this Act.

Declaration of heritage site, etc.

3. (1) The Authority may from time to time by notification in the Official Gazette and by publication in leading newspapers from time to time declare.

buildings, artifacts, structures, streets, area and precincts of historic or architectural or aesthetic or cultural or environmental significance and those natural features of environmental significance and sites of scenic beauty including, but not restricted to, sacred groves, mountains, hills, hillocks, tablelands, sand dunes deserts, lakes, river, other water bodies and wet lands and the areas adjoining the same, open areas, wooded areas, points walks, rides bridle paths as heritage site to be protected under this Act and grade them as may be prescribed by regulations.

(2) Where the Authority is of the opinion that it is necessary so to do, it may from time to time by notification in the Official Gazette as well as publication in leading newspapers, give thirty days notice of its intention to declare as a heritage site, any building artifacts structure, street area and precinct of historic or aesthetic or architectural or cultural or environmental significance and natural feature of environmental significance and site of scenic beauty including, but not restricted to, a sacred grove, mountains, hills, hillocks, tablelands, sand dunes deserts, lakes, rivers, other water bodies and wet lands and the areas adjoining the same, open areas, wooded areas, points walks, rides bridle paths for inviting objections or suggestion in writing from the person of the public or any organisation and any such notification and news paper published shall be affixed in a conspicuous place near the site.

(3) On the expiry of the said period of thirty days, Authority may after considering the objections and suggestions, if any received by it, declare by notification in the Official Gazette the building, artifacts, structure, street, precincts area or natural features to be a heritage site. (0) A heritage site so declared shall be graded according to its heritage significance by the Authority and the Authority will also determine the scope for change in the heritage site, if required.

Acquisition of heritage site.	0. The Government may, by notification in the Official Gazette from time to time acquire or take possession of any heritage site for maintenance.
Temporary protection orders.	5. If the Authority considers that a property has or may have heritage value or environmental significance, or scenic beauty, and is likely to be adhered for any reason whatsoever, it may issue to the owner or lessee an order stopping work that prohibits any alteration of the property for a period of up to one hundred and twenty days subject to such conditions or requirement as the Authority may consider appropriate.
Constitution of Authority.	6. (1) The Government shall constitute an Authority known as the "Uttarakhand Heritage Authority" for the purpose of exercising powers and performing the function assigned under this Act. (2) The Authority constituted under sub-section (1) shall consist of the following: -
	Chief Secretary - Chairman
	Additional Chief Secretary - Member
	Principal Secretary/Secretary Finance Department - Member
	Principal Secretary / Secretary Urban Affairs Deptt. - Member
	Principal Secretary / Secretary, Arts and Culture Deptt. - Member
	Principal Secretary / Secretary, Tourism Department - Member
	Commissioner Garhwal / Commissioner Kumaon - Member
	One Architect having ten years experience and membership of the Council of Architecture and having specialization in Urban Design. - Member
	One Structural Engineer having experience ten years and membership of Institution of Engineers - Member
	One Historian having knowledge of the region and ten years experience in the field - Member
	One Environmentalist - Member
	3 (Three) Representative from NGO's groups - Member
	Director, Arts & Culture - Member Secretary

(3) The Authority shall have the power to co-opt upto five additional members.

(4) For the purpose of efficient functioning of the Authority, the Authority as deemed fit, may include any other member as invitee.

7. The functions and powers of the Authority shall be as under. -

(1) to make regulations for the conservation, protection and administration of heritage sites, including the function of granting or refusing permission for development which may affect heritage sites or their surroundings;

(ii) to list and grade the heritage sites;

(iii) to advise the Government on conservation policies relating to heritage sites;

(iv) to evolve guidelines for listing, grading and inspection for the conservation of heritage sites;

(v) to identify priorities for implementing conservation projects relating to heritage sites;

(vi) to administer the Uttarakhand Heritage Conservation Fund;

(vii) to constitute, if deemed necessary, one or more committees and such committees to perform such functions as may be assigned to them, including the function of granting or refusing permission for development which may affect heritage sites or their surroundings;

(viii) to monitor the implementation of heritage conservation plans and bring any lapses or shortcomings in the implementation thereof to the notice of the Government;

(ix) grant of incentives including but not restricted to grant of development rights, if deemed necessary for conservation of heritage of environment; and

(x) any other function as may be assigned by the Government.

**Power and
Functions of the
Authority.**

**Appointment of
officers and
staff.**

8. The Authority may appoint such officers and staff to assist it in preparation and implementation of heritage conservation plans as deemed fit.

Preparation, approval and sanction of heritage conservation plans.

9. (1) The Authority shall within such time as may be prescribed, prepare heritage conservation plans, in respect of heritage sites.

(2) The heritage conservation plan may propose or provide for all or any of the following matters namely: -

(a) regulation for preservation and administration of heritage sites; (b) listing and grading of heritage sites;

(c) prescriptions for development control for conservation of heritage sites;

(d) specific design proposals in the case of heritage sites;

(e) specific urban design proposals in the case of heritage sites in order to preserve and protect the character of the area;

(f) proposals for incentives such as tax exemptions, transfer, of development rights or acquisition of property, if found necessary, for the protection of the heritage value of such heritage sites; and

(g) proposals on a case to case basis, for any relaxation of development control regulations necessary for the protection and enhancement of the heritage value of heritage sites:

Provided that all such provision of heritage conservation plan shall, as far as possible, be in conformity with the Building Bye Laws applicable to the urban areas and the Master Plans. However, in case of any conflict, the heritage conservation plans shall take precedence over the building bye laws and other planning and land revenue rules and regulation.

(h) such other matter as may be deemed necessary.

(3) After submission of the heritage conservation plans but not later than such date as may be prescribed, the Government through the State Cabinet may, after consulting the Authority either approve such plans or approve them with such modifications as the Government may consider necessary or return them to the Authority to modify the plans to prepare fresh plans in accordance with such directions as the Government may issue in this behalf and the modified plans as prepared by the Authority shall be resubmitted to the Government for its approval.

(4) The heritage conservation plan approved by the Government shall be published by the Government by notification in the Official Gazette and in leading newspaper for inviting suggestions or objections from the public. If objections and suggestion are received from the public within the period aforesaid, the Government shall consider the same and after getting opinion of the Authority, modify the heritage conservation plan accordingly, if necessary and grant sanction to the same:

Provided that once the said plans are prepared by the Authority, all permissions for development that might affect the heritage sites shall be in conformity with the said plans

Control of developments.

10.(1) After the date of preparation of the heritage conservation plans by the Authority under Section 9, all planning permissions and building licences affecting heritage sites including the views and lines of sight of or from it shall be issued by the Authority only in conformity with the provisions of the heritage regulations made and the heritage conservation plans approved.

(2) Any relaxation of the building bye laws or incentives provided under a heritage conservation plan or otherwise shall require the owner, lessee or power of attorney holder, as the case may be to execute a signed affidavit agreeing to maintain the listed heritage building in a state of good repair and to preserve its heritage value with due maintenance and such owner, lessee or power of attorney holder, as the case may be, shall permit heritage inspections after due notice by the Authority and shall duly implement the suggestions made in this regard.

(3) The owners, lessees and power of attorney holders of listed heritage sites shall not carry out development on heritage sites nor shall they demolish, alter, or add to it or undertake repairs thereof, without the prior permission of the Authority. Such permission may be refused or granted as the case may be, based on the findings of the inspections carried out by the Authority or any officer authorized by the Authority.

(4) In case demolition or major damages of a heritage building or a building in a heritage precinct, or a major development or a listed natural feature is recommended under extraordinary circumstances or major repair are to be undertaken as a result of the heritage inspection report, the Authority shall give thirty days notice in the newspapers calling for objections and suggestion from the public and take a decision after considering the objection and suggestion received if any.

(5) When the Authority comes to the conclusion that a listed heritage site is not being maintained properly or that such site needs repairs, the Authority shall serve a notice on the owner lessee or power of attorney holder, as the case may be, to maintain the heritage properly or to repair the site within thirty days of the service of the notice and such steps as to carry out the necessary repairs and recover the cost from such owner, lessee or power of attorney holder, as the case may be and if the latter fails to make the payment, the amount shall be recoverable by the Government as Arrears of land revenue.

(6) A Conservation Cell shall be created by the Authority for the maintenance and restoration of all listed heritage buildings, heritage sites and heritage areas which shall be headed by a chief architect with such specialisation in conservation architecture as may be prescribed.

(7) Such chief architect shall be supported by technical staff with prescribed qualifications and shall follow the prescribed and established guidelines for the conservation of such buildings and sites.

**Heritage Building,
Site in
Environmentally
Sensitive Areas.**

11. (1) The Government may take steps to declare areas where heritage building, site falling in environmentally sensitive areas. Within such areas, any class of industries, operations, processes construction or development activities shall be regulated, or shall not be carried out without certain safeguards.

(2) Without affecting the generality of sub-section (1), the regulations can apply to, but not restricted to, the following land use especially conversion of land from green uses such as horticulture areas, agriculture, parks, open space, wetlands, grasslands, etc., to non green use, building including floor area ratio, height, coverage and design, location and type of industries carrying out mining, tree felling, tourism activities ground water usage, use of plastic and other non degradable substances hazardous substances, construction on hill slopes, discharge of effluents soil waste disposal, noise pollution, traffic development at around or effecting heritage sites.

(3) Government shall stipulate the preparation of Master Plan in a time bound manner

which will regulate such areas under such plan and such other related matters.

(4) Before declaring any area where heritage building, site falling in an environmentally sensitive area and before sanctioning the above guidelines, the Government shall, by notification in the Official Gazette and in leading newspapers invite suggestions and objections from the public within a period of sixty days.

(5) Notwithstanding anything mentioned in sub-section (0), the restrictions and stipulations specified in sub-sections, (1), (2) and (3) mentioned above shall come into force as soon as they are formulated.

**Constitution of
Heritage Fund.**

12. (1) The Government may constitute a fund known as the Uttarakhand Heritage Fund for the purpose of maintenance and improvement of heritage areas, heritage buildings, heritage precincts and heritage sites and environmental sensitivity.

(2) Government may, from time to time, allocate to the Funds money from the Consolidated Fund of the State and contributions to the Fund may also be received by way of donations, grants etc. from individuals, trusts, local bodies, companies and other agencies towards heritage conservation.

(3) Money may be advanced by the Government to the Authority, as grants of loans, on such terms and conditions as the Government may determine, for the performance of its functions under this Act.

(4) The said fund shall be administered by the Government and audited by the Accountant General every year.

(5) The Authority shall utilise the Fund for meeting -

(a) the cost of acquisition of heritage building or heritage or heritage area for the purpose of conservation.

(b) the expenditure for any development or works contemplated in the heritage conservation plant.

(6) The Authority may disburse funds to the owners, leases or power of attorney holders of Sites/ heritage buildings even if they are private, for maintenance of the buildings in good condition if such repairs are found necessary after the inspections as per clause (iv) of Section 7.

(7) The Authority shall prepare every year, a budget in respect of the next financial year with its estimated receipts and expenditure under the fund and forward to Government for approval of the same. The Government shall approve the same with or without modification.

**Dissolution of the
Authority.**

13. (1) Where the Government is satisfied that the purposes for which the Authority was established under this Act have been substantially achieved so as to render the continued existence of the Authority in the opinion of the Government unnecessary that Government may, by notification in the official Gazette, declare the Authority shall be dissolved with effect from such date as may be specified in the notification and the Authority shall be deemed to be dissolved accordingly.

(2) From the said date-

(a) all properties, funds and dues which are vested in or realisable by the Authority shall vest in or be realisable by, the Government;

(b) all liabilities which are enforceable against the Authority shall be enforceable against the Government; and

(c) for the purpose of carrying out and development which has not been fully carried out by the Authority and for the purpose of realising properties, funds and dues referred to in clause (a) the functions of the Authority shall be discharged by the Government.

Penalties.

14. (1) Whoever contravenes any provision of this Act or the rules and regulations made thereunder or fails to comply with any directions or order lawfully given to him or any requisition lawfully made upon him, shall on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees, or with both and for any subsequent offence, with imprisonment for a term which may extend to 6(six) months or with fine which may extend to five thousand rupees for every day of continuance of offence thereafter or with both. (2) In case of lawful damage, neglect, demolition or major charge to the whole or portion of a heritage site, the offender shall forfeit his right to construct any further structure of the site or to carry out any further development and the removal of the structure already constructed in a contravention of the provisions of this Act, rules, regulations or orders made or issued thereunder, shall be at the cost of the owner, lessee or power of attorney holder, as the case may be, or even the builder making the construction.

Compounding of offences.

15. (1) The Authority by general or special order in this behalf, may in special circumstances and for reasons to be recorded in writing, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act:

Provided that no offence shall be compounded which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the Authority unless and until the same has been complied with so far as the compliance is possible.

(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 so compounded.

Protection of action taken in good faith.

16. No suit, prosecution or other legal proceedings shall lie against person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or of any rules or regulations made hereunder.

Powers to make rules.

17. The Government may by notification in the Official Gazette make rules to carry out any of the purposes of this Act including prescription of the date for approval of conservation plans.

Powers to make regulations.

18. (1) The Authority may, with the approval of the Government, make regulations concerning any matter which is to be, or may, be prescribed under this Act or in respect of the Act makes no provision or makes insufficient provision and where such provision is, in the opinion of the Authority or any for the implementation of this Act.

(2) Without prejudice to the generality of its power, under sub-section (1) the Authority may make regulations to provide for all or any of the following matters, namely: -

(a) Gradation of heritage sites declared as such for protection;

(b) prescription of the specialisation in conservation architecture as required of the Chief Architect to head the Conservation Cell;

(c) prescription of the qualifications of the technical staff of the Chief Architect;

(d) prescription of the guidelines to be followed by the Chief Architect for conservation of heritage buildings and sites; and

(e) any other matter which is to be, or may be, prescribed under this Act.

Placing of rules and Regulations.

19. Every rules and regulations made under this Act, shall, as soon as after they are made, be placed in the State Legislature of the State of Uttarakhand.

Power to remove difficulties.

20. If any difficulty arising in given effect to the provisions of this Act, the Government may, by order as occasion requires, do anything which appears to it to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.
