

SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROL) ACT, 1985

SIKKIM GOVERNMENT EXTRAORDINARY PUBLISHED BY AUTHORITY GAZETTE No. 117
Notification No. 11/LD/85 Gangtok, Wednesday July 3

1985. GOVERNMENT OF SIKKIM LAW DEPARTMENT GANGTOK Dated the 29th June, 1985. The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 28th day of June, 1985, is hereby published for general information:— THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROL) ACT, (ACT NO. 11 OF 1985) ACT to provide for the allotment of house sites, regulation of construction, alteration and repair of buildings in Sikkim and for matters connected therewith. Whereas house sites have been allotted without consulting the Sikkim Public Works Department and other concerned Departments; Whereat; such allotment of sites have resulted in encroachment of septic, water supply tanks, land within compound of Government quarters, within the notified green belt and affecting and likely to cause land slide during monsoon; and Whereas it is expedient to bring about an equitable and proper distribution of house sites and promote planned, organised and systematic growth of towns and bazars in the State of Sikkim and matters connected therewith. Be it enacted by the Legislative Assembly of Sikkim in the Thirty-sixth Year of the Republic of India as follows:—

CHAPTER 1 (1) This Act may be called the Sikkim Allotment of House Sites and Construction or Building (Regulation and Control) Act, 1985. It shall extend to the whole of Sikkim. It shall come into force at once. (3) In this Act: , unless the context otherwise requires "allotment" means allotment of sites for construction of building for the (a) purpose of residence, commerce, residential-cum-commercial or any other trade or industry; Short title, extent and commencement. Definitions. Declaration of Notified area and preparation of plans. Allotment of house sites. Cancellation of allotment. 3. 4. (b) (c) (d) (g) (i) (1) (2) (3) (4) (T) (2) (3) 2 'building' includes a house, out-house, stable, privy, urinal, shed, hut, wall (other than a boundary wall, not exceeding ten feet in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever, and includes any temporary shed erected on ceremonial or festive occasions; 'family' means father, mother and their minor children and includes major children living jointly with the parents. "Government" means the Government of Sikkim in the Local Self Government and Housing Department and includes such other officers of the said Department and of any other Department as may be authorised by the Government for carrying out the purposes of this Act; 'notified area' means any area notified for purposes of Chapters II and III of this Act; 'notified green belt' means the green belt area notified by the Government vide notification NO. 6/1-SGHD dated the 0th April 1982 and which may so be notified by the Government, by notification, from time to time; 'notification' means a notification published in the Official Gazette; 'person' means any individual and includes any member of the family, any society or association of persons, whether incorporated or not, and all legal and juristic persons; 'prescribed' means prescribed by rules made under this Act; "salami" means the amount payable by a person for allotment of a site under the provisions of this Act but does not include ground rent or other rates, taxes or fees payable under this Act or any other law in force in this State

CHAPTER II The Government shall, from time to time, by notification,— declare any area as a notified area for the purposes of this Act. The Government shall, within six months but not later than one year from the date of commencement of this Act, prepare a plan indicating the area— for residential purposes (i) for commercial purposes, (ii) for residential-cum-commercial purposes; (iii) for industrial purposes; (iv) For public and semi-public open places, parks, play grounds and (v) Community Hall. The Government shall indicate and specify sites for residential, commercial and industrial purposes. The Government shall publish within fifteen days from the preparation of such plan the details as mentioned in sub-section (2), by notification, and in such other manner as may be specified in this behalf. The Government may allot sites on application made by any person in such form and in such manner as may be prescribed. An allottee shall pay such salami as may be notified by the Government, from time to time. The Government shall, by notification, fix different rates of salami for purposes of allotment on the basis of the area, user and location. All allotments in which the registration is whether complete or not and those falling under the notified green belt shall stand cancelled. Explanation Allotments for purpose of sub-

section (1) mean allotments Of • house sites on which construction is not completed. (2) The salami paid by Lhe allottee shall be. refunded within one month from the date of cömmencement Of Act. Subject to section 6 such of the allottees whose sites have been cancelled (3) under •sub-section (1) -shall be given preference for allotment of sites in notified area as notified under sub-section (3) of section 3 if an applica- tion IS made to that effect. (4) 3 The sites allotted under this Act may be cancelled on grounds of fraud, misrepresentation of facts or bonafide mistake: Provided that no order of cancellation shall made unless the person concerned has been given an opportunity of making representation. CHAPTER - Til 6. 7

8. The Government shall not allot more than one site to one family in the state.(1) (2) (3) (4) No construction shall be undertaken in any notified area without obtaining the prior permission of the Government. The Government shall make regulations regulating the construction of building in any notified area. While granting permission for construction of buildings, the Government shall Give due consideration tp the cultural and traditional values Of the peofie of Sikkim.) All permissions for the construction of the buildings which are obtained prior to the commencement of this Act: shall stand cancelled. The Government may demolish any construction or building which have been commenced, continued or completed in contravention of the provision of thc Act or the regulations made thereundör

9. Restriction on allot- möi7bfÖite, Permissiignfor cöFiS7Fic(jeh of Demolition-of building.Removal Of struc- turuyhich are in ruins or likely to (2) (3) If at any time it appears to the State Government that any structure in any notified area (including under this expression any building, wall or Other structure and anything affixed to or projecting from any building, wall or other structure) is found unsafe for human habitation or in any way dangerous to any person occupying, resorting to or passing by such structure or any other structures or place in the neighbourhood thereof, the State Government may, by a written notice of not less than seven days, require the owner or occupier— to demolish or to repair such structure in such manner as may be (a) specified in the notice, or (b) to repair, protect or enclose such structure in such manner as may be specified in the notice. Where it appears to the State Government that immediate action is ne- cessary for the. purpose of preventing imminent clanger to any person or property, it shall be the duty of the State Government itself to take such immediate action; and in such case it shall not be necessary for the State Government to give notice, if it appears to it that the object of taking immediate action shall be defeated by the delay incurred in giving notice. Where any owner or occupier fails to comply with the notice served upon him, the State Government may demolish or remove such structure or fixture under sub-section (t) or sub-section (2) and recover the expenses of such demolition or removal from the owner or occupier, as the case may be. If, upon considering the facts and circumstances Of a case, the Government is/ Power Of State satisfied that any building already constructed before the commencement of this Act Government to regu- larise on payment in contravention OF the existing laws, rules, notifications, Orders or directions and does Of fees. not fall under the notified green belt, it may pass order for regularisation of such cons- truction on payment of such fees as may be fixed by the Government by notification in this behalf. CHAPTER - IV 11. Without prejudice to any other actions to be taken under the provisions Of this Penalties. Act, any person who contravenes the provisions of this Act or rules, regulations, noti- fications, orders or directions issued thereunder, shall be punishable with a simple imprisonment not less than six months or with a fine not less than rupees five hundred or with both. Offences to be cognizable. Filing of complaint. Limitat ion. Action taken in good faith. Power to make rules. Power to make regulations. Present Rules and Bye-laws to continue. 4 i 2. All offences under this Act or rules or regulations made thereunder shall be cognizable and shall be triable by a Judicial Magistrate of First Class

13. All complaints shall be filed by an Officer not below the rank of an UnderSecre- tary to the Government after obtaining the approval the Government.14. All complaints shall bc filed within one year from the date of an offence. No action, Civil or criminal shall lie against any officer Of 'the. Government for anything which is in good faith done or intended to be done in pursuance of' this Act or rules or regulations made thereunder. i 6. The State Government may, by notification, in the Official Gazette, make rules to Carry out: the purposes of this Act. The State Government may, by notification, in the Official Gazette, make regulations regulating constructions of buildings and all other connected matters, All bye-laws, rules, regulations and notifications in force concerning constructions of buildings shall continue to be in force •as though they are regulations made under this Act till therare altered, amended or varide. B. R. PRADHAN, Secretary to the Govt. of Sikkim, Law Department. F. No. 16 (205)

L /85. PRINTED AT THE SIKKIM GOVERNMENT PRESS, GANGTOK. SIKKIM GOVERNMENT
Gangtok, No: 16/1.0/2000 EXTRAORDINARY PCBL[SHED BY ACTI-IORITY Saturday, 1st July, 2000
GOVERNMENT OF SIKKIM LAW DEPARTMENT GANGTOK NOTIFICATION GAZETTE No. 22B
Dated: 30.6. 2000 •The following Act of the Sikkim Legislative Assembly having received the assent of
the Governor; on 30th June, 2000 hereby notified for general information,- THE SIKKIM
ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND
CONTROL) AMENDMENT ACT, 2000 (ACT NO. 16 OF 2000) AN ACT further to amend the Sikkim
Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985. 3B enacted by
the Legislature of Sikkim in the Fifty-first Year of the Republic of India as Short title. and
commencement. Amendment of section 2. 1 ; This Act may be called the Sikkim Allotment of Sites
Construction of Building (Regulation and Control) Amendment Act, 2000, for the whole of Sikkim. it
shall come into force at once. 2. in the Sikkim Allotment of House Sites and Construction of Building
(Regulation and Control) Act, 1985 (hereinafter referred to as "the Principal Act"), in section 2.- (a) (e) in
clause (c), after the word "means" and before the word "husband. Wife." shall be
inserted: in clause the words "Cocac: Self Government and the words" Oran Deve200men: and
Department". Deoaru-nen:" shall be substituted: for Clause the following shall be substituted. namely.-
"notified means any notified Government; or, notified from time to time for the Purpose of Cnaoer 'i
and Ii of the Act after the words ground rent" and other words "or other rates" the following
words shall be inserted. namely:- of cost of the land after clause (j), the following clauses shall be added.
namely:- "(K) "lease deed means the lease deed executed between the allottee and the Government with
regard to unencumbered Site for a specified Of time"; "(l)" "Site" means the area allotted for a Building mouse
within the limits shall be integrated the amenities Sewerage: anKS. water tanks. soakpits. staircase etc.
including the area to be covered by the tomosv widest chajja/hood, 3. In the principal Act. in section a
Amendment of section. 4 insertion of new section 4k. Amendment of section S. Amendment of section 7.
Amendment of section 7. 4. 5. 6. (i) for sub-section the following sub-section shall be substituted. namely:-
(a) The Government may allot a site to a person on application made by him in such form and in such
manner as may be prescribed subject to fulfilment of the criteria laid down in the regulations where a site is
actually available but the submission of an application alone does not confer any legal right 'o the applicant
for allotment of a site. (b) No Government servant, who has not tenured regular service minimum period
of 12 (twelve) years shall be eligible for allotment of a Site. (c) Persons already having a dwelling house in a
Dnwæ nodding of otherwise-in a particular town or bazaar: shall not be eligible for allotment of site within
any Urban area (il) sub-section shall be substituted. namely:- G(2J An allottee shall pay such Site
salami and cost of land as may be notified by the Government from time to time' (iii) after sub-section (3),
the following new sub-section shall be inserted. may:- "(4) After the allotment of the site. the allottee shall
the lease deed: registered in the office of the Registrar the concerned District. In the principal Act. after
Section 4. the following section shall be inserted. namely:- 4A Allotment of Site acquired for public purposes:-
Where a site acquired for a public purpose is proposed to be allotted for a private purpose. such an allottee
shall deposit such amount of charges as may be ascertained by the Government towards the cost of the
land and such an area also shall be held as lease hold," In the principal Act. in section 5. in sub-section
11), after the word "registra- tion" and before the word "whether". the words "of lease deed" shall be
inserted. in the principal Act, in section 7.- (i) in sub-section after the words. "notified area" and before the
words "without obtaining", the words "notified Government"-or private ingse shall be inserted: (ij) in sub-
section after the words "notified area" the words "notified Government or private" shall be added: (iii) in
sub-section 13), after the words "Government shall". the following shall be substituted, namely:- that the
roofing of a house and its total round elevation shall be in traditional style' the principal Act, in section 11 .
for the words "five rupees". the words "five thousand" shall be substituted. By Order of the Governor.
T.D.RihZiiig. Secretary to the Govt. of Sikkim. Law Department. F.No. GOVERNMENT SIKKIM
EX"TRAORDINARY GAZETTE Gangtok, No. 8 /LD/2001 PUBLISHED BY ACTI-IORITY Monday,
12th November, 2001 GOVERNMENT OF SIKKIM LAW DEPARTMENT GANGTOK No. 410 Dated:
12.11.2001. NOTIFICATION The following Act of the Sikkim Legislative Assembly having received the
assent of the Governor on 5th day of November. 2001 is hereby published for general information THE
SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDINGS (REGU-
LATION AND CONTROL) AMENDMENT ACT, 2001 ACT NO.8 OF 2001 AN ACT further to amend

the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985. Be it enacted by the Legislature of Sikkim in the Fifty • Second Year of the Republic of India as Shod title, extent and commencement. Insertion of new section follows,- (1) This Act may be called the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Amendment Act, 2001. (2) (3) 2. It extends to the whole of Sikkim. It shall come into force at once. In the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985 (hereinafter referred to as the said Act), in section 7. after sub-section (1), the following sub-section shall be inserted, namely:- 1 • A). No construction of any building or structure of any height shall be undertaken without provision for earthquake resistance system. Amendment Of section 11 Repeal and Saving. 3. 4 The shall take necessary regulations proscribing the required structural on his behalf.' In said Act. In section 11 to the words "five hundred", the words "t' thousand" shall be substituted.) The SIKKIM Sites and Construction of Building and Control) Amended Ordinance. 2001 (Ordinance is hereby repealed (2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall not be deemed to have been done or taken under the corresponding provisions of this Act. T. D. Rinzing, Secretary to the Govt. of Sikkim, Law Department. F.No. 16(82) LD/2C01 Printed at Sikkim Government Press, Gangtok. GOVERNMENT No. 72 SIKKIM EXTRAORDINARY Gangtok, No. 1/1-0/2003. PUBLISHED BY AUTHORITY Friday, 21st March, 2003 GOVERNMENT OF SIKKIM LAW DEPARTMENT GANGTOK NOTIFICATION GAZETTE Dated the 21st March, 2003. The following Act Of the Sikkim Legislative Assembly having received the assent Of the Governor on 7th day of March. 2003 is hereby published for general information THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROL) AMENDMENT ACT, 2003 (ACT NO. 1 OF 2003) AN ACT further to amend the Sikkim Allotment of House Sites and Construction Of Building (Regulation and Control) Act, 1985. Be it enacted by the Legislature Of Sikkim in the Fiftyfourth Year of the Republic of India as follows:• Short title and commencement. Amendment of section 5. Amendment Of section 7. Amendment Of section 9. (1) This Act may be called the Sikkim Allotment Of House Sites and Construction Of Building (Regulation and Control) Amendment Act, 2003

2. In Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985, (hereinafter referred to as the principal Act), in section 6 of the principal Act be renumbered as sub-section (1) of that section and after that sub-section (1) as so the following sub-section shall be inserted, namely:-• The Government shall not allot the Government Quarters' Structure and the land non-adjacent thereto to any individual or organisation"

3. In principal Act, in section 7, after sub-section (4), the following sub-section shall be inserted, namely;- No construction shall be undertaken in any area which is geologically unstable with—ut fulfilling the requirements specified in the guidelines issued by the Bureau Of Indian Standards for construction of buildings in hill areas'

4. In the principal Act.in section 9, in sub-section after the words • the State Government may • , and before the words 'by a written notice: the following words shall be namely:• the same be unsafe and evict the people from the unsafe places or buildings and By Order Of the Governor. p T. D. Rinzing, Secretary to the Govt. Of Sikkim, Law Department. F. No. 16 (82) LD/2003. at Sikkim Government Press, Gangtok. SIKKIM GOVERNMENT (VI) GAZETTE Gangtok No. 10/0/2003. EXTRAORDINARY PUBLISHED BY AUTHORITY 18th August, 2003 Monday GOVERNMENT OF SIKKIM LAW DEPARTMENT GANGTOK NOTIFICATION No. 263 Dated 13.8.2003. The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 4th day of August, 2003 is hereby published for general information: THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROL) AMENDMENT ACT, 2003 (ACT NO. OF 2003) ACT Further to amend the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985. Be it enacted by the Legislature of Sikkim in the Fifty-fourth Year of the Republic of India as follows. Short title, Extent and commencement. Amendment of section 4. (1) This Bill may be called the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Amendment Act, 2003, (2) It extends to the whole of Sikkim. (3) it shall come into force, at once

2. In the Sikkim Allotment of House Sites and of Construction of Building (Regulation and Control) Act, -1985, in sub-section (1) of Section 4,- (i) clause (b) shall be omitted: (ii) clause (c) shall be

renumbered as clause (b). By order. T.D. RINZING Secretary to the Govt. of Sikkim, Law Department. E No. 16 (82)LD/2003. 49 SIKKIM GOVERNMENT GAZETTE Gangtok No. 6/LD/P/07 EXTRAORDINARY PUBLISHED BY AUTHORITY Tuesday 1st May, GOVERNMENT OF SIKKIM LAW DEPARTMENT GANGTOK NOTIFICATION 2007 No. 164 Date: 26.04.2007 The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 16th day of April, 2007 is hereby published for general information:- THE SIKKIM ALLOTMENT OF HOUSE SITES AND CONSTRUCTION OF BUILDING (REGULATION AND CONTROL) AMENDMENT ACT, 2007 (ACT No. 6 of 2007) ACT further to amend the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985. Be it enacted by the Legislature of Sikkim in the Fifty-eighth Year of the Republic of India. Short title, Extended and Commencement Amendment of Section 4. 2. (1) (2) (3) "(c) This Act may be called the Sikkim Allotment of House Sites and Construction of Building Plan to be consistent with the recommendations of the Committee for district planning. (Regulation and Control) Amendment Act, 2007. It extends to the whole of Sikkim. It shall come into force at once. In the Sikkim Allotment of House Sites and Construction of Building (Regulation and Control) Act, 1985, in sub-section (1) of Section 4, after the clause (b), the following clause shall be inserted, namely:- The Government shall reserve 3% reservation to the disabled person for allotment of house sites prospectively". By Order R. K. Purkayastha (SSJS) LR-cum-Secretary Law Department . S.G.P.G.- 164/ Gazette/ 150 cps./3.5.07

