

ODISHA ACT 9 OF 2015

THE ODISHA DEVELOPMENT AUTHORITIES (AMENDMENT) ACT, 2015

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ODISHA ACT 9 OF 2015

***THE ODISHA DEVELOPMENT AUTHORITIES
(AMENDMENT) ACT, 2015**

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dated the 6th October, 2015 (No. 1427)]

**AN ACT FURTHER TO AMEND THE ODISHA
DEVELOPMENT AUTHORITIES ACT, 1982.**

BE it enacted by the Legislature of the State of Odisha in the Sixty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Odisha Development Authorities (Amendment) Act, 2015.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Amendment of section 2.

2. In section 2 of the Odisha Development Authorities Act, 1982 (hereinafter referred to as the principal Act),—

Odisha Act
14 of 1982.

(a) after clause (ix), the following clause shall be inserted, namely:—

“(ix-a) “Developer Entity” means an individual or body of individuals and includes a company or association whether incorporated or not, a co-operative society or a corporate body, or an agency, national or international, to whom a license is given to undertake development within the framework of a development plan or development scheme duly approved under this Act ;” ;

(b) in clause (xv), after the words “town planning scheme” and before the words “as a final plot”, the words “or in development scheme or approved layout of land”, shall be inserted;

* [For the Bill, See *Odisha Gazette* Extraordinary dated the 20th August, 2015 (No.1255) [I Legis-15/2015]

Come into force 1st November, 2015

(c) after clause (xix), the following clauses shall be inserted, namely:—

“(xix-a) “Land Pooling Scheme ” means a scheme for assembly of small land parcels under different ownerships, voluntarily, into a large land parcel and return of a part of the reconstituted land to the owners with a provision of infrastructure in a planned manner;

(xix-b) “Local Authority” means an urban local body, and includes Zilla Parishad, Panchayat Samiti or Gram Panchayat constituted under the provisions of the relevant Act for the control and management of development of the areas under their jurisdiction;”;

(d) after clause (xxxvii), the following clause shall be inserted, namely:—

“(xxxvii-a) “Special Purpose Vehicle” means a body constituted as a company, trust or other entity for a specific purpose, which shall include activities limited to those for accomplishing the purpose of the company, trust or other entity, as the case may be; ”;

(e) after clause (xxxviii), the following clause shall be inserted, namely :—

“(xxxviii-a) “Transferable Development Rights” means a development right to transfer the potential of a plot designated for a public purpose in a development plan, expressed in terms of total permissible built up space calculated on the basis of floor area ratio allowable for that plot, for utilization by the owner himself or by way of transfer by him to someone else from the present location to a specified area within the development plan, as additional built up space over and above the permissible limit, in lieu of compensation for the surrender of the concerned plot free from all encumbrances to the Authority; ” ; and

- (f) for clause (xli), the following clause shall be substituted, namely:—

“(xli) “urban local body” means municipality as defined in clause (e) of article 243P of the Constitution of India.”

Amendment of
section 3.

3. In section 3 of the principal Act, —

- (a) after sub-section (3), the following proviso shall be inserted, namely:—

“Provided that the State Government may, by notification and in accordance with such rules as may be made in this behalf, exclude any area from a development area of two or more Development Authorities and declare such area or areas as so excluded to be a development area for the purposes of this Act and assign a name to such area and constitute for the said development area a Development Authority with effect from such date as may be specified therein;” and

- (b) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(3-a) Notwithstanding anything contained in this Act, if the State Government is satisfied that proper development of development area can be ensured if two or more Development Authorities are amalgamated into a single Authority, the State Government may, after consultation with such Authorities and on such terms and conditions, as may be specified, by notification, direct such amalgamation and constitute an Authority with effect from the date of such notification.

(3-b) From the date of such notification, —

- (a) all properties, funds and dues which are vested in or be realizable by the existing Authorities, shall vest in or be realizable by the Authority so constituted after such amalgamation;
- (b) all liabilities which are enforceable against the amalgamated Authorities shall be enforceable against the Authority so constituted after such amalgamation;

(c) for the purpose of carrying out any development which has not been carried out by the amalgamated Authorities and for the purpose of realizing properties, funds and dues as referred to in clause (a), the function of the amalgamated Authorities shall be discharged by the Authority so constituted after such amalgamation.”;

(c) in sub-section(5), —

(i) in clause (f), for the words “an Urban Designer or Architect member”, the words “an Environment member”, shall be substituted ; and

(ii) for clause (h), the following clause shall be substituted, namely: —

“(h) Chairpersons of urban local bodies, not exceeding three comprised within the development area, as may be nominated by the State Government, members, ex officio.”; and

(d) after sub-section (5),the following proviso shall be inserted, namely:—

“Provided that the State Government may appoint such other two members as may be considered by it, in addition to the members stated above, for any Authority, as the State Government may deem fit and such members, if appointed in any Authority, shall be subject to same terms and conditions as are applicable to the members appointed under clauses(c) to (f).”.

Insertion of new section 3A.

4. After section 3 of the principal Act, the following section shall be inserted, namely:—

3A. (1) Any Authority may, by notification, declare a part of the development area under its jurisdiction to be a Special Planning Area.

(2) As soon as may be, after the declaration of Special Planning Area under sub-section (1), the Authority may, by notification, designate a Local Authority or other Authority

“Declaration of Special Planning Area and Designation of Special Planning Authority.

constituted or incorporated under the provisions of any State Act, to be Special Planning Authority for such Special Planning Area.

(3) Any power exercisable by the Authority under this Act except the power to make regulations, may also be exercised by such Special Planning Authority to such limits and on such terms and conditions as may be specified in the notification issued by the Authority in this behalf.”.

Amendment of section 4.

5. In section 4 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Notwithstanding anything contained in this Act or Rules or Regulations made thereunder, the State Government may, at the instance of any Local Authority or Department of the State Government or any other Authority constituted or incorporated under the provisions of any State Act or otherwise, direct any Authority for transfer of any Officer or employee of such Authority, by way of deputation, to such Local Authority or Department of the State Government or any other Authority constituted or incorporated under the provisions of the State Act for such period not exceeding six years at a time and on such terms and conditions, as may be specified in the direction and the provision of sub-section (4), shall apply to such deputation mutatis mutandis .”.

Insertion of new section 6A.

6. After section 6 of the principal Act, the following section shall be inserted, namely:—

“Constitution of Special Purpose Vehicle.

6A. The Authority may, for the purpose of carrying out any of the objects of this Act and with the approval of the State Government, constitute as many Special Purpose Vehicles as may be considered necessary consisting wholly of members or partly of members and partly of other persons.”.

Amendment of section 7.

7. In section 7 of the principal Act, after the words, “according to plan” and before the words “and for that purpose the Authority”, the words “by itself or through a Special Purpose Vehicle constituted for the purpose or through an agency or a Developer Entity”, shall be inserted.

Amendment of section 10

8. In section 10 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) For the purpose of effective and dynamic planning mechanism, a Zonal Development Plan may be divided into various sectors and it shall indicate the manner in which the land in each sector is proposed to be used and the stages at which any such development of sectors shall be carried out.”.

Insertion of new sections 10A and 10B.

9. After section 10 of the principal Act, the following sections shall be inserted, namely:—

“Preparation of local development plan.

10A.(1) Simultaneously with the preparation of zonal development plan or as soon as may be thereafter, the Authority shall proceed with the preparation of local development plan for each of the sectors into which the area covered by zonal development plan has been divided:

Provided that the Authority may proceed with the preparation of local development plan for any area, which is part of the development area, but for which no interim, comprehensive or zonal development plan, has been prepared and in such cases, local development plans so prepared shall be incorporated as such in those development plans, as and when they are prepared and approved by the Authority.

(2) A local development plan shall contain a site plan with a detailed road network plan for providing access to each plot and the proposed use of each plot of land in the areas under local development plan with provision of amenities besides the matters provided in sub-section (2) of section 10.

Reservation of land for housing for poor.

10B. The Authority shall, at the time of preparation of development plans, earmark twenty percentum of the vacant land under residential land use for making provisions of housing facilities for Economically Weaker Sections and Lower Income Group categories.

Explanation. – For the purpose of this section, the expression, —

- (i) "Economically Weaker Section" means the section of persons whose household income is up to the limit prescribed by the State Government, from time to time; and
- (ii) "Lower Income Group" means group of persons whose household income is up to the limit prescribed by the State Government, from time to time. "

Amendment of
section 13.

10. In section 13 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

"(5)After coming into operation of local development plan, the provisions of interim, comprehensive and zonal development plans pertaining to such area, shall stand modified and altered to the extent the provisions of Local Development Plan are at variance with such development plans."

Amendment of
section 15.

11. In section 15 of the principal Act, —

(a) in sub-section (1), in clause (i), in the opening portion, for the word "subdivide", the words "subdivide or amalgamate through lay out", shall be substituted;

(b) in sub-section (1), in clause (i), for the words "right of way to all the plots", the words "right of way to all final plots", shall be substituted; and

(c) after sub-section (3), following sub-section shall be inserted, namely: —

"(4) The State Government may exclude certain categories of development having such low risk as may be prescribed, from the conditions of prior approval, if such development conforms to such terms and conditions as may be prescribed."

Amendment
of section 16.

12. In section 16 of the principal Act, —

(a) in sub-section (1), in clause(a), after the word, "subdivide" and before the words "his land", the words "or amalgamate", shall be inserted;

(b) in the proviso to sub-section (3), after the words "development charges" and before the words "if any", the words "and City Infrastructure Impact fee", shall be inserted.

Insertion of new section 16A.

13. After section 16 of the principal Act, the following section shall be inserted, namely:—

"Common Application Form for permission.

16A.(1) Notwithstanding anything contained in this Act or in the Rules or Regulations made thereunder, for the purpose of simplification of process for grant of permission by the Authority under section 16, the State Government may prescribe Common Application Form to be used by persons requiring such permissions.

(2) Every person shall make a Common Application to the Authority in such Form, in such manner and subject to such conditions as may be prescribed.

(3) On receipt of Common Application Forms, the Authority shall transmit copies of such applications to all such Departments and Agencies of the State Government from which No Objection Certificates are required before grant of permission by the Authority and such Departments and Agencies of the State Government shall consider for grant of such No Objection Certificates to the Authority as per the time limits fixed in the rules and in the event of failure of any Department or Agencies of the State Government to communicate their views within the time limits fixed, then No Objection Certificates shall be deemed to have been obtained.

(4) The State Government may make rules for prescribing the detailed procedures for processing of Common Application Forms by Departments and Agencies of the State Government, and also on other such matters as required in this regard.

(5) Notwithstanding anything contained in this section, any application pending immediately before the commencement of the Odisha Development Authorities (Amendment) Act, 2015 shall be

considered in accordance with the provisions existing prior to such commencement.”.

Insertion of section 20A.

14. After section 20 of the principal Act, the following section shall be inserted, namely:—

“Grant of Occupancy Certificate.

20A. On receipt of Completion Certificate under section 20, the Authority shall consider for grant of Occupancy Certificate in such Form for authorizing occupation of the building or the premises in part or full, on payment of such fees and on such terms and conditions as may be prescribed.”.

Amendment of section 21.

15. In section 21 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) For the purpose of implementation of the provisions of development scheme specially when lands, covered under such scheme, do not belong to the State Government and to provide for mechanism for carrying out matters related to clauses (a), (d), (h), (j) and (o) of sub-section (3), and to carry out such other matters not inconsistent with the object of this Act, the State Government may make rules for execution of Land Pooling Schemes for successful implementation of development schemes which shall prescribe for matters related to declaration of intention, reservation and allotment of land under Land Pooling Scheme, methods of verification of land records, provisions to deal with disputed ownership, effect of declaration of intention, manner of preparation of such schemes.

(6) The Authority may, on such terms and conditions as may be prescribed by regulations to be made in this behalf, grant a license to a Developer Entity for framing and executing a development scheme in respect of Land Pooling Scheme in the development area, on behalf of the Authority. ”.

Insertion of new section 31 A.

16. After section 31 of the principal Act, the following section shall be inserted, namely:—

“Effect of sanction of Draft Town Planning Scheme.

31A.(1) Where a draft scheme has been sanctioned by the State Government under sub-section (2) of section 31(hereinafter referred to as the sanctioned draft scheme), all land required by the

Authority for the purposes specified in clauses (d), (i) and (n) of sub-section (4) of section 22 shall vest absolutely with the Authority free from all encumbrances.

(2) Nothing in sub-section (1) shall affect any right of the owner of the land so vested for the purpose mentioned in that sub-section.

(3) Provisions of sections 51 and 52 shall, mutatis mutandis, apply to the sanctioned draft scheme as if, the sanctioned draft scheme were a preliminary town planning scheme.”.

Amendment
of section 32.

17. In section 32 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) On or after the date on which declaration of intention has been made by the Authority under sub-section (1) of section 23 and duly published as required under sub-section (2) thereof, no person shall, within the area in respect of which the intention has been declared, carry out any development unless such person has applied for and obtained necessary permission from the Authority for doing so in the form as may be prescribed.”.

Amendment
of section 33.

18. In section 33 of the principal Act, after sub-section (1), the following proviso shall be inserted, namely:—

“Provided that the State Government may, on the request made by the Authority, appoint a Valuation Officer within one month from the date of publication of the draft town planning scheme under sub-section(3) of section 24.”.

Amendment
of section 38.

19. In section 38 of the principal Act, in sub-section (3), for the words “The President shall be from among the Officer of the Orissa Superior Judicial Service (Senior Branch)”, the words “The President shall be a person who is or has been, a District Judge or Additional District Judge in the State of Odisha”, shall be substituted and the following proviso shall be added, namely: —

“Provided that such District Judge or Additional District Judge must not have been prematurely retired. ”.

Amendment of
section 74.

20. For section 74 of the principal Act, the following section shall be substituted, namely:—

“74.(1) The Authority may acquire, movable or immovable properties by purchase, exchange, gift, lease, mortgage or by any other method permissible under law. in accordance with the rules and regulations made for this purpose.

(2) The Authority may, with the written consent of the owner, acquire any land or property or both for providing infrastructure, amenities and facilities for public purposes by way of according Transferable Development Rights (TDR) through issue of Development Rights Certificate in lieu of payment towards cost of land and property, in such manner and on such terms and conditions, as may be prescribed:

Provided that the Transferable Development Rights may be arrived at on the basis of relative land values and equivalent amount of both export and import areas as per the bench mark value fixed for such area and such Right may be utilised as additional built up space by the owner who can use this either by himself or transfer it to any other person in full or in part for use within the development area as prescribed or offset the money against the fees and charges payable for development permission subject to fulfilment of all other rules and regulations governed for construction of buildings.

(3) The Authority may, with the consent of the owner, and in the manner prescribed, acquire land and built up space for public purposes, indicated in an approved development plan, by permitting in the form of built up space guided by permitted Floor Area Ratio in addition to built up space required for the amenity, in lieu of the cost of land and the built-up space payable to the owner for the amenity transferred to the Authority. ”.

Insertion of
section 75A.

21. After section 75 of the principal Act, the following section shall be inserted, namely:—

Creation and
Management
of Land bank

75A. (1) Every Authority shall create and maintain a Land Bank in which land acquired under section 72 to section 75, shall be kept recorded for furtherance of the objects of the Act.

(2) The Land Bank shall be managed by the Authority in such manner as may be prescribed in the regulations.”.

Amendment
of section 77.

22. In section 77 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(5-a) The State Government may direct any Authority, to constitute and maintain a Comprehensive Development Plan Infrastructure Development Fund (CIDF), into which such money, fees or charges shall be credited as may be specified in such direction and the same is to be utilised, for such purposes, in such manner and subject to such conditions and exceptions as may be directed by the State Government.”.

Amendment to
Chapter-IX.

23. In Chapter-IX of the principal Act, in the opening portion, for the words “Levy of Development Charges”, the words and commas “Levy of Development charges, City Infrastructure Impact fees, User Fees etc.”, shall be substituted.

Amendment
of section 84.

24. In section 84 of the principal Act, for the words and figure “at such rate not exceeding maximum rates specified in section 85 as it may determine”, the words “at such rates as the State Government may, by notification, specify, from time to time, in this behalf”, shall be substituted.

Amendment
of section 85.

25. In section 85 of the principal Act, the first proviso to sub-section (2) shall be omitted and the word “further” appearing in the second proviso thereto shall be omitted.

Insertion of new
section 86A.

26. After section 86 of the principal Act, the following section shall be inserted, namely:—

“Levy of City
Infrastructure
Impact Fee.

86A. (1) The Authority may levy City Infrastructure Impact Fee, for the purpose of creation of city level infrastructure facilities as specified in the development plan in operation and such other purposes, at such rate as may be prescribed in the regulation for all —

- (a) commercial buildings;
- (b) apartments and group housing buildings; and
- (c) multi-storied building including, residential, commercial or Institutional or Educational.

(2) The City Infrastructure Impact Fee levied under sub-section (1) shall be payable at the time of grant of permission.

(3) All such fees collected shall be credited and maintained in Comprehensive Development Plan Infrastructure Development Fund (CIDF) and same shall be utilized for development of city level infrastructure:

Provided that, no such fees shall be levied during grant of permission for building of Government's Departments and Statutory Bodies established under the provisions of any Act, but such exemptions shall not be available to such buildings which are constructed under commercial projects."

Amendment
of section 87.

27. In section 87 of the principal Act, in sub-section (1), for the words "from among the officers of the Odisha Superior Judicial Service (Senior Branch)", the words "who is or has been a District Judge or Additional District Judge in the State of Odisha", shall be substituted and the following proviso shall be added, namely:—

"Provided that such District Judge or Additional District Judge must not have been prematurely retired."

Amendment
of section 91.

28. In section 91 of the principal Act, in sub-section (1),—

(a) after the words "removed by demolition" and before comma and the words ", filing or otherwise", the words "or secured by sealing" shall be inserted; and

(b) for the words "cause to be removed the development and the expenses of such removal", the words "cause to be removed the development or seal or cause to be sealed such development and the expenses incurred therefor", shall be substituted.

Amendment
of section 92.

29. In section 92 of the principal Act, in sub-section (2), after the words "all his assistants and workmen from the place of development"

and before the words "within such time", the words "and to secure such place of development by sealing", shall be inserted.

Amendment
of section 102

30. In section 102 of the principal Act, after the words "as arrear of land revenue", occurring at the end, the words "and the State Government may appoint an officer of the Authority as Certificate Officer who shall be deemed to be the Certificate Officer within the meaning of the provisions of the Odisha Public Demands Recovery Act, 1962 to recover such dues of the Authority.", shall be added.

Odisha Act 1
of 1963.

Amendment
of section 111.

31. In section 111 of the principal Act,—

- (a) in sub-section (1), after the words and figure "under section 6" and before the words "as may be mentioned therein", the words and the figures "or Special Purpose Vehicle constituted under section 6A or Special Planning Authority designated under section 3A", shall be inserted; and
- (b) in sub-section (2), after the words "by such officer" and before the words "as may be mentioned therein", the words and the commas "or such Committee, to be constituted by the State Government for the purpose,", shall be inserted.

Amendment
of section 119.

32. In section 119 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The person requiring a permission for development on a final plot which has been recorded as agricultural land in the record of rights and which has been carved out and approved under the town planning scheme, development scheme or land pooling scheme or permitted under the provisions of section 16 of the Act, shall not require a written permission for conversion of the use of land for the purpose other than agriculture under the provisions of section 8A of the Odisha Land Reforms Act, 1960 and rules made thereunder, but shall pay the conversion fees at the rate provided in section 8A of that Act which shall be credited to the Comprehensive Development Plan Infrastructure Development Fund referred to in sub-section (5-a) of section 77. "

Odisha Act
16 of 1960.

Amendment
of section 124.

33. In section 124 of the principal Act, in sub-section (2), for clause (xxii), the following clauses shall be substituted, namely:—

"(xxii) the principles and guidelines in accordance with which development may be undertaken or regulated,—

- (a) in respect of planning standards like transit oriented development, wetland development, water sensitive planning and design;
 - (b) in respect of urban design and built form guidelines;
 - (c) in respect of conditions and restrictions to promote sustainable development and urban transport including street design guidelines and to prescribe institutional framework for implementation of the same; and
 - (d) in respect of special conditions and restrictions in accordance with which development may be undertaken or regulated in a development area or in any part of the development area or special planning area, as the case may be;
- (xxiii) any other matter which has to be or may be prescribed by regulations."