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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT TOWN PLANNING AND URBAN DEVELOPMENT (SECOND AMENDMENT) BILL, 2017.

GUJARAT BILL NO. 20 OF 2017.

A BILL

further to amend the Gujarat Town Planning and Urban Development Act, 1976.

It is hereby enacted in the Sixty-eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Town Planning and Urban Development (Second Amendment) Act, 2017.

Short title and commencement.

(2) It shall come into force at once.

Amendment of
section 7 of
President's Act
No. 27 of 1976.

2. In the Gujarat Town Planning and Urban Development Act, 1976 (hereinafter referred to as "the principal Act), in section 7, -
- (i) in sub-section (1), in clause (ii), after the words "town planning schemes", the words "or Local Area Plan" shall be inserted ;
- (ii) for sub-section (2), the following shall be substituted namely:-

"(2) On receipt of the proposal from the Area Development Authority or otherwise, the State Government may, by notification in the *Official Gazette*, delegate any of the powers and functions of the Area Development Authorities to the local authority or authorities or an officer within its jurisdiction."

President's
Act No. 27
of 1976.

Amendment of
section 23 of
President's Act
No. 27 of 1976.

3. In the principal Act, in section 23,-
- (i) in sub-section (1), in clause (ii), after the words "town planning schemes", the words "or Local Area Plan" shall be inserted ;
- (ii) for sub-section (2), the following shall be substituted namely:-

"(2) On receipt of the proposal from the Urban Development Authority or otherwise, the State Government may, by notification in the *Official Gazette*, delegate any of the powers and functions of the Urban Development Authorities to the local authority or authorities or an officer within its jurisdiction."

Amendment of
section 49 of
President's Act
No. 27 of 1976.

4. In the principal Act, in section 49, in sub-section (1), to clause (b), the following proviso shall be inserted, namely:-

"Provided that any such permission or condition thereto shall be in accordance with the Draft Town Planning Scheme sanctioned under sub-section (2) of section 48 and in line with the notification of the Government while according such sanction."

Amendment of
section 52 of
President's Act
No. 27 of 1976.

5. In the principal Act, in section 52, in sub-section (1), in Explanation (i), the words "or rupees one lac, whichever is lower" shall be deleted.

Amendment of
section 76A of
President's Act
No. 27 of 1976.

6. In the principal Act, in section 76A, after sub-section (6), the following sub-sections shall be added, namely:-

"(7) Where the State Government sanctions the Local Area Plan under clause (a) of sub-section (6), it shall state in the notification-

(a) the place at which the Local Area Plan shall be kept open for inspection by the public, and

(b) a date on which all the liabilities created by the Local Area Plan shall come in to force:

Provided that the State Government may from time to time extend such period, by notification in the *Official Gazette*, not exceeding three months at a time, as it thinks fit.

(8) On and after the date on which a Local Area Plan comes into force, any person continuing to occupy any land which he is not entitled to occupy under the Local Area Plan shall, within a period of three months, surrender the land to the appropriate authority and if he fails to do so the appropriate authority shall, give a notice in writing to evict within a period specified in the notice. In case, if the person continues to occupy such land for which the notice has been issued, the appropriate authority shall take following measures, namely:-

(a) remove, pull down, or alter any building or other work in the area of the land included in the Local Area Plan which is such as contravenes the Local Area Plan or in the erection or carrying out of which any provision of the Local Area Plan has not been complied with.

(b) any expenses incurred by the appropriate authority under this section shall be recovered from the person in default or the owner of the plot in the manner provided for the recovery of the sums due to the appropriate authority under the provision of this Act.

(c) no persons shall be entitled to compensation in respect of any damage, loss or injury resulting from all action taken by the Appropriate Authority under the provisions of this section except in respect of the building or work begun before the date referred to in clause (b) of sub-section (7) and only in so far as such building or work has proceeded until that date:

Provided that any claim to compensation which is not barred by this sub-section shall be subject to the condition of any agreement entered between the claimant and the Appropriate Authority.”.

7. In the principal Act, in section 119, in sub-section (1), after the words "the State Government", the words "or, the State Government may *suo moto*," shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Town Planning and Urban Development Act, 1976 was enacted about forty-one years ago for the purpose of making and execution of development plan and town planning schemes in the State. The development plan and Town Planning Schemes become speedy and procedure of implementing Act can be simplified. Moreover, in case where appropriated Authority delay or unable to implement the procedure of Act, the State Government can appoint an officer or act *suomoto* for purpose of implementing the provisions of the Act. It is expedient and necessary to amend certain provisions of the said Act.

Under the existing provision of clause (ii) of sub-section (1) of section 7, the area development authority under take the preparation and execution of town planning schemes under the provisions of this Act. It is now proposed to amend the said provision so as to undertake the preparation and execution of town planning schemes or Local Area Plan by the area development authority. *Clause 3* of the Bill provides for the same. It is also proposed to substitute sub-section (2) of section 7 so as to delegate the powers and functions of the area development authority to the local authority or authorities or any officer within its jurisdiction, by the State Government. Similar provision is also proposed in section 23 of the said Act for Urban Development Authority. *Clauses 2* and *3* of the Bill provide for the same.

The existing provisions of clause (b) of sub-section (1) of section 49 provides for development permission by the appropriate authority, in consultation with the Town Planning Officer. It is proposed that the appropriate authority in consultation with the Town Planning Officer may either grant or refuse such permission or grant it subject to such conditions as stated in the notification of Government while sanctioning the Draft Town Planning Scheme under sub-section (2) of section 48. *Clause 4* of the Bill provides for the same.

New sub-sections (7) and (8) of section 76A proposed to be inserted in the Act for implementation of the Local Area Plan. *Clause 6* of the Bill provides for the same.

Certain amendments in sections 52 and 119 are also proposed.

This Bill seeks to amend the said act to achieve the aforesaid objects.

SHANKAR CHAUDHARY,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects:--

Clause 2.— Sub-section (2) of section 7 of the Act proposed to be substituted by this clause empowers the State Government to delegate, by notification in the *Official Gazette*, any of the powers and functions of the Area Development Authority to the local authority or authorities or an officer within its jurisdiction.

Clause 3.— Sub-section (2) of section 23 of the Act proposed to be substituted by this clause empowers the State Government to delegate, by notification in the *Official Gazette*, any of the powers and functions of the Urban Development Authority to the local authority or authorities or an officer within its jurisdiction.

Clause 6.— Proviso to clause (b) of new sub-section (7) proposed to be inserted in section 76A of the Act by this clause empowers the State Government to extend, by notification in the *Official Gazette*, the period not exceeding three months, within which all the liabilities created by the Local Area Plan sanctioned by the State Government, shall come into force.

The delegation of legislative powers, as aforesaid, is necessary and is of a normal character.

Dated the 23rd March, 2017.

SHANKAR CHAUDHARY.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 23rd March, 2017.

K. M. LALA,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.