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Separate paging is given to this part in order that it may be filed as a
separate compilation.

PART III

Laws, Regulations and Rules passed thereunder.

**JAMMU AND KASHMIR LEGISLATIVE ASSEMBLY
SECRETARIAT, SRINAGAR.**

Under Rule 64 of the Rules of Procedure and Conduct of Business
in the Jammu and Kashmir Legislative Assembly, the following Bill together
with the Statement of Objects and Reasons, is published in an extraordinary
issue of the Government Gazette.

By order of the Hon'ble Speaker.

(Sd.) **M. RAMZAN,**

Secretary.

THE JAMMU AND KASHMIR MUNICIPAL LAWS
(AMENDMENT) BILL, 2011.

[L. A. Bill No. 23 of 2011.]

A Bill to amend the Jammu and Kashmir Municipal Act, 2000 and the Jammu and Kashmir Municipal Corporation Act, 2000.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-second Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the Jammu and Kashmir Municipal Laws (Amendment) Act, 2011.

(2) It shall come into force from such date as the Government may by notification in the Government Gazette appoint in this behalf.

CHAPTER II

Amendments to the Jammu and Kashmir Municipal Act, 2000

2. *Amendment of section 2, Act XX of 2000.*—In section 2 of the Jammu and Kashmir Municipal Act, 2000 (hereinafter in this chapter referred to as the ‘principal Act’) :—

(i) after clause (14), the following clause shall be inserted, namely :—

“(14-a) “economically weaker section” means such class of persons, being permanent residents of the State, as may be notified by the Government from time to time, for the purpose of providing housing sites of the dimension 4 meter x 7.5 meter and carpet area within the range of 25 square meter to 30 square meter.”.

(ii) after clause (19), the following clause shall be inserted, namely :—

“(19-a) “floor space index” means the area that can be constructed on a piece of land divided by the total area of the land.”.

✍ (iii) after clause (20), the following clause shall be inserted, namely :—

“(20-a) “group housing” means more than two buildings on a plot with one or more floors and with one or more dwelling units in each floor.”.

(iv) after clause (22), the following clause shall be inserted, namely :—

“(22-a) “low income group” means such class of persons, being permanent residents of the State, as may be notified by the Government from time to time, for the purpose of providing housing sites which may be of the dimension 4.5 meter x 10 meter or floor area of not exceeding 50 square meter in case of flatted accommodation.”.

(v) after clause (29), the following clause shall be inserted, namely :—

“(29-a) “shelter fee” means fee levied and collected in lieu of the reservation of land or floor area, as the case may be, being an amount equal to the market value of the land or floor area determined on the basis of the rates notified by the Government, which is required to be reserved for the economically weaker sections and the lower income groups.”.

3. *Insertion of section 52 A, Act XX of 2000.*—After section 52 of the ‘principal Act’, the following section shall be inserted, namely :—

“**52 A. Constitution of Basic Services Fund.**—(1) There shall be a separate fund called the ‘Basic Services to the Urban Poor Fund’ constituted by every Municipality for delivery of basic services to the urban poor including the inhabitants of slum areas.

(2) A minimum of twenty five per cent of the funds out of development funds after reducing expenditure on establishment etc. within the budget of Municipality shall be earmarked and used for providing basic services to the urban poor, including inhabitants of slum areas on a yearly basis. The allocation to the fund shall be made from the following budgetary resources,—

(i) municipality’s own sources of revenue like taxes, fees, user charges and rent etc. ;

(ii) assigned revenues ;

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- (iii) allocations from Central or State Finance Commission or other inter-governmental transfers ;
 - (iv) contributions in cash or kind, gifts from individuals, organizations, donors for services to the poor ;
 - (v) grants from externally aided projects ;
 - (vi) sale of municipal assets ;
 - (vii) other sources as determined by the municipality.

Explanation.—For the purpose of this section any grant or contribution by whatever name called, received by the Municipality which is exclusively for the development of slum areas shall not be a part of the above earmarked fund.

(3) The earmarked funds under sub-section (1) shall be for providing basic services to the urban poor including the inhabitants of the slum areas.

Explanation.—For the purposes of this section, ‘basic services’ shall include expenditure on capital and revenue account directly incurred on water supply, drainage, sewerage, construction of community toilets, solid waste management, connecting roads, street lighting, public parks and playgrounds, community and livelihood centres, community health centres, pre-primary and primary education centres, affordable housing for poor and other services as determined by the Municipality but shall not include establishment expenses, including salary and wages, not directly and specifically incurred for delivery of basic services to the poor.

(4) The allocation of the funds and its utilization for providing basic services to the urban poor should be detailed and enclosed with the Municipal Annual Budget as Budget for poor along with the corresponding figures for the previous year.

(5) The fund shall be in the nature of a non-lapsable fund. In the event of the annual allocations not fully utilized, the balance funds

should not be transferred to the municipal general fund but carried forward for utilization in the subsequent years. The fund allocation in the subsequent years shall be considered in addition, and shall not be reduced by the unspent funds of the previous years.

(6) A separate bank account shall be opened with a nationalized bank by the name of 'Basic Services to Urban Poor Fund' account wherein funds earmarked under sub-section (1) shall be periodically deposited ensuring that the yearly allocation is equal to the allocation as in the Municipal Budget.

(7) There shall be maintained separate Primary Books of Accounts with detailed accounting heads in line with the Jammu and Kashmir Municipal Accounts Manual for operation of special fund accounts.

4. *Insertion of sections 62-A, 62-B, 62-C, 62-D and 62-E Act, XX of 2000.*—After section 62 of the 'principal Act', the following sections shall be inserted, namely :—

“62A. Reservation of Land for Housing to Economically Weaker Sections and Low Income Groups.— (1) In all Area Planning Schemes such as a Town Planning or Land Re-adjustment Scheme, there shall be reservation of not less than ten per cent of the gross land area under each scheme for the purpose of providing housing accommodation to the members of economically weaker sections and low income groups.

(2) In all residential layouts of extent above 4000 square meters, not less than ten per cent of the gross land area shall be earmarked for economically weaker sections and low income groups :

Provided that where the total extent of land is between 1000 square meters and 4000 square meters, either land may be reserved for economically weaker sections and low income groups or shelter fee as may be prescribed by the Government may be collected, as the case may be.

(3) All residential layouts of extent below 1000 square meters may be exempted from reservation of land as well as payment of shelter fee.

(4) The size of the plot reserved under sub-sections (1) and (2) for economically weaker sections and low income groups shall not be less than 30 square meters or higher, as may be prescribed by the Government.

(5) In all residential buildings with total plot area above 1000 square meters, not less than ten per cent of the floor area shall be reserved for economically weaker sections and low income groups by way of flats :

Provided that where the total plot area is between 500 square meters and 1000 square meters, either floor area may be reserved for economically weaker sections and low income groups or shelter fee be collected, as the case may be.

(6) All residential buildings with plot area below 500 square meters may be exempted from reservation of floor area as well as payment of shelter fee.

(7) The size of the unit reserved under section (5) for economically weaker sections and low income groups shall not be less than 25 square meters of carpet area or higher, as prescribed by the Government.

(8) The earmarking in sub-sections (1) and (5) shall be such that a minimum of 20 per cent of developed land or 20 per cent of floor space index in all land development or housing projects (both by Public and Private Agencies) is reserved for the economically weaker sections and low income groups category taking into account the reservation at area plan or layout approval stage or group housing approval stages together.

62B. Identification of Eligible Persons and Determination of Cost of Land or Houses.—(1) A Government Department or agency of the Government, as may be prescribed, shall maintain an inventory of all the plots or houses as the case may be, reserved for the economically weaker sections and low income groups and ensure its protection from encroachment.

(2) For the allotment of plots or houses to the economically weaker sections and low income groups, the procedure for the selection of eligible persons and the determination of the cost of such plots or houses shall be such as be prescribed by the Government.

62C. Incentives to Developers.—Every developer who makes provision for earmarking of land or floor area, as the case may be, for economically weaker sections and low income groups housing, shall be incentivized through a scheme of cross-subsidization, which

shall be such, as may be prescribed by the Government including land use concessions through conversion of part of residential use for commercial use, higher floor space index, Transferable Development Right, etc. and/or higher prices charged from Higher Income Groups.

62D. Non-residential Development.—The Government shall consider levy of suitable fee like impact fee on all non-residential land development and buildings above 1000 square meters to generate resources for the shelter fund which may be used for provision of land, housing basic service, etc. to the urban poor.

62E. Utilization of Shelter Fee.—The shelter fee collected shall be maintained in a separate account and be utilized as per guidelines for the acquisition of land, development of land and construction of houses and in such other ways so as to provide for housing to economically weaker sections and low income groups.”.

CHAPTER III

Amendments to the Jammu and Kashmir Municipal Corporation Act, 2000

5. *Amendment of section 2, Act XXI.*—In section 2 of the Jammu and Kashmir Municipal Corporation Act, 2000 (hereinafter in this chapter referred to as the ‘principal Act’) :—

(i) after clause (17), the following clause shall be inserted, namely :—

“(17-a) “economically weaker section” means such class of persons, being permanent residents of the State, as may be notified by the Government from time to time, for the purpose of providing housing sites of the dimension 4 meters x 7.5 meters and carpet area within the range of 25 square meters to 30 square meters.”.

(ii) after clause (21), the following clause shall be inserted, namely :—

“(21-a) “floor space index” means the area that can be constructed on a piece of land divided by the total area of the land.”.

(iii) after clause (23), the following clause shall be inserted, namely :—

“(23-a) “group housing” means more than two buildings on a plot with one or more floors and with one or more dwelling units in each floor.”.

(iv) after clause (27), the following clause shall be inserted, namely :—

“(27-a) “low income group” means such class of persons, being permanent residents of the State, as may be notified by the Government from time to time, for the purpose of providing housing sites which may be of the dimension 4.5 meters x 10 meters or floor area of about 50 square meters in case of flatted accommodation.”.

(v) after clause (57), the following clause shall be inserted, namely :—

“(57-a) “shelter fee” means fee levied and collected in lieu of the reservation of land or floor area, as the case may be, an amount equal to the market value of the land or floor area determined on the basis of the rates notified by the Government, which is required to be reserved for the economically weaker sections and lower income groups.”.

6. *Insertion of section 69, Act XXI of 2000.*—After section 69 of the ‘principal Act’, the following section shall be inserted, namely :—

“69A. Constitution of Basic Services Fund.—(1) A separate fund called the “Basic Services to the Urban Poor Fund” shall be constituted by every Municipal Corporation for delivery of basic services to the urban poor including the inhabitants of slum areas.

(2) A minimum of twenty-five per cent of the funds out of the development funds after reducing expenditure on establishment etc. within the municipality’s budget shall be earmarked and used for providing basic services to the urban poor, including inhabitants of slum areas on a yearly basis. The allocation to the funds shall be made from the following budgetary resources :—

(a) ‘Municipal Corporation’ own sources of revenue e. g. taxes, fees, user charges and rent etc. ;

(b) assigned revenues ;

- (c) allocations from Central/State Finance Commissions/other inter-governmental transfers ;
- (d) contributions in cash/kind, gifts from individuals, organizations, donors for services to the poor ;
- (e) grants from externally aided projects ;
- (f) sale of municipal corporation's assets ;
- (g) other sources as determined by the municipal corporation.

Explanation :—For the purpose of this section any grant or contribution by whatever name called, received by the Municipal Corporation which is exclusively for the development of slum areas shall not be a part of the above earmarked funds.

- (3) the earmarked funds shall be for providing basic services to the urban poor including the inhabitants of the slum areas.

Explanation :—For the purposes of this section 'basic services' shall include expenditure on capital and revenue account directly incurred on water supply, drainage, sewerage, construction of community toilets, solid waste management, connecting roads, street lighting, public parks and playgrounds, community and livelihood centres, community health centres, pre-primary and primary education centres, affordable housing for poor and other services as determined by the municipality but shall not include establishment expenses, including salary and wages, not directly and specifically incurred for delivery of basic services to the poor.

- (4) The allocation of the funds and its utilization for providing basic services to the urban poor should be detailed and enclosed with the Municipal Corporation's Annual Budget as Budget for the poor along with the corresponding figures for the previous year.

- (5) The fund shall be in the nature of a non-lapsable fund and in the event of the annual allocations not fully utilized, the balance

funds should not be transferred to the municipal corporation's general fund but carried forward for utilization in the subsequent years. The fund allocation in the subsequent years shall be considered in addition, and shall not be reduced by the unspent funds of the previous year.

(6) A separate bank account shall be opened with a nationalized bank by the name of 'Basic Services to Urban Poor Fund' account wherein funds earmarked shall be periodically deposited ensuring that the yearly allocation is equal to the allocation as in the Municipal Corporation Budget.

(7) There shall be maintained separate primary books of accounts with detailed accounting heads in line with the Jammu and Kashmir Municipal Accounts Manual for operation of special fund accounts.

7. *Insertion of sections 83-A, 83-B, 83-C, 83-D and 83-E Act, XXI of 2000.*—After section 83 of the 'principal Act', the following sections shall be inserted, namely :—

“83A. Reservation of Land for Housing to Economically Weaker Sections and Low Income Groups.— (1) In all Area Planning Schemes such as a Town Planning or Land Re-adjustment Scheme, there shall be reservation of not less than ten per cent of the gross land area under each scheme for the purpose of providing housing accommodation to the members of economically weaker sections and low income groups.

(2) In all residential layouts of extent above 4000 square meters, not less than ten per cent of the gross land area shall be earmarked for economically weaker sections and low income groups :

Provided that where the total extent of land is between 1000 square meters and 4000 square meters, either land may be reserved for economically weaker sections and low income groups or shelter fee as may be prescribed by the Government may be collected, as the case may be.

(3) All residential layouts of extent below 1000 square meters may be exempted from reservation of land as well as payment of shelter fee.

(4) The size of the plot reserved under sub-sections (1) and (2) for economically weaker sections and low income groups shall

not be less than 30 square meters or higher, as may be prescribed by the Government.

(5) In all residential buildings with total plot area above 1000 square meters, not less than ten per cent of the floor area shall be reserved for economically weaker sections and low income groups by way of flats :

Provided that where the total plot area is between 500 square meters and 1000 square meters, either floor area may be reserved for economically weaker sections and low income groups or shelter fee be collected, as the case may be.

(6) All residential buildings with plot area below 500 square meters may be exempted from reservation of floor area as well as payment of shelter fee.

(7) The size of the unit reserved under sub-section (5) for economically weaker sections and low income groups shall not be less than 25 square meters of carpet area or higher, as prescribed by the Government.

(8) The earmarking in sub-sections (1) and (5) shall be such that a minimum of 20 per cent of developed land or 20 per cent of floor space index in all land development or housing projects (both by Public and Private Agencies) is reserved for the economically weaker sections and low income groups category taking into account the reservation at area plan or layout approval stage or group housing approval stages together.

83B. Identification of Eligible Persons and Determination of Cost of Land or Houses.—(1) A Government Department or agency of the Government, as may be prescribed, shall maintain an inventory of all the plots or houses as the case may be, reserved for the economically weaker sections and the low income groups and ensure its protection from encroachment.

(2) For the allotment of plots or houses to the economically weaker sections and the low income groups, the procedure for the selection of eligible persons and the determination of the cost of such plots or houses shall be such as be prescribed by the Government.

83C. Incentives to Developers.—Every developer who makes provision for earmarking of land or floor area, as the case may be, for economically weaker sections and low income groups housing, shall be incentivized through a scheme of cross-subsidization, which shall be such, as may be prescribed by the Government including land use concessions through conversion of part of residential use for commercial use, higher floor space index, Transferable Development Right, etc. and/or higher prices charged from Higher Income Groups.

83D. Levy of fee on Non-residential Development.—The Government shall consider levy of suitable fee like impact fee on all non-residential land development and buildings above 1000 square meters to generate resources for the shelter fund which may be used for provision of land, housing basic service, etc. to the urban poor.

83E. Utilization of Shelter Fee.—The shelter fee collected shall be maintained in a separate account and be utilized as per guidelines for the acquisition of land, development of land and construction of houses and in such other ways so as to provide for housing to economically weaker sections and low income groups.”

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STATEMENT OF OBJECTS AND REASONS

This Bill aims to provide Legislative framework for constitution of a fund called "Basic Services to Urban Poor" for providing basic amenities to the Urban Poor ; and reservation of land for providing housing to Economically Weaker Sections.

MINISTER INCHARGE
HOUSING AND UD DEPARTMENT.