

abutting a street may lawfully extend and beyond which no portion of the building shall extend as prescribed in the building bye-laws;

- (5) "building operation" includes re-building operations, structural alterations of or additions to buildings and other operations, normally undertaken in connection with the construction of building;
- (6) "Chief Executive Officer" means Chief Executive Officer appointed under the provisions of this Act and includes an officer empowered under this Act, to exercise, perform or discharge any of the powers, duties or functions of Chief Executive Officer;
- (7) "development" with grammatical variations means the carrying out of building, engineering, quarrying or extraction of manufacture of building materials or other operations in, on, over or under the land, or erecting or re-erecting of any building on land or over water or any physical change in or on land and including redevelopment;
- (8) "engineering operation" includes the formation or laying out of means of access to a road or the laying out of means of supply out of a drain or electric supply;
- (9) "erect or re-erect" any building includes—
  - (a) any material alteration or enlargement of any building;
  - (b) mooring or installing of any boat or house-boat in the river or lake falling within the jurisdiction of any Authority;
  - (c) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation;
  - (d) the conversion into more than one place for human habitation of a building originally constructed as on such place;
  - (e) the conversion of two or more places of human habitation into greater number of such places;

- (f) such alteration of a building as affects an alteration in its drainage or sanitary arrangements or affects its stability;
  - (g) the addition of any room, building, out-house or other structure to any building;
  - (h) the construction of a wall adjoining any street or land not belonging to the owner of the wall, of a door opening on to such street; and
  - (i) reconstruction of a building or a portion thereof, by means of props, commonly known as "PAND-PAND" in Kashmir Valley;
10. "gazette" means the Government Gazette published under the authority of the Jammu and Kashmir Government;
  11. "land" shall include land which is built upon or covered with water;
  12. "local area" means any area declared to be a local area under sub-section (1) of section 3 of the Jammu and Kashmir Development Act, 1970<sup>1</sup>[\*\*\*];
  13. "Minister" means the Minister Incharge, Housing and Urban Development Department or any other Minister notified by the Government for purpose of this Act;
  14. "occupier" means any person who for the time being pays or is liable to pay to the owner the rent or any portion of the rent and includes an owner living in or otherwise using his own land or building and also a rent free tenant;
  15. "owner" when used in reference to any land or building, includes the person for the time being receiving the rent of the land or building or of any part of the land or building whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as receiver who would so receive such rent after the land, building or part thereof, as the case may be, is let to a tenant;

<sup>1</sup> Omitted by Act, VI of 1997 (S. 2) w.e.f. 28.5.1998.

16. "Plan" means master plan and includes zonal plan prepared under the Jammu and Kashmir Development Act, 1970; and

17. "regulation" means a regulation made under this Act, by the authority constituted under section 3.

### 3. Constitution of the Authority

(1) With the commencement of this Act, the authorities for the propose of this Act in any Local area, Municipal area, Town area, Notified area or area notified under the Jammu and Kashmir State Town Planning Act, 1963 shall be as under:-

(2) The Authority in respect of—

1[(a) 'Municipal area' notified under the J&K Municipal Act, Samvat 2008;

(b) 'Local area' not included in the Municipal area;

(c) 'Town area' notified under the J&K Town Area Act, Samvat 2011;

(d) 'Notified area' specified under section 283 of the Jammu and Kashmir Municipal Act, Samvat 2008;

(e) Area notified under the Jammu and Kashmir Town Planning Act, 1963 which is not a 'Local area' 'Town area' or 'Notified area';

all be appointed by the Government from time to time by notifying the Government Gazette.)

### Control of development and building operation

No person shall undertake or carry out the development of any in any Municipal area, Local area, Town Area, Notified area or a Notified under the Jammu and Kashmir State Town Planning 1963, or erect or re-erect any building or make or extend any vation or lay out any means of access to a road in such area except the previous permission of the authority concerned in writing.

Substituted by Act VI of 1997 w.e.f. 28-05-1998.

### 5. Application for permission

(1) Every person desiring to obtain the permission, referred to in section 4 shall make an application in writing to the authority or through any agency authorised, in such form and containing such information as may be prescribed by regulations made under this Act.

(2) The authority shall, within a period of 7 days of the receipt of application under sub-section (1) decline to accept a plan as sufficient for purposes of granting sanction under this Act if it does not bear the signature and seal of a Registered Architect or a Draftsman registered with the Authority.

(3) On receipt of such application the authority, after making such enquiry as it considers necessary, keeping in view the area and the laws, rules and regulations applicable therein, shall by an order in writing, either grant the permission, subject to such conditions, if any, as may be specified in the order or refuse to grant such permission, under the State Town Planning Act, 1963 or any Master Plan.

(4) Where the permission is refused, the grounds of such refusal shall be communicated to the applicant in writing within a period of 30 days.

### COMMENTS

Grant or refusal of permission - till conveyed in writing, decision is provisional.

Sec. 5 of the Act provides that once an application is made to the authority, the authority after making such inquiry and after keeping in view the area and the laws, rules and regulations applicable therein, shall by an order in writing either grant the permission subject to conditions provided therein or refuse to grant such permission. [2001 SLJ page, 472 (SB)].

### 6. Power of entry on building or land

The Authority may authorise any person to enter into or upon any site or building with or without assistants or workmen for the purpose of:-

- making any enquiry, inspection, measurement or survey or taking levels or such site of building or both;
- examining works under construction or ascertaining the course of sewers or drains;
- ascertaining whether any site is being or has been developed or any building is being or has been erected



without the permission referred to in section 4 or in contravention of any condition subject to which such permission has been granted :

Provided that :-

- (i) no entry shall be made except between the hours of sun-rise and sun-set and without giving not less than twenty-four hours written notice to the occupier, or if there is no occupier to the owner of the building or land;
- (ii) sufficient opportunity shall in every instance be given to enable women, if any, to withdraw from such land or building.

#### 7. Order of demolition of building in certain areas

(1) Where the erection or re-erection of any building has been commenced or is being carried on or has been completed without the permission referred to in section 4 or in contravention of any condition subject to which any permission has been granted, the Authority shall issue a notice in writing calling upon the person to show cause within a period of 48 hours, why the building should not be altered or demolished as may be deemed necessary to remove the contravention.

(2) The Authority shall cause the notice to be affixed on the outer door of some conspicuous part of the building whereupon the notice shall be deemed to have been duly served upon the owner or the occupier of the building.

(3) If the person to whom the notice has been given refuses or fails to show cause within a period specified under sub-section (1) or if after hearing that person, the Authority is satisfied that the erection or re-erection of the building is in contravention of the provisions of this section, the Authority shall by order direct the person to demolish, alter or pull down the building or part thereof so far as is necessary to remove the contravention within a period not exceeding five days as may be specified in the order and if the person fails to comply with the direction, the Authority may itself cause the erection or re-erection to be demolished after the expiry of the said period and may for that purpose use such Police Force as may be necessary which shall be made available to him by the Police Department on requisition.

(4) All expenses incurred for such demolition shall be recoverable from the owner and/or the occupier in the same manner as arrears of land revenue.

#### COMMENTS

Issue of notice of demolition by Patnitop Development Authority before coming into force the Control of Building Operation Act, 1988 is not maintainable. In case it is without jurisdiction, Competent Authority is debarred from initiating action under prevailing law. [2003 (1) JKJ page, 152].

The Control of Building Operation Act, 1988 cannot operate retrospectively. [2003 (2), JKJ, page, 810 (Tribunal/J&K)].

#### 8. Power to seal unauthorised construction

(1) It shall be lawful for the Authority concerned, at any time, before or after making an order of demolition under section 7 to make an order directing the sealing of such erection, re-erection or work or of premises in which such erection, re-erection or work is being carried on or has been completed for the purpose of carrying out the provisions of this Act, or for preventing any dispute as the nature and extent of such erection or work.

(2) Where any erection, re-erection or work on any premises in which any erection, re-erection or work is being carried out, has or, have been sealed, the authority concerned may for the purpose of demolishing such erection or work in accordance with the provisions of this Act, order such seal to be removed.

(3) No person shall remove such seal except,—

(a) under an order made by the Authority concerned under sub-section (2); or

(b) under an order made in an appeal under this Act.

#### 9. Penalties

~~(1) Any person who undertakes or carries out the development of any site or erect or re-erects any building or makes or extends any excavation or lays out any means of access to a road without the permission referred to in section 4 or in contravention of any condition subject to which such permission has been granted, <sup>1</sup>or obstructs the~~

<sup>1</sup> Inserted by Act VI of 1997, w.e.f. 28-05-98.

Authority under Section 8] shall be punishable with fine which may extend to ten thousand rupees and in the case of continuing offence, with a further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

(2) Any person who obstructs the entry of a person authorised under section 6 to enter into or upon any building or land or molests such person after such entry shall be punishable with fine which may extend to one thousand rupees.

(3) If the person committing an offence under this Act, is a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(4) Notwithstanding anything contained in sub-section (3) where an offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.**—For the purpose of this section—

(a) "company" means a body corporate and includes a firm or other association of individuals;

(b) "director" in relation to a firm means a partner in the firm.

#### 10. Offence to be cognizable

The Code of Criminal Procedure, Samvat 1989 shall apply to an offence punishable under section 9 as if it were a cognizable offence—

(i) for the purpose of investigation of such offences; and

(ii) for the purpose of all matters other than—

(a) matters referred to in Section 57 of the Code; and

(b) arrest of a person except on the complaint of, or upon information received from the Authority concerned :

Provided that no offence of the contravention of any condition subject to which sanction was accorded for the erection or re-erection of any building shall be cognizable, if such contravention relates any deviation from any plan of such erection or re-erection sanctioned by the Authority concerned.

#### 11. Lapse of sanction after three years

(1) Every sanction for the erection or re-erection of any building issued by the Authority shall remain in force for three years from the date of such sanction, but such lapse shall not bar for any subsequent application for fresh sanction under the foregoing provisions of this Act :

Provided the Minister shall always have power to revoke any sanction for erection or re-erection of any building at any time before the commencement of erection or re-erection of any building.

(2) Every order made by the Minister concerned under this section shall be final and shall not be called in question in any original suit, application or proceeding and no injunction shall be granted by any court in respect of any action under this Act.

(3) The provisions of this section shall have effect notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force.

#### 12. Powers to stop building operation and removal of persons thereof

(1) Where any building operation has been commenced or is being carried on in contravention of the provisions of this Act or any rule, or regulation, laws made thereunder, or without the permission referred to in section 4 but such erection has not been completed, the Authority may by a written notice require that such building operations be discontinued on and from the date of the service of the notice.

(2) Where such building operations are not discontinued the Authority may direct all persons engaged in any capacity in the work



of erecting or re-erecting building in question or part thereof to remove themselves and shall take such measures as will prevent such persons from again entering into or remaining upon such building or part thereof except with a proper permission which may be issued by the Authority.

(3) Where such building operations are not discontinued even after issuance of directions under sub-section (2) the Authority may require any Police Officer to remove the persons by whom the erection of the building has been commenced and all his assistants and workmen from the place of the building, within such time as may be specified in the requisition and, such Police Officer shall comply with requisition accordingly.

(4) No person shall be entitled to any compensation for any damage, which he may sustain in consequence of the discontinuance of the erection or re-erection of any building.

(5) All expenditure incurred in the enforcement of the provisions of this section shall be recoverable from the person concerned.

**Explanation.**—For the purpose of this section, the building operation shall include erection or re-erection of any building or any development or the engineering operation in any area.

### 13. Appeals

(1) An appeal against the order of an Authority made under <sup>1</sup>[section 5 or] section 7 shall lie to such person as the Government may by notification in the Government Gazette, appoint in this behalf (hereinafter called the Appellate Officer) within seven days after the date of the aforesaid order of the Authority. The memorandum of appeal need not be accompanied by copy of order appealed from.

(2) Where any appeal is preferred from an order of an Authority, the appellate officer shall not stay the enforcement of that order unless the Authority concerned is given an opportunity of being heard:

<sup>1</sup> Substituted by Act VI of 1997 w.e.f. 28.5.1998

Provided that where the erection or re-erection of any building was not completed on the day on which an order was made under section 7 for the demolition of such building the appellate officer shall not make any order for the stay of enforcement of such order unless such security, as may be sufficient in the opinion of the appellate officer, has been given by the appellant for not proceeding with such construction, erection or work pending the disposal of appeal.

(3) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

(4) The costs of any appeal under this section shall be in the discretion of the appellate officer.

### 14. Bar of Jurisdiction

~~No court shall have jurisdiction to—~~

- (a) ~~make any interim order whether by way of injunction or stay or in any other manner against the order of the Authority concerned or the appellate officer;~~
- (b) entertain any suit or proceeding in respect of demolition of any building.

### 15. Finality of orders

Save as otherwise provided in this Act every order made by an Authority or the appellate officer shall be final and shall not be called in question in any suit, application or execution proceeding.

### 16. Delegation

The Authority may, by notification in the Government Gazette, direct that any power exercisable by it under this Act except the power to make regulations, may also be exercised in such cases and subject to such condition, if any, as may be specified in the notification, by such officer or local authority as may be mentioned therein.

### 17. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the regulations made thereunder.

**18. Effect of provisions of the Act inconsistent with other laws**

The provisions of this Act shall apply to the erection or re-erection of buildings alongside public roads regulated under the Prevention of Ribbon Development Act, Samvat 2007.

**19. Power to make regulations**

(1) The Authority, with the previous approval of the Government, may, by notification in the Government Gazette, make regulations to carry out the purposes of this Act :

Provided that the Government may make the first regulations under this section and any regulation so made may be altered or rescinded by the Authority concerned in exercise of the powers conferred by this section.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :-

- (a) the summoning and holding of meeting of the Authority, the time and place where such meetings are to be held, the procedure to be followed by the Authority and the number of members necessary to form a quorum;
- (b) the manner of authentication of orders and other instruments of the Authority;
- (c) the form in which an application under sub-section (1) of section 5 shall be made and the information to be furnished in such application;
- (d) the regulation of the laying out of means of access to road;
- (e) the principles under which applications for permission under this Act may be granted;
- (f) the officers or local authorities to whom powers may be delegated under section 16;
- (g) any other matter which has to be, or may be, prescribed.

**20. Repeal and Saving**

Save as otherwise provided in section 18, if immediately before the commencement of this Act there is in force any provision of law

corresponding to the provisions of the Act that provision of law shall stand repealed on the said date:

Provided that the repeal shall not affect-

- (a) the previous operation of any provision of law so repealed or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any provision of law so repealed; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any provision of law so repealed; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed :

Provided further that, subject to the preceding proviso, anything done or any action taken (including any order made, notice issued or permission granted) under any provision of the aforesaid laws shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

**COMMENTS**

Where the building permission granted under Act of 1963 was not acted upon & lapsed by efflux of time as applicant was not allowed to construct by the authorities & fresh proposal submitted by the applicant was granted by the authorities under J&K Control of Building Operation Act. Such grant of fresh proposal would not be challenged as being without jurisdiction where no orders in writing were passed or communicated to concerned persons in regard to such proposal. Moreover, the later decision of approving the permission for building of petitioner shall be deemed to be an act of the authority under the Act, which has superseded the earlier permission. The decision was in force after coming into force of the Act, which in any case was enforced after coming into force of the Act of 1988. [AIR 2002 J&K 36].



# JAMMU & KASHMIR CONTROL OF BUILDING OPERATIONS REGULATIONS, 1998

Housing & Urban Development Department,  
Notification SRO 165, dated 28.05.1998

In exercise of the powers conferred under section 19 of the Jammu and Kashmir Control of Building Operations Act, 1988 (Act No. XV of 1988) and in suppression of Notification SRO 336 dated 28-11-1991, the Government hereby make the following Regulations, namely :—

## 1. Short title and commencement

(1) These Regulations may be called the Jammu and Kashmir Control of Building Operations Regulations, 1998.

(2) These shall come into force from the date of their publication in the Government Gazette.

## 2. Definitions

In these Regulations unless the context otherwise requires :

(i) "Act" means the Jammu and Kashmir Control of Building Operations Act, 1988;

(ii) "Development Authority" means the Authority constituted under the J&K Development Act, 1970;

(iii) "Form" means the forms appended to these Regulations;

(iv) "Members" means the Members of the Authority;

(v) The words and expressions used in these Regulations but not defined shall have the same meaning as assigned to them in the Jammu and Kashmir Control of Building Operations Act, 1988.

### 3. Constitution of the Authority

With the commencement of these regulations; the Authorities for the purpose of the Act in any Municipal Area, Local Area not included in the Municipal area, Town Area, Notified Area and Area notified under the J&K Town Planning Act, 1963 which is not a Local area, Town Area or Notified Area shall be as under :—

#### (a) Municipal Area :—

- |                                                                                                        |                |
|--------------------------------------------------------------------------------------------------------|----------------|
| (i) Administrator of the Municipality                                                                  | ...Chairperson |
| (ii) Chief Town Planner Dev. Authority/<br>Divisional Town Planner (in case of<br>Poonch Municipality) | ...Member.     |
| (iii) Assistant Commissioner (Nazool).                                                                 | ...Member.     |
| (iv) Executive Engineer (Public Health<br>Engineering)                                                 | ...Member      |
| (v) Executive Engineer Inspection<br>(Power Development Deptt.).                                       | ...Member.     |
| (vi) Executive Engineer (Sewerage &<br>Drainage)                                                       | ...Member.     |
| (vii) Executive Officer of the Municipality                                                            | ...Member.     |

#### b. Local Area not included in the Municipal Area :—

- |                                                                  |               |
|------------------------------------------------------------------|---------------|
| (i) Vice Chairman of the Development<br>Authority.               | ..Chairperson |
| (ii) Chief Town Planner (Development<br>Authority).              | ...Member.    |
| (iii) Collector (Land Acquisition) of<br>Authority               | ...Member.    |
| (iv) Executive Engineer (Public Health<br>Engineering)           | ...Member     |
| (v) Executive Engineer Inspection<br>(Power Development Deptt.). | ...Member.    |
| (vi) Executive Engineer (Sewerage &<br>Drainage)                 | ...Member.    |

#### c. Town Area :—

- |                                          |                |
|------------------------------------------|----------------|
| (i) Administrator of Town Area Committee | ...Chairperson |
| (ii) Chief Town Planner                  | ...Member.     |

- |                                                        |            |
|--------------------------------------------------------|------------|
| (iii) Assistant Commissioner (Revenue).                | ...Member. |
| (iv) Executive Engineer (Public Health<br>Engineering) | ...Member  |
| (v) Executive Engineer (Power<br>Development Deptt.).  | ...Member. |
| (vi) Executive Officer of Town Area<br>Committee       | ...Member. |

#### d. Notified Area :—

- |                                                                                      |                |
|--------------------------------------------------------------------------------------|----------------|
| (i) Administrator of Notified Area<br>Committee                                      | ...Chairperson |
| (ii) Divisional Town Planner                                                         | ...Member.     |
| (iii) Tehsildar.                                                                     | ...Member.     |
| (iv) Executive Engineer (Public Health<br>Engg.)                                     | ...Member      |
| (v) Executive Engineer<br>(Power Development Deptt.).                                | ...Member.     |
| (vi) Executive Officer or in his absence<br>Secretary of the Notified Area Committee | ...Member.     |

#### e. Area notified under the J&K Town Planning Act which is not a Municipal Area, Local Area or Notified area.

As may be notified by the Government.

### 4. Application for permission

(1) Every person intending to undertake or carry out the development of any site, or erect or re-erect any building or make or extend any excavation or layout any means of access to a road shall apply in Form 'A' to the Chairman of the concerned Authority. Such application shall accompany the following documents :—

- (i) 8 copies of the Building Plans duly drawn and signed either by an Architect registered with the Council of Architects or by a Draftsman registered with the concerned Municipality/Town Area Committee/Notified Area Committee;
  - (ii) an attested copy of the proof of ownership record of the land.
- (2) The Building Plan shall indicate the following details :—



- (i) the key plan of location which shall clearly and unambiguously describe the location of the proposed building;
- (ii) the nature and the use of the existing site and the use of the proposed building;
- (iii) sections and elevations of the buildings in each floor;
- (iv) specifications of the building;
- (v) the position of the door/ windows and drainage outlets with reference to the adjacent site;
- (vi) the positions of approach to the site.

#### 5. Inspection of Site

(1) On receipt of the application the Chairman of the Authority shall cause the proposed site to be inspected by the person to be authorised by the Government who shall record his opinion in form B within the period of seven days from the date of the submission of the application.

(2) The Chairman of the Authority shall simultaneously forward a copy of the Building Plan to all the Members of the authority for their inspection and opinion.

(3) On receipt of Form B the Chairman of the Authority may send the Building Plans along with inspection report for further inspection and opinion of such members of the Authority or such other departments or agencies as he may deem fit.

#### 6. Meetings of the Authority

(1) The Authority shall meet once in a fortnight on a fixed date and in case of holiday the meeting of the authority shall be held on the next working day.

(2) The date, time and place of the meeting shall be determined by the Chairman of the Authority.

(3) The notice of every meeting of the Authority shall be given in writing to every Member by such officer as may be authorised by the Chairman in this regard.

(4) The quorum for the meeting of the Authority shall be one half of its total strength.

(5) The proceedings of the meeting shall be recorded in the minutes which shall be signed by the Members present in the meeting.

#### 7. Grant of Permission

(1) The Chairman of the Authority shall place the application and Building Plan alongwith the Inspector's report before the Authority for its consideration.

(2) The Authority shall either grant the permission subject to such conditions as may be specified or refuse to grant permission on such grounds as may also be specified and recorded.

(3) The Authority shall decide the matter within a maximum period of sixty days from the date of submission of the application and in case no decision can be taken within this stipulated period, the permission shall be deemed to have been accorded.

(4) In case the Authority refuses the grant of permission the grounds of such refusal shall be communicated to the applicant in writing within seven days from the date of the decision.

(5) The permission shall be issued only after the applicant deposits the building permission fees as approved by the competent authority.

#### 8. Ownership of the land

(1) No permission shall be granted unless the applicant has provided sufficient proof in support of his ownership of the land.

(2) The following documents shall be taken as sufficient proof of ownership of the land unless this is disputed in a court of law:

- (i) sale deed/gift deed/lease deed or any other legal mode of transfer executed in the Court of Law;
- (ii) decree of legal heir passed by the Court of Law;
- (iii) mutation attested by the officials of revenue department;

(3) The permission granted by the Authority shall not by itself confer any right of ownership of the land or the building, as the case may be, upon any person.

#### 9. Delegation

The Authority may delegate all or any of the following powers to either the Chairman or such of the officers of the Municipality, Town Area Committee, Notified Area Committee or Development Authority, as the case may be, as are entrusted with the responsibility of demolition/removal of unauthorised constructions :-

- (i) powers under section 7(1) and 7(2) of the Act to issue notice to show cause why a building should not be altered or demolished;
- (ii) powers under section 7(3) of the Act to pass an order directing a person to demolish, alter or pull down a building or part thereof;
- (iii) powers under section 8(1) of the Act to pass an order directing the sealing or removal of the sealing of unauthorised construction;
- (iv) powers under section 12 of the Act to issue notice to stop building operation and removal of persons thereof.

#### 10. Appeals

(1) An appeal against the order of the Authority made under section 5 and 7 of the Act shall lie before the Chairman of the J&K Special Tribunal or such other Member of the said Tribunal as may be decided by the same Chairman.

11. The Appellate Authority may compound an offence of a minor nature specified in sub-clause (2) of these Regulations:

Provided that the compounding fee shall be worked out on the basis of rates to be notified by the Government.

(2) For the purpose of these Regulations an offence of a minor nature shall include any erection or re-erection of the building which has taken place in violation of permission referred in section 4 of the Act or deemed permission as referred in Sub-clause (2) of clause (7) of these Regulations provided that such erection or re-erection:-

- ✓ (i) does not violate the approved land-use of area as notified in the Master Plan or Town Planning scheme;
- ✓ (ii) does not violate the permissible front, rear or side set backs prescribed in the bye-laws;
- ✓ (iii) does not violate by more than 10% the permissible grounds coverage as prescribed in the bye-laws; and
- ✓ (iv) does not violate the permissible height of the building as prescribed in the bye-laws.

#### 12. Authentication of Orders and Instruments

Any order or instrument requiring authentication by the Authority shall be signed by the Chairman or any other officer authorised by him in this behalf.

#### FORM 'A'

(See Rule 4(A))

#### APPLICATION UNDER SUB-SECTION (1) OF SECTION 5 FOR PERMISSION FOR ERECTION OR RE-ERECTION OF BUILDING

To

The Chairman of the Building Operations Controlling Authority

I hereby submit an application for permission to undertake:-

- the development of the site
- construction of a building
- repair of a building

in accordance with the plans submitted herewith. I attach the following documents:

8 copies of the Building Plans showing the site plan, key location plan, section and elevations of each floor and specifications.

An attested copy of sale deed/lease deed/gift deed/Court decree/mutation order in support of ownership.

Yours faithfully

Name

Postal Address

Telephone No.

Enclosures attached:-

Copies of Building Plan showing site plan,  
Key location plan, section, elevation and  
Specifications.

Attested copy of \_\_\_\_\_  
in support of ownership of land.



<sup>1</sup>[FORM "A-1"]

(See Rule 4 (A))

AN APPLICATION UNDER SUB-SECTION (1) OF  
SECTION (5) FOR PERMISSION OR ERECTION OR  
RE-ERECTION OF BUILDING

To

The Chairman,  
Building Operations Controlling Authority,  
Patnitop Development Authority Area,  
Kud, Distt. Udhampur; J&K.

Sir

I hereby submit an application for permission to undertake:

(a) The Development of the Site.	
(b) Construction of Building.	
(c) Repair of a Building.	

in accordance with the plans submitted herewith I attach the following documents:

- (1) 8 copies of the Building Plans showing the site plan, key location plan, section and elevations of each floor and specifications.
- (2) An attested copy of sale deed/lease deed/ gift deed /court decree/ mutation order in support of ownership of the land was endorsed by the Deputy Commissioner Udhampur/Doda.
- (3) No objection certificate from the Forest Department.
- (4) No objection certificate from the Public Health Engineering Department.
- (5) No objection certificate from the Power Development Department.
- (6) No objection certificate from Sewerage & Drainage Department.

<sup>1</sup> Form A-1 added by SRO-249 dated 12.7.2001.

(7) No objection certificate from the Officer Commanding Beacon, Batote (If construction is falling on National Highway (NH1A)).

(8) No objection certificate from the Executive Engineer PWD (R&B) concerned (If construction is falling on the PWD records).

(9) No objection certificate from the Fire Services Department (In case of Hotel/Commercial Building).

(10) No objection certificate from the Pollution Control Board in case of Hotel/Commercial Establishment.

(11) Building for which permission is sought to proposed at Kh. No. \_\_\_\_\_ Khewat No. \_\_\_\_\_

Khata No. \_\_\_\_\_ Land Measuring \_\_\_\_\_

At Village \_\_\_\_\_ Tehsil \_\_\_\_\_

Distt. Udhampur/Doda.

(12) Measures proposed for disposal of liquid/solid waste of the proposed construction. \_\_\_\_\_

(13) Purpose for which the construction of Building is proposed. \_\_\_\_\_

(14) The construction of the building will be supervised by: \_\_\_\_\_

(15) Estimated cost of the proposed Building case of Hotel/Commercial Building is: \_\_\_\_\_

Rs in Lakh. \_\_\_\_\_

(16) Application form charges has been paid vide G. R. No. \_\_\_\_\_

Dated: \_\_\_\_\_

Yours faithfully,

Name : \_\_\_\_\_

S/O : \_\_\_\_\_