

Urban and Regional Development Plans Formulation & Implementation Guidelines, 2014

Volume II A

Ministry of Urban Development

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Volume II A:

National Legal Provisions in Urban & Regional Planning

1 Implications of 73rd & 74th Constitution Amendment Act

1.1 Provisions of 74th Constitution Amendment Act

The 73rd Constitutional Amendment Act came (73rd CAA) in effect from 24th April, 1993 and 74th Constitution Amendment Act (74th CAA), in effect from 1st June 1993, ushered a new era in the history of urban local government in the country. The Constitution of India has detailed provisions for ensuring protection of democracy in Parliament and State Legislatures; however, it did not make local self-government in urban areas a clear cut constitutional obligation. Even though there was provision for organisation of village *Panchayats* in the Directive Principles of State Policy, there was no reference to municipalities except implicitly in Entry – 5 of the State List, which places the subject of local self-government as a responsibility of the State. The 74th CAA (referred to as part IXA of Constitution) made provisions for decentralisation, thereby, ensuring democracy in the establishment and operation of local self-government. It bestows power to the people to plan for themselves and participate in the decision making process. The main provisions introduced by the Act are as under:

1) **Constitution of *Panchayats* and Municipalities:**

Article 243 B of 73rd CAA, provides for the constitution of *Panchayats* at three levels in a state:

- a) Village,
- b) Intermediate (may not be constituted in a State having a population not exceeding twenty lakhs) and
- c) District.

Article 243 Q of 74th CAA, provides for constitution of Municipalities in every State as given under:

- a) *NagarPanchayat* for transitional area, that is to say, an area in transition from rural to urban in character.
- b) Municipal Council for a smaller urban area, and
- c) Municipal Corporation for a larger urban area.

2) **Constitution of Ward Committees:** Article 243 S provides for constitution of ward committees, consisting of one or more wards, within the territorial area of a Municipality having a population of 3,00,000 or more.

3) **Duration of Municipalities:** Article 243 E of 73rd CAA and 243 U of 74th CAA, provides a fixed term of 5 years of a *panchayat* and municipality respectively, from the date appointed. Elections to constitute a *panchayat* or municipality are required to be completed before the expiration of the duration of the municipality.

4) **Powers, authority and responsibilities of *Panchayats* and Municipalities:** Article 243G of 73rd and 243W of 74th CAA provides powers, authority and responsibilities of Municipalities subject that legislature of the State by law endow:

- a. The *Panchayats* and Municipality with such powers and authority those are necessary to enable them to function as institutions of self-government. The law prepared by the

state government may contain provisions for the devolution of powers and responsibilities upon Municipalities, with or without conditions with respect to-

- i. the preparation of plans for economic development and social justice;
 - ii. the performance of functions and implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Eleventh and Twelfth Schedule;
- b. The Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon Municipalities themincluding those in relation to the matters listed in the Twelfth Schedule.

Table 1.1: Items listed in Eleventh and Twelfth Schedule

S.No.	29 Items of the Eleventh Schedule	S.No.	18 Items of the Twelfth Schedule
1	Agriculture, including agricultural extension	1	Urban planning including town planning
2	Land improvement, implementation of land reforms, land consolidation and soil conservation	2	Regulation of land-use and construction of buildings
3	Minor irrigation, water management and watershed development	3	Planning for economic and social development
4	Animal husbandry, dairying and poultry	4	Roads and bridges
5	Fisheries.	5	Water supply for domestic, industrial and commercial purposes
6	Social forestry and farm forestry	6	Public health, sanitation conservancy and solid waste management
7	Minor forest produce	7	Fire services
8	Small scale industries, including food processing industries	8	Urban forestry, protection of the environment and promotion of ecological aspects
9	<i>Khadi</i> , village and cottage industries	9	Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded
10	Rural housing	10	Slum improvement and up-gradation
11	Drinking water	11	Urban poverty alleviation
12	Fuel and fodder	12	Provision of urban amenities and facilities such as parks, gardens, playgrounds
13	Roads, culverts, bridges, ferries, waterways and other means of communication	13	Promotion of cultural, educational and aesthetic aspects
14	Rural electrification, including distribution of electricity	14	Burials and burial grounds; cremations, cremation grounds and electric crematoriums
15	Non-conventional energy sources	15	Cattle pounds; prevention of cruelty to animals
16	Poverty alleviation programme	16	Vital statistics including registration of births and deaths
17	Education, including primary and secondary schools	17	Public amenities including street lighting, parking lots, bus stops and public conveniences
18	Technical training and vocational education	18	Regulation of slaughter houses and tanneries
19	Adult and non-formal education		
20	Libraries.		
21	Cultural activities		

S.No.	29 Items of the Eleventh Schedule	S.No.	18 Items of the Twelfth Schedule
22	Markets and fairs		
23	Health and sanitation, including hospitals, primary health centres and dispensaries		
24	Family welfare		
25	Women and child development		
26	Social welfare, including welfare of the handicapped and mentally retarded		
27	Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes		
28	Public distribution system		
29	Maintenance of community assets		

Source: 73rd & 74th Constitutional Amendment Act

- 5) **Finances of Panchayats and Municipalities:** As per Article 243 H of 73rd & 243 X of 74th CAA it has been left to the legislature of the State to specify the imposition of taxes.

Table 1.2: Finances of Panchayats & Municipalities

Revenue Sources	Responsibility of
Taxes, Duties, fees etcetera	Levied and collected by Panchayats & Municipalities
Taxes, Duties, fees etcetera	Levied and collected by State Government
Grant-in-aid	Given to municipalities from the State Government
Funds	For crediting and withdrawal of money by Panchayats & Municipality

Source: 73rd and 74th Constitutional Amendment Act

- 6) **State Finance Commission:** Article 243 I of 73rd CAA give provision of State Finance Commission (SFC). Article 243 Y of 74th CAA extends duty/power of SFC to review the financial positions of municipalities apart from Panchayati Raj Institutions and make recommendations to the Governor.
- 7) **Committee for District Planning:** Article 243 ZD provides for constitution of District Planning Committee at district level in every state, to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.
- A close study of this article provides a reasonable inference that each municipality is expected to prepare a plan for its area and undertake the task of urban planning including town planning, regulation of land uses, construction of buildings and phasing of the programme for economic and social development as envisaged in the Twelfth Schedule.
 - The DPC would provide interaction with the municipal bodies and panchayatiraj institutions, in addition to planning and conflict resolutions.

- 8) **Committee for Metropolitan Planning:** Article 243 ZE provides for constitution of a Metropolitan Planning Committee (MPC) for planning a metropolitan area having a population of 10 lakh or more, comprising one or more districts and consisting of one or more municipalities or *panchayats*.
- 9) **Scheduled Areas:** In terms of Article 243 M of 73rd & 243ZC of 74th CAA, these provisions shall not apply to Scheduled areas and Tribal areas as referred to in Article 244 of the Constitution (i.e. Scheduled areas and scheduled tribes in the States of Assam, Meghalaya, Tripura and Mizoram.) However, Parliament may by law, extend the provisions of Part IXA to these areas subject to such exceptions and modifications as may be specified in that law.

In order to provide time to State Governments to allow changes to be made in the then existing State Municipal laws which were inconsistent with the provisions of the 74th CAA, a transition period of one year was provided, up to 31st May 1994.

1.2 New Roles and Functions of State Town and Country Planning Department

The new role of Town and Country Planning Departments that emerges out of the provisions of the 73rd & 74th CAA shall, among others, include¹:

- a) Advice and technical assistance to the State Government on matters pertaining to spatial planning and development as well as implementation of state programmes;
- b) Initiation of action pertaining to provision of legal support in relevant Acts for socio-economic, spatial planning and development processes; and on the suggested Regional and Urban Development Planning system;
- c) Assistance to the State Urban and Regional Planning Board in formulation of the State Perspective Plan and strategy of spatio-economic development of the State, having regard to proposals contained in district and metropolitan area development plans;
- d) Division of the State into various planning regions taking into account the physical, socio cultural, economic and climatic considerations and formulation of plans of their spatio-economic development to serve as a guide for resolving inter-district developmental issues and provide basis for inter-district co-operation and co-ordination with a view to prepare district development plans more harmonious;
- e) Scrutiny of the district and metropolitan area development plans for approval of State Government, taking into account the State perspective plan, spatio-economic development strategy and proposals of relevant planning region covering the district of the metropolitan area;
- f) Ensuring that respective settlement Development Plans prepared by local authorities are within the framework of the approved perspective plan of the State/settlement;

¹UDPMI Guidelines, 1996 & MM

- g) Technical assistance to local authorities if so requested at the cost of the concerned body;
- h) Preparation of the development plan in case of default by the local authority, district planning committee or the metropolitan planning committee, if so directed by the State Government, at the cost of the concerned planning body;
- i) Provision of necessary research input directly or through the help of consultants in formulation of policies, strategies, norms, standards, laws, regulations and rules pertaining to urban and regional planning and development matters;
- j) Provision of manpower training facilities;
- k) Establishment of an Urban and Regional Information System and dissemination of information.

1.3 Status of the Provisions of 74th Constitution Amendment Act on Urban Local Bodies

The 74th CAA envisages that the District and Metropolitan Planning Committees consolidate plans prepared by the *Panchayats* and the Municipalities in the district/ metropolitan region. It shall prepare a draft development plan for the district/ metropolitan region as a whole and send the “draft” District and Metropolitan Plans to the State Government. The implication is that these plans are to be integrated with the State Plans. As per the Constitutional mandate, the District and Metropolitan Development Plans have to ensure coordinated spatial planning, sharing of natural and other resources, integrated provision of infrastructure and environmental conservation. The approach has been maintained for regional planning in Chapter 4 of Volume 1.

The constitution of DPC and MPC in 74th CAA is an approach for the States to address regional planning issues. However, these provisions have not been adopted at all-India level. The study carried out by National Institute of Urban Affairs (NIUA) ‘Impact of the Constitution (74th) Amendment Act on the Urban Local Bodies: A Review, April 2007’ and MOUD ‘Strategic Plan of Ministry of Urban Development for 2011-2016’ reveals that only few States have undertaken constitution of MPC, DPC and Ward Committees (WCs), whereas there are large number of states who are yet to integrate these provision in their legislative framework. The table below shows the state wise compliance of 74th CAA provisions as on October 2004.

Table 1.3: State wise Compliance with 74th CAA as on October 2004

Sr. No.	State/ UT	Constituti on of ULB's	Reservati on of Seats	Regular Conduct of Elections	Constituti on of WC's	Constituti on of DPC's	Constituti on of MPC's	Constituti on of SFC's
1.	Andhra Pradesh	✓	✓	✓	✓			✓
2.	Arunachal Pradesh #					✓		✓
3.	Assam	✓	✓	✓		✓		✓
4.	Bihar	✓	✓	✓		✓		✓
5.	Chhattisgarh	✓	✓		✓	✓		✓
6.	Delhi	✓	✓	✓	✓			✓
7.	Goa	✓	✓	✓				✓
8.	Gujarat	✓	✓	✓				✓
9.	Haryana	✓	✓	✓		✓		✓
10.	Himachal Pradesh	✓	✓	✓				✓
11.	Jharkhand	✓	✓					✓
12.	Karnataka	✓	✓	✓	✓	✓		✓
13.	Kerala	✓	✓	✓	✓	✓		✓
14.	Madhya Pradesh	✓	✓	✓	✓	✓		✓
15.	Maharashtra	✓	✓	✓	✓			✓
16.	Manipur	✓	✓	✓				✓
17.	Meghalaya *							
18.	Mizoram **							
19.	Nagaland *							
20.	Orissa	✓	✓	✓		✓		✓
21.	Punjab	✓	✓	✓				✓
22.	Rajasthan	✓	✓	✓		✓		✓
23.	Sikkim #							✓
24.	Tamil Nadu	✓	✓	✓	✓	✓		✓
25.	Tripura	✓	✓	✓				✓
26.	Uttaranchal	✓	✓	✓				✓
27.	Uttar Pradesh	✓	✓	✓				✓
28.	West Bengal	✓	✓	✓	✓	✓	✓	✓

Source: NIUA – update table

There are no municipalities in State

* The provisions of 74th CAA are not applied to certain schedule areas and tribes of India

It can be observed that only 10 states have provision for constituting DPCs and only 1 state has provision for constituting MPC. However, other States like Maharashtra and Andhra Pradesh now have provision for constituting MPCs.

According to Indian Institutes of Public Administration (IIPA) report - 'Urban Sector Feedback for Metropolitan Planning Committees, IIPA', the status of the Metropolitan Planning Committees constituted so far or those which are in the process of being constituted as in 2011 are given in table below:

Table 1.4: Status of MPC's in various States

S.No.	Name of State	Metropolitan City	Status of MPC
1.	West Bengal	Kolkata	Constituted
2.	Maharashtra	Mumbai	Constituted
3.	Maharashtra	Nagpur	Constituted
4.	Maharashtra	Pune	Constituted
5.	Andhra Pradesh	Hyderabad	At initial stage of constitution.
6.	Karnataka	Bengaluru	At initial stage of constitution.
7.	Madhya Pradesh	Bhopal	Necessary legislation is yet to be passed
8.	Uttar Pradesh	Kanpur	State Government is considering to issue a notification under Section 57 A of UP Municipal Corporations Act, 1959 for constitution of MPC
9.	Gujarat	Ahmedabad	To be constituted
10.	Rajasthan	Jaipur	To be constituted
11.	Haryana	Faridabad	Constituted

Source: IIPA

As per the IIPA Report, the States are reluctant to expedite follow up with regard to implementation of the constitutional provisions and most of them are lagging behind in the preparation of Metropolitan Development Plan. Some of the reasons for not operationalizing the provisions of the Constitutional Amendment Act may be:

- The preparation of Metropolitan Development Plan is a professionally led spatial exercise and is not mere consolidation of the sectoral plans. The MPCs **lack adequate / requisite professional capacities** to prepare it.
- **Lack of technical expertise** in the Metropolitan Planning Committee or lack of directions/guidance for constituting the same.
- Prior to preparing a Metropolitan Development Plan (MDP), it is imperative to delineate the **metropolitan region based on certain criteria**. Barring a few mega cities like Kolkata, Mumbai, Chennai, Hyderabad and Bengaluru, none of the other metropolitan cities have delineated their respective metropolitan regions.
- For preparing Metropolitan Development Plan, a **multi-disciplinary team** comprising of Town & Country Planners as an urban planner and/or regional planner, environmental planner, transport planners and infrastructure planner as the core team and a team of experts as per requirement of the study is essentially a multi-disciplinary exercise.
- **Lack of will** among the State Governments to take action for delineating the metropolitan area as well as preparing the plan for the same.

- **Lack of incentives/initiatives** for taking appropriate action for preparation of Metropolitan Development Plan which may not be the priority for some of the State Governments.

As per NIUA study, in Karnataka, Kerala and Tamil Nadu, DPCs have been constituted and technically they are functioning. However, it is learnt that in Karnataka they have not been functioning as expected. In case of Madhya Pradesh, it is learnt that DPC has no executive powers. In Chhattisgarh, the DPC's are not functioning at all and no meetings of DPC's are being held. In fact, Kerala is the only state in the south where DPC's are active and functional.

It is apparent that many states are yet to integrate 74th CAA in terms of constituting DPC and MPC as a part of decentralized planning process in order to address the issues at all levels. Report of the Working Group on Urban Strategic Planning prepared by MoUD, has also emphasized a major thrust to Regional and Urban Planning and preparation of District, Metropolitan and City Spatial and Development Plans through strategic guidelines and financial support.

1.4 Recommendations

For promotion of stronger public private partnership, it is essential to implement 73rd and 74th CAA. Quality of development largely depends upon how direct and free participation is incorporated for development projects in local areas, this requirement is almost essential. Further, Guidelines recommend review and revision of Regional Plans and Development Plans every 5 years. This review is critical mechanism for guiding development meaningfully and can only be done through direct involvement of local communities (their representatives), concerned local authorities and experts. Therefore URDPFI Guidelines recommends that States should implement the 73rd and 74th CAA at the earliest. All legal and administrative hurdles in implementation should be addressed and actions should be taken. Some States have already shown examples in this regard. For implementation of the provisions of 73rd and 74th CAA, the recommendations on the existing setup of Development Authorities are as under:

- a) The existing State Regional and Town Planning Board, constituted under State Town Planning Act may continue.
- b) The current planning role and function of Metropolitan Regional Planning and Development Authorities and Boards constituted for planning and development of metropolitan regions may be in conflict with the role and functions of Metropolitan Planning Committee (MPC) when constituted as mandatory requirement of the provisions of the 74th CAA. Considering this and also that an established institution need not be demolished, it is suggested that these bodies be reorganised to serve as MPC itself or alternatively serve as technical arm of MPC. The Kolkata MPC model is given in Section 4.5.1 of volume 1.
- c) The Area Planning and Development Authorities constituted to prepare and enforce development plans of urban centres under the State Town and Country Planning Act or other Acts may have a conflict of role and functions with the Urban Local Authorities constituted under modified State Municipalities Act.

It is suggested that, taking into consideration the spirit of 74th CAA, these bodies should be merged or work as technical wings of the MPC and DPC wherever the case may be. Administrative amalgamation process should be effectively decided by the state governments.

- d) The existing single function boards/ undertakings like Housing Board, Electricity Board, Refuse Collection and Disposal Board, Transport Corporation/ Undertaking, which were constituted under various Acts for the purpose of discharging the specifically assigned function, may continue, if so required by the council of the local authority.
- e) Training programmes for awareness building about development process and related issues among the elected representatives is important. Such programmes should be conducted by the state governments with the help of T&CP Department and outside experts.
- f) Extra attention shall be paid on the development and administration of peri-urban areas through local self-governments so that ground developments of outer fringes of large settlements are consistent with proposals of planning activities.

The Constitution (73rd & 74th Amendment) Act, 1992 is appended as Appendix Oof Volume II B.

2 The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013

2.1 Basis of the new Act

The Land Acquisition Act of 1894 was created with the purpose of facilitating acquisition of privately held land by the government for public purposes. "Land Acquisition" plainly means the acquisition of land for some public purpose by a government agency from individual landowners, as authorised by the law, after paying a government-fixed compensation to cover losses incurred by landowners from surrendering their land to the concerned government agency.

Over a period of time numerous issues were highlighted in the 1894 Act, such as; cumbersome and costly procedure delaying the land acquisition, determination of public purpose contestable at law, property valuation techniques were flawed resulting in a heavy strain on public finances and restrictions on the scale of development and redevelopment project. It was also argued that land was acquired for number of projects with no public purpose attached, as in the case of SEZs, at well below the market value of the properties. Additionally, relocation and rehabilitation of land owners displaced by the actions of the Act, was not covered comprehensively and adequately.

It is for these and other reasons that government proposed to replace the said Act with a New Act - 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013' (effective from 1st January 2014).

This Law was proposed due to the following basic reasons:

- Public concern on land acquisition issues and absence of National law to provide for the Rehabilitation and Resettlement (R&R) and compensation for loss of livelihoods.
- Multiple amendments were made to the original Act, but principal law continued to be the same i.e. the Land Acquisition Act, 1894 which was an outdated Law.
- Need for balance was felt for addressing concerns of farmers and those whose livelihoods were dependent on the land being acquired as well as facilitating land acquisition for industrialization, infrastructure and urbanization.

2.2 Key Features

Salient features of 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013', are as following:

- As the title of the said Act suggests, it favours fair compensation rather than fast acquisition of land. Minimum compensation for land acquisition is detailed out in the Act and Indian states are even empowered to provide benefits and safeguards that go over and above the provisions of this law to the affected family.
- 'Affected families' have been defined as 'land owners' and 'livelihood losers'.
- Safeguard for 'food security' has been included by stating that multi-crop irrigated land will be acquired only as last resort under exceptional circumstances. Still, if such areas are acquired, equivalent area of culturable wasteland is to be developed for agricultural purposes or an amount equivalent to the value of the land acquired shall be deposited with the appropriate government for investment in agriculture for enhancing food-security.

- Minimum rehabilitation and resettlement (R&R) entitlements package has been introduced. Affected families will have choice of availing options given in the Act.
- Special provisions, in addition to the R& R package, have been given for SCs/STs.
- Role of *Panchayati Raj* Institutions especially *GramSabhas* has been enhanced in the Act. Consent of *GramSabha* is mandatory for acquisition in Scheduled Area.
- Special Provisions have been provided to the farmers like, farm land will be acquired only when no unutilised land is available, enhances compensation, prior consent of land losers, increased share in sale of acquired land and exemption from income tax and from stamp duty, damage to crops will be included in compensation price, 20% of the developed land (if land was acquired for urbanization purpose) will be offered to the farmers.
- Under the new Act, land can be returned to original owners if the State so decides, with the condition that land is not used within 5 years in accordance with the purpose for which it was acquired.
- Role of the District Collector has been reduced in the new Act as compared to the old one, where collector had complete authority to decide what activity constituted 'public purpose'. Under the new law, these roles of the collector are not prescribed. Under the old Act, collector could decide what quantum of compensation could be paid to those displaced while the new law has a formula for deciding the quantum of compensation.
- In the new Act, benefits for tenants and share croppers have been introduced. The law covers all tenants and share-croppers, artisans; who will not just bear the rehabilitation and resettlement benefits but will also have a share in the compensation.
- In the Resettlement area, 25 infrastructural amenities have to be provided to minimise the impact of relocation. Few of such amenities are roads, proper drainage and sanitation, safe drinking water, grazing land, fair price shops, post offices, storage facility, transport facility, burial or cremation ground etcetera.
- The provision of the New Law has been made compliant with other laws such as; The *Panchayats* Act, 1996, The Schedule Tribes and Other Traditional Forest Dwellers Act, 2006 and land transfer regulations in Schedule V area. This act has gone one step further by providing 'consent' of *GramSabhas* rather than just 'consultation' as in the above mentioned Acts.
- Diverse safe guards have been provided against indiscriminate acquisition of land. Such as, social impact assessment has been made mandatory except for irrigation projects and it has to be completed within 6 months. Use of acquired land cannot be changed from the purpose specified in the land use plan submitted at time of land acquisition.
- Transparency provisions have been provided in Act, few of which are, *GramSabha* has to be consulted in Social Impact Assessment (SIA) process, SIA document to be made available for public scrutiny, all documents mandatory to be made available in the public domain and on the website etcetera.
- Timelines have been specified in Act to make the process of land acquisition time bound. Like compensation has to be given within a period of three months from the date of the award. Monetary R&R entitlements are to be provided within a period of six months from the date of the award.
- Provisions of the New Law do not apply to the activities covered under other 13 Government of India Laws which permits land acquisition for specific purposes (like, legislations relating to National Defence, National Highway, Railway). Though the provisions of the New Law relating to compensation, rehabilitation and resettlement will apply by a notification of the Centre Government.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is a legislation that regulates land acquisition and provides laid down rules for granting compensation, rehabilitation and resettlement to the affected persons. The Act has provisions to provide fair compensation to those whose land is acquired permanently or temporarily, brings transparency to the process of acquisition of land to set up factories or buildings, infrastructural projects and assures rehabilitation of those affected. The Act establishes regulations for land acquisition as a part of India's massive industrialization driven by public-private partnership.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 Act is appended as Appendix P of Volume II B.

3 Model Regional and Town Planning and Development Law, 1985

3.1 Key features

Town and Country Planning Organisation (TCPO) formulated the Model Town and Country Planning Law in the year 1960. This model Act was revised by TCPO in year 1985 as “Model Regional and Town Planning and Development Law” to enact a comprehensive urban and regional planning legislation in all the States and UT’s. It is in the form of guidelines which ensures better overseeing and coordination of planning with implementation, so that a single agency can undertake both these functions. In the model, the planning and development authority to be constituted has been equipped with full planning and development powers to discharge the task of planning and implementation.

The Model Regional and Town Planning and Development Law, 1985 provides for the following:

- 1) Constitution of State Regional and Town Planning Board by the State Government for the purpose of advising on the delineation of the region for the planned development,
- 2) Directing the preparation of metropolitan, regional and area plans by the metropolitan, regional and area planning and development authorities,
- 3) Setting up of metropolitan, regional and area planning and development authorities for different urban and rural areas within the State to undertake preparation of development plans and to enforce and implement them,
- 4) Co-ordinating the planning and implementation of physical development programmes,
- 5) The Model Law provides 3 steps for the administration of this law, the steps are following:
 - a) Preparation of existing land use map,
 - b) Preparation of an outline development plan and comprehensive development plan and their enforcement, and
 - c) Preparation of detailed schemes of development or redevelopment as envisaged in the plans and their implementation.

The Model Regional and Town Planning and Development Law was prepared in 1985, almost 30 years ago, since then many legislative and ideological changes have taken place in the developmental approach of Govt. Also to incorporate the provisions of 74th CAA, the Model Regional and Town Planning and Development Law requires a complete revision and restructuring. Accordingly, the suggested changes in the Model law are described in the following sections:

3.2 Suggested modifications in the law

- **Replacing old Land Acquisition Act with the LARR Act (2013):** Land Acquisition Act of 1894 is suggested to be replaced by The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
- **Mandatory Implementation of 73rd and 74th CAAs:** It should be mandatory by all Urban Local Bodies (ULBs), to follow 74th CAA, for making ULBs a strong and effective body through devolution of power and functions. On the same line, Kerala Town and Country Planning Department implemented – Kerala Town and Country Planning Ordinance 2013, which came into effect following the 73rd and 74th amendments to the Constitution. The ordinance constitutes the District Planning Committee (DPC) at district level and Metropolitan Planning Committee (MPC) at Metropolitan level.

In MPC/DPC, full time dedicated urban and regional professionals for better assessment, preparation and execution or implementation of plan at both levels are required. In the DPC, an average of 1 Planner for 1 million population is suggested by the TCPO, while in MPC 1 Town Planner is required for population of 5 lakh.

■ **Inter-state Planning** – provisions, organization structure, roles and responsibilities

The main objective for setting up Inter-State Planning concept is to promote economic growth and balanced development of the Region (two or more than two states) for providing suitable infrastructural development through inter rail and road based transportation networks, minimizing the adverse environmental impact, developing selected urban settlements with urban infrastructure facilities. In India a number of Inter-State planning organizations have been established to achieve the above said objectives.

In 1985, Enactment of the National Capital Region Planning Board Act by the Union Parliament, with the concurrence of the participating States of Haryana, Rajasthan and Uttar Pradesh, NCR Planning Board was constituted.

Under section 8 of the NCRPB Act, the powers of the Board shall include the powers to:

- Call for reports and information from the participating States and the Union territory with regard to preparation, enforcement and implementation of Functional Plans and Sub-regional Plans ;
- Ensure that the preparation, enforcement and implementation of Functional Plan or Sub-Regional Plan, as the case may be, is in conformity with the Regional Plan;
- Indicate the stages for the implementation of the Regional Plan;
- Review the implementation of the Regional Plan, Functional Plan, Sub-Regional Plan and Project Plan;
- Select and approve comprehensive projects, call for priority development and provide such assistance for the implementation of those projects as the Board may deem fit;
- Select, in consultation with the State Government concerned, any urban areas, outside the National Capital Region having regard to its location, population and potential for growth, which may be developed in order to achieve the objectives of the Regional Plan; and
- Entrust to the Committee such other functions as it may consider necessary to carry out the provisions of this Act.

Similar interstate development regions may be necessary to be planned in other parts of India especially involving fast changing urban regions which fall in more than one State. The Law is suggested to be modified to include provisions for not only DPC and MPC but also for interstate authorities as stated above.

- **Joint Area Committee:** Kerala Town and Country Planning Ordinance, 2013 provides constitution of Joint Area Committee for an area of more than one Municipal Corporation, Municipal Council, Town Panchayat or Village Panchayat either in full or in part. For the purpose of planning of the area in which they are jointly interested or for which they are responsible.

- **Innovative Systems of Land Assembly:** There are various techniques to develop small or fragmented land parcels into usable land through transfer of ownership. Some of these techniques are suggested to be included in the Law.
 - **Town Planning Scheme:** Town Planning Scheme has emerged as a successful model of land development; it is suggested to include the provision in the Law. The Maharashtra Regional and Town Planning (MRTP) Act, 1966, The Gujarat Town Planning and Urban Development Act (GTPUDA), 1976 and now Kerala Town and Country Planning Ordinance, 2013, have included provisions for Town Planning Scheme.
 - **Land Pooling and Development Schemes²:** Land Pooling scheme aims to prevent, selling of land without the owner's consent. Under Delhi Land Pooling Policy, land owners can surrender their land holding into the central pool and be stake holder to the development proposed in their land. Once the land is pooled, the landowner would get back certain amount of land of their total land surrendered land as developable land.
 - **Transferable Development Rights (TDR),** TDR is a technique of land development which separates the development potential of a particular parcel of land from and allows its use elsewhere within the defined zones of the city. TDR is taken away from the zone and it is tradable. The Law shall define its use as a technique for redevelopment and reconstruction of inner city zones.
 - **Accommodation Reservation:** The concept of Accommodation Reservation allows the land owners to develop the sites reserved for an amenity in the development plan using full permissible FSI/FAR on the plot subject by agreeing to entrust and hand over the built up area of such amenity to the local authority free of all encumbrances and accept the full FSI/FAR as compensation in lieu thereof. This mechanism has considerably relieved the local authorities from incurring huge expenses for the purpose of acquisition of such lands and can be considered in the Law with certain conditions.
- **Encouraging Private and Joint Sector Participation:** The current policies of economic liberalization in the country and the emphasis on private sector participation in planning and development process should be provided with the appropriate legal support. It is suggested that private sector participation in certain sectors shall be allowed and encouraged by the law in light of the FDI policy. Local Self Government has to consult non-governmental institutions, organizations and professional bodies in the preparation of Perspective Plan for the District and Metropolitan Area.
- **Time Line:** Regional Plans and Development Plans should be for 20 years with the provisions for review / revision every 5 years to be co-terminus with the State Five Year plan. Different plans suggested:
 - Regional Plan (Inter-state/ Inter-district/ district)
 - Development Plan (planning area including the Municipal area)

²Source: Master Plan of Delhi, 2021.

Currently different time line is followed for review of regional and city or metropolitan development plans by different states which should be standardised as far as possible.

Tamil Nadu, Mizoram and Gujarat have provision of revising Developmental Plan once in 5 years of plan preparation. Karnataka provides for revision only after ten years and Maharashtra in twenty years. Himachal Pradesh provides for revision but gives no minimum time frame. Bihar has no provision of plans revision.

- **State Regulatory Body** - The Urban-Regional Planning & Development Regulatory Authority (Town Planning Board/ Town Planning Committee (Kerala)) suggested by the URDPFI Guidelines, 2014 to be established by State Governments through statutory support. The role of this State Body would be to regulate and monitor the functioning of Development bodies. The regulatory authority at the state level may function as an appellant authority to address the grievances redressal. It shall also list of authorities and roles and responsibilities to avoid multiplicity. Regulatory body should review the smooth functioning of the agencies to overcome the multiplicity, duplication or gaps. The establishment of this authority would require amendment of State Town and Country Planning Acts.

This State level apex regulatory body for appropriate functioning should be chaired, preferably, by the Chief Minister of the state with other members decided by the State government. The role of State authority to be referred from Volume I (section 3.6).

- **Disaster Risk Management:** Disaster risk management with specific reference to climate change impact and appropriate response for it should be incorporated as an important component of plan formulation with focus on better energy use, water management, green balance and reduction of vulnerability to disaster.
- **City Infrastructure Fund:** A City Infrastructure Fund should be established at urban centers by the Executive order of State Government. It should be other than the Budget fund and dedicated only for the Urban and Regional Infrastructure development. The possible sources of funding for the infrastructure fund must be defined and streamlined in consultation with State Finance Commission by the State Government.
- **Planning for Green Cities:** In view of the need for accelerated urban development and to guide cities to eco-friendly, Green city development approach should be given priority especially in green field development. Planning for such cities should be encouraged and provisions for the same to be included in the Act.

The changes in the Model Law should be considered based on the above mentioned points, provision from various State Town and Country Planning Acts and detailed study by Town and Country Planning Organisation. The Model Regional and Town Planning and Development Law, 1985 is appended as Appendix Q of Volume II B.

4 Model Municipal Law

4.1 Key features

The Model Municipal Law, 2003 prepared by Ministry of Urban Development and Poverty Alleviation (the erstwhile undivided Ministry) is an initiative to implement the provisions of the 74th CAA for empowerment of urban local bodies and provide legislative framework for implementation of the Urban Reform Agenda. The Law is expected to enhance the capacities of ULBs to leverage public funds for development of urban sector and provide an environment so that urban local bodies can play their role more effectively and ensure better service delivery.

The salient features of the Model Municipal Law are:

- 1) Constitution of the Municipal Area based on population, classification of the three levels of Municipalities and its constitution.
- 2) All the executive actions of the Empowered Standing Committee shall be taken in the name of Municipality.
- 3) Indirect election of Mayor or Chairperson for a five year term.
- 4) Constitution of Wards and Ward Committees.
- 5) State Level Municipal Establishment Audit Commission to review the staff status.
- 6) Classification of Municipal functions into:
 - a) Core municipal functions- including water supply, drainage and sewerage, solid waste management, roads, etcetera;
 - b) Functions assigned by Government³; and
 - c) Other functions.
- 7) State government can dissolve an elected body if it shows default in performance or abuse of powers, after giving due notice and review by a committee.
- 8) Provision to implement recommendations of the State Finance Commission.
- 9) "Municipal fund" with separate accounts for various services.
- 10) Preparation of budget estimation of Municipality.
- 11) Preparation of State Municipal Accounting Manual and appointment of the Municipal Accounts Committee.
- 12) State Government can appoint a professional chartered accountant as auditor. ULBs to prepare balance sheet of the assets and liabilities annually.
- 13) Municipalities to prepare an inventory of properties each year.
- 14) State Government to frame a Comprehensive Debt Limitation Policy laying down the general principles of borrowings of loans with regard to Municipalities' financial capacity.
- 15) Power of municipalities to raise loans.
- 16) Internal revenues of Municipality and power to levy taxes, user charges, fees and fines, development charge, advertisement, other taxes and tolls.
- 17) Enable participation of private sector and NGOs in construction, financing and delivery of services including billing and collection.

³The "functions assigned by Central/ State Government" may be undertaken subject to the underwriting of the costs by the concerned levels of government.

- 18) Enable setting up of State Municipal Regulatory Commission that will determine user charges and standard of services suggest avenues of private sector participation and ensure fair deal to citizens.
- 19) Agenda for urban environment management. Municipalities to prepare annual environmental and subsidy reports
- 20) Provides for the representation of Municipalities in District and Metropolitan Planning Committees.
- 21) Provision for improvement in existing area such as removal of congested buildings
- 22) Constitution of Municipal Streets Technical Committee and other aspects related to streets
- 23) Unique Premises Numbering System
- 24) Provisions for buildings
- 25) Municipal Licenses
- 26) Maintenance of Statistics
- 27) Management of Disasters

4.2 Suggested changes in the Law

The Model Municipal Law (MML) was introduced more than a decade back; it is pertinent that the provisions of MML need to be updated to bring it in harmony with the recent developments in the Municipal Law. MoUD study undertaken by NUIA to review the MML, suggested various points for revision of the provisions given in MML, based on their status of implementation.

There are various provisions in the current scenario that are vital for MML to bring it in line with the new developments in municipal governance. Provisions like reservations of seats for Women/SC/ST/BC in Municipality, Local Bodies/Municipal Ombudsman, functions and duties of *Area Sabha* Representative, disclosure of various documents relating to municipal affairs, accrual based double entry system of accounts, defining functions and responsibilities of DPCs and MPCs are suggested to be detailed out under the MML.

The above mentioned NUIA study has also highlighted lack of critical provisions in MML, such as, municipal ombudsman, accrual based double entry system; public disclosure of budget, financial and accounts of municipality; public private partnership (PPP) in the delivery of basic services of the municipality, and in performance of infrastructure projects.

4.2.1 Clause(s) for inclusion in the present MML

- Definitions of “*area sabha*” and “*area sabha* representatives” shall be defined in the MML.
- MML to be the Model Law for States to follow. It should clearly have a clause defining “Annual Rateable Value” / “Capital Value” / “Unit Area Value” / “Annual Letting Value.”
- Definition of “Local Bodies or Municipal Ombudsman”/ under jurisdiction of *LokAyukta* should be defined. According to 13th Central Finance Commission, the state government must put in place a system of independent local body Ombudsman. However, it is left to the States to decide which system to follow.

- **Provision on reservation:**Article 243 T of the Constitution of India provides for reservation of women, SC, ST, and BC. Since MML supplement the aims of 74th CAA, it should be incorporated in MML.
- **Provisions relating to Local Bodies/Municipal Ombudsman:**The Second Administrative Reforms Commission and the 13th Finance Commission have recommended that a separate Ombudsman for local bodies be constituted to look into the complaints of corruption and mal-administration against the functionaries of local bodies.
This may also include Staff's review on the Non- Ethic practises and provision for the protection of whistle blowers. In case, the municipality opts to create a position of local bodies' ombudsman, it is necessary to add provisions relating to appointment, functions, powers, term of office, conditions of service, procedure of disposal of complaint filed to his office etcetera.
- **Formulation of citizen's charter** – provision for Citizen's Charter formulation under "Action Plan for Effective and Responsive Government" (1997) to be suggested in the MML. Citizen's Charter and Grievance Redressal Bill, 2011 is also under consideration in Parliament, which will support the amendment in MML. The role of the charter to be well defined including Grievance Redressal other than those handled by Local Bodies/Municipal Ombudsman and focus on development of e-governance mechanisms for Public accountability, Duties of the staff, Transparency and People's participation.
- **Accrual Based Double Entry Accounting System:** Currently double entry accounting system is followed by most of the Municipalities in the country. However, as per the mandate of the JnNURM, accrual based accounting system should be followed as it estimates the future generation of revenue and expenditure of the Municipality. MML does not mention this provision. Since it is one of the important reforms undertaken through JnNURM scheme, it is important that a corresponding provision is incorporated in the MML.
- **Action taken report:** The Municipal Authorities must send an action taken report to the State Government on the defects detected by the government auditor.It is imperative that this provision should be included in MML for other states to follow.
- **Establishment of Escrow Account for any particular project:**An escrow account for particular projects helps the municipality to maintain their accounts clear in terms of borrowing and in terms of future borrowings needs of the municipality. It will increase transparency for the lenders/stakeholders. Considering few states have already established an escrow account, such provision may be added to MML as an option for the municipalities that wish to opt for it.
- **Property Tax assessment:** MML should have a provision regarding manner of assessment of property tax. Municipal Acts must specify whether an assessee would file a Self-assessment or a bill would be presented to him by the municipality.
- **Functions and Responsibilities of DPC & MPC:** MML only speaks of constitution of these committees, which does not suffice the purpose. Therefore, it is suggested to define the provisions relating to composition, role and responsibilities of MPC/DPC as well as their jurisdictions as envisaged under the constitutional provisions including specifying the organization which will function as the technical and administrative secretariat of the MPC/DPC.
- **Fire hazard and disaster risk response:** One of the conditions of the 13th Central Finance Commission was that all the municipal corporations must put in place a fire hazardresponse and mitigation plan for million plus cities. Therefore, MML should contain a provision with respect to fire

hazard response plan, if not for all the Disaster managements. URDPFI recommends fire hazard disaster risk response to be incorporated focusing on reduction of vulnerability.

- **State Regulatory Body** - The Urban and Regional Development Regulatory Authority suggested by to be established by State Governments through statutory support should play a crucial role to regulate and monitor the functioning of Development bodies. Grievances redressal system, roles and responsibilities of authorities to be integrated with the State Regulatory Body. Therefore, functions of State Regulatory Body to be incorporated in the Model Municipal Law.

4.2.2 Additional Provisions

4.2.2.1 State Property Tax Board / Act

The 13th Central Finance Commission recommended for a State Property Tax Board to put in place an independent and transparent procedure for assessing property tax.

MML provides for a provision mentioning the State Property Tax Board, however, it does not clearly state the provisions relating to its establishment, composition, functions, powers, accounts, budget, etc. It could be a useful provision since property taxation is an important source of revenue and this would help improve the valuation of the property in a systematic and transparent way.

4.2.2.2 State Finance Commission

The 13th Central Finance Commission suggests that the States Governments must prescribe through an Act qualification of persons eligible for appointment of the State Finance Commission (SFC). Therefore, MML is suggested to prescribe a provision for establishment of permanent SFC cell.

4.2.2.3 Notification with Respect to Service Levels

The 13th Central Finance Commission suggests that State Government must notify or cause all municipalities to notify at the end of the fiscal year - the service standards for four service sectors (Water Supply, Storm Water Drainage, Sewerage and SWM). For a step towards the compliance of such reforms, MML must contain this provision.

4.2.2.4 Human Resources Policy Reform

Services provided by local bodies for SWM, Sewage, Water Channels and Electricity plays a crucial role in maintaining environmental standards of city and as well quality of life of residents. Municipal law looks at only the performance of this function. However, the most neglected part of this function is the health hazards of the employees, who are directly related to perform this function. For mitigating health hazards to the employees of the Municipality dealing in the works relating to sewerage, garbage collection, etc. - Municipality should provide proper gear to its employees like uniforms, gloves, gum boots, masks, first-aid kit etc. Even though human contact cannot be avoided in the performance of these tasks, the only minimal requirement of proper

equipment and gear should be provided to employees. Inclusion of this provision is important to realize the vision of smart, sustainable and responsible cities.

4.2.2.5 Exemptions as incentive

It is essential to provide for the extent of Exemption in the property taxation on defined conditions. Property tax exemption can be provided for following or implementing certain desirable projects like, Green development, Rain water harvesting, Solar power installation in building and Green building etc. as an incentive. As per the NUIA study, Municipal Acts of Bihar has no provision mentioning the exemptions from property taxation, but many other states have already provided for exemptions. It is suggested that MML provide for any such provision.

4.2.2.6 Rain Water Harvesting Mandatory

It is one of the optional reforms under JnNURM. Looking at the urban growth, rainwater harvesting should be a mandatory provision in all the Acts to recharge groundwater and augment overall water availability. Such provisions in the Municipal Act may ensure its application in the Local Area Plans and Special Purpose Plan. It is suggested to include this in the MML and places where it can be made mandatory with in the building bye laws depending upon enforcement capabilities and local conditions.

The Model Municipal Law, 2003 is appended as Appendix R of Volume II B.

5 State Level Legal Framework – Comparative Analysis

5.1 Overview

Urban and regional planning legislation controls the planning and development activity in a State. Some states have comprehensive Town and Country Planning legislation which provides for urban planning and development from a regional perspective beyond the city limits and coordinated with the overall framework of economic development, priorities and resource availability. Some of these states are Goa, Gujarat, Himachal Pradesh, Karnataka, Kerala, Nagaland, Orissa, Punjab, Rajasthan, Tripura and Uttar Pradesh.

Town and Country Planning Organisation (TCPO) with the direction from MoUD conducted brainstorming session throughout the country during 2008 to 2010. Further, during the formulation of URDPFI Guidelines, various workshops were conducted in both the studies to share knowledge on urban development practices and development policies / strategies of respective States and recommendations / advice were provided to all the States. TCPO has analysed the status of T&C planning Acts of the States. An overview of the States in terms of implementation of T&C Planning Acts in their jurisdiction is given in table no.5.1. This table has been updated as per the latest information available as on 31st July 2013 from TCPO with respect to the cities who have prepared Statutory Master Plans.

Table 5.1: Comparison of Town and Country Planning Acts & implementation across Nation

Sr.No.	Name of State	Whether Town and Country Planning Dept. Exists	Whether T & CP Act enacted	No of Towns as per Census 2011	No. of Census Towns	No. of Statutory Towns (ULBs)	Statutory Towns (%)	No. of Master Plan Approved	No. of Master Plans Under Preparation	Towns having Master Plan (%)
1	Andhra Pradesh	Directorate of Town & Country Planning	Andhra Pradesh Town and Country Planning Act, 1920	353	228	125	35	89	60	25
2	Arunachal Pradesh	Department of Town & Country Planning	Arunachal Pradesh Urban and Country Planning Act, 2007	27	1	26	96	1	3	4
3	Assam	Directorate of Town & Country Planning	Assam Town and Country Planning Act, 1959	214	126	88	41	36	42	17
4	Bihar	Department of Town & Country Planning	Bihar Urban and Regional Planning and Development Act, 2011	199	60	139	70	9	20	1
5	Chhattisgarh	Department of Town & Country Planning	Chhattisgarh Town and Country Planning Act, 1973	182	14	168	92	28	64	15
6	Goa	Department of Town & Country Planning	Goa Town and Country Planning Act, 1974	70	56	14	20	13		19
7	Gujarat	Department of Town & Country Planning	Gujarat Town Planning & Urban Development Act, 1976	348	153	195	56	125	14	33
8	Haryana	Department of Town & Country Planning	Haryana Development & Regulation of Urban Areas Act, 1975.	154	74	80	52	66		20
9	Himachal Pradesh	Department of Town & Country Planning	Himachal Pradesh Town and Country	59	3	56	95	19	0	31

Table 5.1: Comparison of Town and Country Planning Acts & implementation across Nation

Sr.No.	Name of State	Whether Town and Country Planning Dept. Exists	Whether T & CP Act enacted	No of Towns as per Census 2011	No. of Census Towns	No. of Statutory Towns (ULBs)	Statutory Towns (%)	No. of Master Plan Approved	No. of Master Plans Under Preparation	Towns having Master Plan (%)
Planning Act, 1970										
10	Jammu & Kashmir	Department of Town & Country Planning	Jammu & Kashmir Development Act, 1970	122	36	86	70	2		2
11	Jharkhand	Department of Town & Country Planning	Jharkhand Town Planning and Improvement Trust Act, 1954 (adopted from Bihar)	228	188	40	18	5		2
12	Karnataka	Department of Town & Country Planning	Karnataka Town and Country Planning Act, 1961	347	127	220	63	159	7	46
13	Kerala	Department of Town & Country Planning	Kerala Town Planning Act, 1939	520	461	59	11	49	15	9
14	Madhya Pradesh	Department of Town & Country Planning	Madhya Pradesh Nagar Thatha Gram NiveshNiyam, 1975	476	112	364	76	93	63	18
15	Maharashtra	Directorate of Town Planning & Valuation	Maharashtra Regional and Town Planning Act, 1966	534	278	256	48	275		51
16	Manipur	Department of Town and Country Planning	Manipur Town and Country Planning Act, 1975	51	23	28	55	19	0	37
17	Meghalaya	Directorate of Urban Affairs	Meghalaya Town and Country Planning Act, 1973	22	12	10	45	15	4	68
18	Mizoram	Department of Town and Country Planning	Mizoram Urban & Regional Development Act, 1990	23	0	23	100	15		65

Table 5.1: Comparison of Town and Country Planning Acts & implementation across Nation

Sr.No.	Name of State	Whether Town and Country Planning Dept. Exists	Whether T & CP Act enacted	No of Towns as per Census 2011	No. of Census Towns	No. of Statutory Towns (ULBs)	Statutory Towns (%)	No. of Master Plan Approved	No. of Master Plans Under Preparation	Towns having Master Plan (%)
19	Nagaland	Department of Town and Country Planning	Nagaland Town and Country Planning Act, 1980	26	7	19	73	10	1	38
20	Orissa	Department of Town and Country Planning	Orissa town Planning and Improvement Trust Act, 1956	223	116	107	48	72	22	32
21	Punjab	Department of Town and Country Planning	Punjab Regional Town Planning and Development Act, 1995	217	74	143	66	32	27	6
22	Rajasthan	Department of Town and Country Planning	Rajasthan Urban Improvement Act, 1959	297	112	185	62	183	46	62
23	Sikkim	No independent Town and Country Planning Department, however Town Planning cell exists under Urban Development and Housing	The Sikkim Urban and Regional Planning and Development Act, 1998	9	1	8	89	4	17	44
24	Tamil Nadu	Department of Town and Country Planning	Tamil Nadu Town and Country Planning Act, 1971	1097	376	721	66	123	50	11
25	Tripura	Department of Town and Country Planning	Tripura Town and Country Planning Act, 1975	42	26	16	38	13		2
26	Uttar Pradesh	Department of Town and Country Planning	Uttar Pradesh Urban Planning and Development Act, 1973	915	267	648	71	207	25	23
27	Uttarakhand	Department of Town	Uttarakhand Urban	115	41	74	64	42	0	37

Table 5.1: Comparison of Town and Country Planning Acts & implementation across Nation

Sr.No.	Name of State	Whether Town and Country Planning Dept. Exists	Whether T & CP Act enacted	No of Towns as per Census 2011	No. of Census Towns	No. of Statutory Towns (ULBs)	Statutory Towns (%)	No. of Master Plan Approved	No. of Master Plans Under Preparation	Towns having Master Plan (%)
		and Country Planning	Planning and Development Act, 1973							
28	West Bengal	Town and Country Planning Cell functioning under Urban Development Department	West Bengal Town and Country (Planning and Development) Act, 1979	909	780	129	14	126	85	5
29	A & N Islands.	No independent Town and Country Planning Department exists as on date. A small Town and Country Planning unit is working under the Comm-cum-Secy(PWD/UD) & Chief Engr as part of APWD.	Andaman & Nicobar Town and Country Planning Regulations, 1994	5	4	1	20	1	Not reported	20
30	Chandigarh	Department of Urban Planning	The Capital of Punjab (Development and Regulation) Act, 1952	6	5	1	17		2	0
31	Delhi	Town Planning Department, MCD	Delhi Development Act, 1957	113	110	3	3	1	0	1
32	Dadra & Nagar Haveli	Department of Town and Country Planning	Dadra & Nagar Haveli Town and Country Planning Act, 1974	6	5	1	17	6	0	100
33	Daman & Diu	Department of Town and Country Planning	Daman & Diu Town and Country Planning Act, 1974	8	6	2	25	1	0	13

Table 5.1: Comparison of Town and Country Planning Acts & implementation across Nation

Sr.No.	Name of State	Whether Town and Country Planning Dept. Exists	Whether T & CP Act enacted	No of Towns as per Census 2011	No. of Census Towns	No. of Statutory Towns (ULBs)	Statutory Towns (%)	No. of Master Plan Approved	No. of Master Plans Under Preparation	Towns having Master Plan (%)
34	Lakshadweep	No Town and Country Planning Department, However the works are handed by PWD	Yet to be enacted	6	6	0	0			0
35	Puducherry	Department of Town and Country Planning	Puducherry Town and Country Planning Act, 1969	10	4	6	60	4	0	40
Grand Total				7933	3892	4041	51	1843	567	23

Source: TCPO, MoUD 2011

As reflected in table above, barring UT of Lakshadweep, all States and UTs of India have Town and Country Planning Acts and Departments. It has been noticed that all the new States including Chhattisgarh, Jharkhand and Uttarakhand have their own Town and Country Planning Acts. However, these Acts are same as enacted by their original State from where they were bifurcated.

There are few States which have enacted or are in process to enact new laws with respect to Urban Development and Town Planning. Bihar has enacted Bihar Urban Planning and Development Act, 2012.

Based on the understanding from existing UDPFI guidelines, it is essential to identify gaps and best practices which are adopted by States with respect to Urban and Regional Development. Comparison of some of the States as case studies has been undertaken for the review T&CP Acts of country. The States have been chosen in such a manner so that it covers almost all the region, i.e. North, West, South and East, of the country. Moreover, for review purpose, various parameters such as Regional Development, Land Acquisition Mechanism, affirmation with 74th CAA, institutional setups are considered. These States are:

- **North:** Himachal Pradesh
- **South:** Tamil Nadu and Karnataka
- **East:** Bihar and Mizoram
- **West:** Maharashtra and Gujarat

5.2 Key Features of Various State Level Legislation

Table 5.2: Comparison of Town and Country Planning Acts of seven States

S.N o.	Criteria	Tamil Nadu	Karnataka	Himachal Pradesh	Mizoram	Bihar	Maharashtra	Gujarat
1	State Planning Committee/Board/Authority	Provision of State Planning board	Provision of State Planning Board	Directorate of Town and Country Planning, headed by the Director, appointed by State	Mizoram Urban Planning and Development Board/committee	Bihar Urban Planning and Development Board The Government may also constitute Urban Arts and Heritage Commission	No provision for State Level Planning Committee or Board or Authority.	No provision for State Level Planning Committee or Board or Authority.
2	Functions Of State Planning Board	■ To guide, direct and assist the planning authorities ■ Advise the State Government on planning matters ■ Direct the preparation of Development Plans by Planning Authorities ■ Prepare and furnish reports relating to the working T&C Act	Not Applicable	Not Illustrated	■ To prepare and enforce Integrated Interim Development Plan, District or Regional Development Plan, Rural or Sectoral Plan, Urban Development Plan and Action ■ To prepare Development Scheme ■ To prepare Regional and Rural Centre Development Plan and integrating Urban and Rural Development schemes and Development Plans prepared by the Municipalities or Village Councils or any Local authority and assist the State Government to co-ordinate development activities at all levels within the Planning Area or	■ To guide, direct and assist the Planning Authority ■ Advise on the delineation of the Planning Area(s) and direct the preparation of Development Plan ■ Undertake, assist and advise on the coordination of planning and implementation of physical development programmes ■ Direct the preparations of one or more Regional Development Plan, Regional Transportation Plans, Town Development Plans ■ Direct the preparations of one or more regional natural resources and environmental Conservation Plans	Not Applicable	Not Applicable

S.N o.	Criteria	Tamil Nadu	Karnataka	Himachal Pradesh	Mizoram	Bihar	Maharashtra	Gujarat
					Region			
3	Metropolitan Development/Planning Authority/Committee	Establishment of Chennai Metropolitan Development Authority Functions and Powers : - To prepare a Master Plan or a detailed Development Plan or a new Town Development Plan - To prepare a new Town Development Plan for the area concerned to secure the laying out and development of the new town in accordance with the new Town Development Plan	Separate Provision in Bangalore Metropolitan Region Development Authority Act, 1985	No provision to constitute	No provision to constitute MPC	The act doesn't have provision for constituting the Metropolitan Planning Authority or Committee, however it defines the function of MPC to prepare Development Plan for Metropolitan Area	No provision, however a separate act makes mandatory to constitute Mumbai Metropolitan Region Development Authority under Bombay Metropolitan Region Development Authority Act, 1974	No provision to constitute
4	Planning Area	- Regional Planning area - based on Population and type of development - Local Planning Area - based on Population and type of development and provision in Regional Plan - New Town Area - based on Population and type of development and provision as new town in Regional Plan	State has got power to declare any area in the State to be a Local Planning Area.	State to declare Planning area	State government in consultation with Board or Committee may declare the limit of Town or Urban area in the State	State on advice of Board may declare or withdraw the regions or areas, including a Metropolitan Area or area for development of new towns in the State to be a Planning Area	Criteria for delineation of planning area is not described	Development area and Urban Development area to be declared by State Government
5	Planning Authorities	Planning Authorities to be constituted at different level as:	The State Government in consultation with	Town and Country Planning	District Planning and Development Committee	State to constitute the Planning Authority and it shall be known by such	- Regional Planning Board - Special Planning	Area Development Authority

S.N o.	Criteria	Tamil Nadu	Karnataka	Himachal Pradesh	Mizoram	Bihar	Maharashtra	Gujarat
		- The Regional Planning Authority - The Local Planning Authority - The New Town Development Authority	the Board may constitute Planning Authority after declaration of planning area	Authority to constitute by the State Special Area Development Authority to be established for special areas as identified by State or in Regional Plan	City or Town Planning and Development Committee	name as the Government may determine	Authority New Town Development Authority	Urban Development Authority
6	Function and powers of Planning Authority	The Regional Planning Authority to: - carry out a survey and prepare reports on the surveys - prepare an existing land use map Local Planning Authority to: - carry out a survey of the Local Planning Area - prepare reports on the surveys - prepare a Master Plan and a Detailed Development Plan New Town Development Authority to: - prepare a new Town Development Plan - carry out building and other operations	Planning Authority (as mentioned in section above) Preparation of a map showing present land use The planning authority to: - Prepare Outline Development Plan prior to the preparation of Master Plan - Carry out the survey as soon as the planning area declares Preparation of Master Plan. - Prepare Town Planning Scheme Implementation of plan , Once the Master Plan is	Special Area Development Authority - To prepare Development Plan for the special area; - to implement the Development Plan - to provide for the municipal management of the special - to otherwise perform all such functions with regard to the special area as specified by State Government from time to time.	Function and powers of Planning Authority or board are described(same as in row 2)	- Planning Authority shall carry out such functions and exercise such powers as may be prescribed by the Rules - Planning Authority may carry out or cause to be carried out surveys of its Planning Area and to prepare report or reports of such surveys - Every planning authority will prepare a present Land Use Map and a Land Use Register - Planning Authority to prepare a Development Plan after declaration of Planning Area	Regional Planning Board to: - carry out a survey of the region, and prepare reports on the surveys so carried out - prepare an existing-land-use map for the purpose of preparing a Regional Plan; - prepare a Regional plan Special Planning Authority to: - carry out a survey and prepare an existing land-use map of the area, and prepare and publish the draft proposals for the lands	Area Development Authority to undertake: - Preparation of Development Plans - preparation of Town Planning Schemes to carry out surveys in order to prepare Development Plans - control the development activities Urban Development Authority to undertake: - Preparation of Development Plans - preparation of Town Planning

S.N o.	Criteria	Tamil Nadu	Karnataka approved by the State,	Himachal Pradesh	Mizoram	Bihar	Maharashtra	Gujarat
								Schemes ■ carry out surveys in order to prepare Development Plans ■ control the development activities ■ guide, direct and assist the local authorities
7	Preparation of Plans	■ Regional Master Plan ■ New Town Development Plan ■ Detailed Development plan	Master Plan	■ Regional Plan ■ Development Plan and Sectoral Plan	■ District or Regional Development Plan, ■ Urban Development Plan, ■ Rural or Sectoral Plan, ■ Action Plan	■ Development Plan ■ Metropolitan area Development plan	■ Regional Plans ■ Development Plan ■ Preparation of Development Plan for additional area	Development Plan
8	Scope/Objectives/Contents of Plans	Objectives of each type of plan is defined	Contents of Master Plan are elaborated	Contents of Development Plan and Sectoral Plan are elaborated	Contents of each type of plan as mentioned in act are elaborated	Scope and Contents of Development Plan are illustrated	Contents of Regional Plan and Development Plan are elaborated	Contents for Draft Development Plan are elaborated
9	Affirmation with 74th Amendment Act	DPC and MPC are not incorporated	DPC and MPC are not incorporated	DPC and MPC are not incorporated,	State to constitute District Planning and Development Committee and City or Town Planning and Development Committee. Chairman of the committee to be appointed by State whereas other members to be selected at district level and city level in	No provision for constituting DPC and MPC. However it elaborates some functions of MPC	No provision for DPC and MPC.	No provision for MPC and DPC

S.N o.	Criteria	Tamil Nadu	Karnataka	Himachal Pradesh	Mizoram	Bihar	Maharashtra	Gujarat
					compliance with the Act.			
10	Provision for Regional Planning	Provision of Regional Planning to be done by Regional Planning Authority	No provision for Regional Planning	Provision for preparation of Regional Plan	Provision for preparation of District or Regional Plan	The Act doesn't have specific provision for Regional Development Plans, however it defines basic scope of Development Plans which also include Regional Plans	The Act has provision for Regional Planning Board and elaborates its function with respect to regional development	No provision for Regional Planning. Though the Act provides for Development Area however it does not elaborate on the spatial extent and criteria for declaration of such area.
11	Town Planning/Development Scheme	Detailed Town Planning Schemes prepared under the Tamil Nadu Town Planning Act, 1920,	Planning Authority, for the purpose of implementing the proposals, may make one or more town planning schemes for the area within its jurisdiction	The Town and Country Development Authority may, at any time, declare its intention to prepare a town Development Scheme and provisions are define to incorporate in Town Planning scheme. State has power to give directions to frame/modify or revoke the scheme	For the purpose of implementing the proposals contained in the Development Plan, prepare one or more Development Scheme for five years or for one year. Development Scheme to be developed in respect of: (a) in the course of development, (b) likely to be used for building purposes or (c) already built up.	The planning authority may invite area Development Schemes from developers. An Area Development Scheme may be made in respect of any land which is:- (a) in the process of development, (b) likely to be used for any development including building purposes, or (c) already built upon.	A Planning Authority may for the purpose of implementing the proposals in the final Development Plan, prepare one or more Town Planning Schemes for the area within its jurisdiction. Contents of draft scheme is elaborated	Appropriate authority may make one or more Town Planning Scheme for the respective development area. Town Planning Scheme may be made in respect of any land in the course of development, likely to be used for building purposes and already built upon. Content of draft scheme are defined in the act.
12	Periodic Revision of Plans	Provision of reviewing the Regional Plan once in 10 years and	At least once in every ten years from the date on	Provision for review the Plans at any time; however	District or Regional Development Plan shall be reviewed at	No provision	■ The State Government can revise at any	■ At least once in ten years. ■ Area

S.N o.	Criteria	Tamil Nadu	Karnataka	Himachal Pradesh	Mizoram	Bihar	Maharashtra	Gujarat
		the Master Plan may be reviewed once in in 5 years.	which the Master Plan has come into force	minimum timeframe has not provided.	least once in every 10 years whereas, Interim Development Plan, Urban Development Plan and Rural or Sector Plan shall be reviewed at least once in every 5 years		time after a Regional plan has come into operation, but not earlier than ten years The revision shall be at least once in twenty years from the date on which a Development Plan has come into operation,	Development Authority shall revise Development Plan
13	Land Assembly/Mechanism/Acquisition	- Power to acquire land under the Land Acquisition Act - Acquisition of land by agreement, however if the value of such land exceeds fifty thousand rupees, appropriate Planning Authority shall not enter into such agreement without previous approval of the Government	- Power to acquire land under the Land Acquisition Act or - Acquisition of land by agreement,	- Power to acquire land under the Land Acquisition Act or - Acquisition of land by agreement,	Land can be acquired by following ways: - compulsorily ; - by agreement ; or - by taking an application to the collector for acquiring such land under the Land Acquisition Act, 1894	Acquisition of Land by Way of - Transferable Development Right - Accommodation Reservation - Purchase of Land by way of Negotiated Settlement - Power to Acquire land under the Land Acquisition Act, 1894 or any other Land Acquisition Act	Acquisition of Land by Way of - Transferable Development Right - Accommodation Reservation - Purchase of Land by way of Negotiated Settlement Power to Acquire land under the Land Acquisition Act, 1894 or any other Land Acquisition Act	Acquisition of Land either by agreement or Under Land Acquisition Act 1894 by Area Development Authority

Source: Respective Acts

Various criteria are identified for making the comparisons of T&CP Act of the States. It has been observed in the table above that there is no provision of constituting State level Planning Board or Committee in the States of Gujarat and Maharashtra. But in Bihar, the recently enacted Urban Planning and Development Act in 2012 gives provision to constitute Urban Planning and Development Board at State level. This Act also recommends constituting the Urban Arts and Heritage Commission in order to (a) preserve and conserve archaeological and historical sites, (b) restore and conserve urban design in planning area. Karnataka and Himachal Pradesh have provision of constituting the State Level Planning Boards; however functions of these boards are not specified in their respective T&CP Acts.

The State may notify Planning Area in consultation with Planning Boards. However, in many States such as Karnataka, Himachal Pradesh, Maharashtra and Gujarat, the State Government without any consultation with the Planning Boards can notify Planning or Development Area for the region. Tamil Nadu is the only State which elaborates the criteria for delineating the Planning Boundary whereas other States have not considered any such criteria in their respective Acts.

The role of Planning Board is significant for constituting the Planning Authorities for Notified Planning Area. It has been observed that every State has its own hierarchy for constituting Planning authorities / Committees for the planning area. States of Tamil Nadu and Maharashtra have a provision to constitute the Regional Planning Authority, whereas in Gujarat, Area Development Authority and Urban Development Authority are to be constituted for development of settlements. Though, the extent of Development Area is not defined in the Gujarat TP&UD Act which may create confusion in deciding the region's boundary. The constitution of District Planning Committee (DPC) is almost left by every State except Mizoram. The Mizoram Urban and Regional Development Act, makes mandatory to constitute DPC and City or Town Planning Committee in accordance with 74th CAA, however function and power of DPC are not specified. Mizoram Urban and Regional Development Act, have provision for constituting Local Authorities such as Village Councils and Municipalities to participate in planning process.

On the same line, Tamil Nadu, Karnataka and Maharashtra have also made a provision with respect to constitution of Metropolitan Development Authority. However this provision is limited to Chennai, Bangalore and Mumbai. All other Metropolitan cities in these States such as Pune, Nagpur and Mangalore etcetera have been ignored. It has been noticed that States such as Maharashtra and Himachal Pradesh have special provision to constitute Special Area Development/Planning Authority in order to develop Notified Area.

In order to prepare Plans at different levels, most of the States have provision for Development Plan or Master Plan which is to be developed for Notified Planning Area, whereas Tamil Nadu and Maharashtra have specific provision to formulate Regional Plans in identified region.

Town Planning or Development scheme is an important tool to develop land; every State has made provision to develop Planning/Development Scheme. Land acquisition is an important aspect for implementation of plans. States empower Planning Authorities through T&CP Acts to acquire land, however mechanism for land acquisition vary amongst States. In every State, land acquisition is mentioned to be either as per Land Acquisition Act, 1894 or through agreement with the owner. Maharashtra and

Bihar have additional mechanism i.e. Town Planning Schemes and Transfer of Development Right to acquire land for development purposes.

5.3 Maharashtra

In Maharashtra, Town Planning is a statutory function of all the Municipal Authorities even before the Constitution (74th) Amendment Act. In view of this, no separate provision was considered necessary by the State Government to amend the 1966 Act. This Act, amended up to 5th August 1992 was considered a comprehensive Act. The Act provided that the Development Plan prepared by Planning Authority shall indicate the manner of land use, allocation of land for various purposes, and prescribe the time period for steps in the plan preparation process with extended time if required.

The Maharashtra Regional and Town Planning (MRTP) Act has given emphasis on Regional Planning. It enables State Government to constitute Regional Planning Boards to prepare Regional Plans. *The Act, however, does not have any provision to constitute MPC or DPC, thus it is not entirely compliant with 74th CAA.* It is, Bombay Metropolitan Region Development Authority Act which makes it mandatory to constitute MPC and elaborated the procedure to be followed by MPC in order to prepare Development Plans for Metropolitan Area.

The Special Planning Authority to be constituted by the States for certain Notified Areas. The Special Planning Authorities will have all the powers of a Planning Authority to acquire land for special purpose in Notified Areas. In Maharashtra, there is a special provision to constitute New Town Development Authority for the purpose of acquiring, developing and disposing of land in the area of a new town.

For implementation of the plan, compulsory acquisition of land is regarded as a pre-requisite under the Land Acquisition Act, 1984. In view of the exorbitant market rates of land to be paid for compensation, opposition to compulsory land acquisition by land owners, etcetera has compelled the authorities to explore collaborative approaches within the existing legal framework. As a result, the alternatives to compulsory land acquisition in the form of Transferable Development Rights (TDR) and Accommodation Reservation have been explored in Maharashtra.

However, in both these cases i.e. Accommodation Reservation and TDR, the Local Authority reserves its right to compulsorily acquire the land if the land owner does not come forward. Further, the Town Planning Scheme (TPS) as an alternative model for urban land development has been provided in the MRTP Act as one of the tools for implementing the proposals contained in the Development Plan and had been used most extensively in the State of Maharashtra.

The draft scheme is prepared by the Planning Authority and finalisation of development scheme is done by the Arbitrator/ Assistant Director of Town Planning and then it is submitted to the government for approval. However the procedure of TPS formulation and approval consumes lot of time and requires to be simplified.

5.4 Himachal Pradesh

In the State of Himachal Pradesh, The Himachal Pradesh Town and Country Planning Act, 1977 is in force. It is a comprehensive planning and development act and provides for the preparation of Regional Plans; Urban Area Plans, Zonal Plans, and prescribes controls on use and development of land. The legislation also provides for levy of development charges.

Under the Act, the Planning Areas are constituted and the Director of Town Planning is entrusted with the task of preparation of Development Plan which will be followed by Sectoral Plans in consultation with the Local Authorities concerned. The Interim Development Plan is submitted to the State Government who notifies approved Interim Development Plan in the official gazette and the Local Authorities are required to follow the plan. The Act also contains provision for the constitution of Town and Country Development Authorities for preparation of Town Development Schemes.

The act has provision for the preparation of Regional Plan and Development Plan, which will be prepared by the Director, Town and Country Planning of the state. The content of Regional Plan and Development Plan have been provided in the Act and a brief methodology to formulate the plans is given. The final approval of the plan is to be provided by the State.

The Town and Country Development Authority may, at any time, declare its intention to prepare a Town Development Scheme. State has power to give directions to frame/modify or revoke the schemes.

The Act has provision to review the plans at any time after a Regional/Development Plan has come into operation. The State can undertake the review and evaluation of the plan, however the minimum time frame has not been provided by which the Plan is to be revised or reviewed.

Provisions to declare any area as Special Area which is to be notified by State are given in the Act. The Plan for such areas will be controlled and regulated by Special Development Authority (SDA). SDA will prepare the Development Plans for such areas and implement it. Other than special areas, Town and Country Planning Authorities in the State will prepare and implement the plan.

5.5 Tamil Nadu

The Tamil Nadu Town and Country Planning Act, 1971 is currently in force in the State. The legislation was brought in after repealing the Town Planning Act, 1920. It is a comprehensive piece of legislation and contains provisions for the preparation of Regional, Metropolitan, Master Plan, New Town and Detailed Development Plans. Besides, the Act envisages the constitution of Regional, Local and New Town Planning Authorities and a Town and Country Planning Board at the apex empowered with implementation powers.

The Town and Country Planning Act, 1971 has been amended so as to have separate provision for the constitution of Madras Metropolitan Development Authority and preparation and implementation of Master Plan for the Madras Metropolitan Planning Area.

The scheme of the Act is that the planning process starts with decentralisation of Regional Planning Area and Local Planning Area under section 10 of the Act which is notified in the gazette, defining the limits of the area. After this, the Town and Country Planning Authority are constituted in consultation with the Director of Town Planning for performing the function of preparing a Regional/Master Plan and detailed Development Plan. Once the Plan is prepared and submitted to the government, State government can give its consent to the Planning Authority to the publication of a notice of the preparation of plan with or without modification.

In case of Tamil Nadu, the Town Planning Scheme (TPS) of Maharashtra or Gujarat has been re-designated as Detailed Development Plans under the Act. These can be prepared on any land located in the Planning Area.

The Tamil Nadu Town and Country Planning Act, 1971, has laid down the procedure for plan preparation and approval but, unfortunately, there is no time frame within which the planning process should be completed.

5.6 Gujarat

Gujarat has a fairly good and robust legislative framework for urban planning as compared to other States in India. The Gujarat Town Planning and Urban Development Act (GTPUDA) was enacted in 1976 by the State Government. The Act stems from early 20th century planning law devised by the British to improve and manage Indian cities. It also has been amended from time to time to keep pace with the changing requirements.

The Act mandates the delineation of a “Development Area” around a city or a town for planning purposes. It encompasses a much larger area around the city or town that is likely to see development. This ensures and allows for better planning and for guiding development in the area. A village is the basic spatial unit and every development area is an agglomeration of numerous villages, or may also include portions of villages.

The GTPUDA also mandates the creation of a Special Planning Authority—the Urban/Area Development Authority (UDA/ADA)—which is charged with the task of undertaking planning within the delineated Development Area.

Urban planning in Gujarat is a two-step process and is prescribed in the Act and its Rules. The first step is to prepare a “Development Plan” for the entire city or development area. The second step is to prepare “Town Planning Schemes” (TPSs) for smaller portions of the development area for which the Development Plan is prepared.

The Act does not have provision for Regional Planning. Though it says development area however it has not elaborated extent and criteria for declaration of such area. The preparation of Area Plan is done by Area development Authority. Whereas Development Plan for urban areas is done by Urban Development

Authority. The Development Plan is revised every 10 years and is updated in the interim whenever a need arises to respond to the changing context.

The planning process also includes limited public participation. After a Draft Development Plan is prepared by the Development Authority it is published and kept open for public inspection for a period of two months and objections and suggestions are invited. Each objection and suggestion is responded to and, if required, the DP is modified. It is published again to invite further objections and suggestions. These are again taken into account and the plan is modified. It is then sent to the State Government of Gujarat for approval and oversight. The State Government may suggest modifications, keeping the overall public good in view if required, before approving the Development Plan.

Appropriate authority can make one or more TPS for the respective development area. TPS may be made in respect of any land which is in the course of development, likely to be used for building purposes and already built upon. The Public Planning Authorities/Development Agencies acquire large areas of land under the Land Acquisition Act of 1894 or by agreement. Then a Master Plan of the area is prepared, laying out the roads, plots for social amenities, and plots for sale. Roads and infrastructure are then built, using government funds or loans. Serviced plots are then sold for urban uses at market rates, which are most often much higher than the rate at which land is acquired.

5.7 Karnataka

The Karnataka Town and Country Planning (KTCP) Act provides for the regulation of planned growth of land use and development, for the making and execution of Town Planning Schemes, in the State of Karnataka, which came into force in 1965. *The Act mandates constitution of State Planning Board, which consult and direct the Local Planning Authorities after notifying the Planning Area. The detailed functions of State Planning Board have not been elaborated.*

In Karnataka, the KTCP Act does not have any provision to constitute Metropolitan Planning Authority, however a separate Act i.e. Bangalore Metropolitan Regional Authority Act, 1985 has been established for Bangalore Metropolitan Area.

Emphasis has been given on preparation of Master Plan, the contents for the same have been elaborated, *however the concept of Regional Planning has completely ignored in KTCP Act.* After notifying the Planning Area by State in consultation with Board, the Planning Authority is to prepare Outline Development Plan, prior to the preparation of Master Plan. As soon as the Master Plan is approved by the State, the Planning Authority prepares the TPS for the implementation of Plan. The Planning Authority may prepare one or more TPS for the area within its jurisdiction. A TPS may be made in accordance with the provisions of KTCP Act in respect of any land which is in course of development, or likely to be used for building purposes, or already built upon.

There is a provision for revision of Master Plan at least once in every ten years from the date on which the Master Plan came into force.

The KTCP act has laid down the procedure to acquire land for Master Plan and Schemes for public purposes. The Planning Authority may acquire any land designated in a Master Plan for a specified purpose or for public purpose by agreement or under the Land Acquisition Act, 1894.

5.8 Bihar

Bihar Urban Planning and Development (BUPD) Act, 2012 was enacted to make provision for promotion of planned growth and development of urban areas and such rural areas having potential of urbanization and regulation thereof including land use. The act empowers the State of Bihar to constitute Bihar Urban Planning and Development Board to perform certain functions which mainly includes to guide, (a) direct and assist the Planning Authority; (b) to advise on the delineation of the Planning Area(s) and direct the preparation of Development Plan; (c) undertake, assist and advise on the coordination of planning and implementation of physical development programmes; (d) direct the preparations of one or more Regional Development Plan, Regional Transportation Plans, Town Development Plans and (e) direct the preparations of one or more Regional Natural Resources and Environmental Conservation Plans.

The Board is empowered to constitute one or more committees under BUPD Act, to assist Board in exercising its powers, discharging its duties or performing its functions. This Act also empowers the State to constitute Urban Arts and Heritage Commission in order to preserve and conserve archaeological and historical sites, restore and conserve urban design in Planning Area.

The Act has given provision to prepare Development Plan for Metropolitan area by Metropolitan Planning Committee (MPC), and the criteria for constitution of MPC will be in accordance with Article 243ZE of the Constitution of India; however such criteria have not been discussed in detail. The power and function of Planning Authorities as well as MPC has been elaborated.

The contents and scope of Development Plan and Metropolitan Development Plan have been elaborated in the Act. *Regional Planning aspects have been addressed however specific content to Regional Plans have not been discussed in the Act.*

After the receipt of the Development Plan, together with the report of the Committee, the Government may either approve the Development Plan, with or without modifications, or may return the Development Plan to the Planning Authority to modify the plan or to prepare a fresh plan in accordance with such directions as the Government may issue in this behalf. Immediately after the Development Plan has been approved by the Government, the Planning Authority shall publish a public notice in the Official Gazette and in a local newspaper, of the approval of the Development. The Development Plan shall come into operation from the date of publication.

The Planning Authority may invite Area Development Schemes from developers. An Area Development Scheme may be made in respect of any land which is in the process of development, or likely to be used for any development including building purposes, or already built upon.

Any land required, reserved or designated in any Development Plan and Area development Scheme can be for a public purpose by Way of TDR or Accommodation Reservation or purchase of land by way of negotiated settlement or under the Land Acquisition Act, 1894. The act has also given the provision to create and maintain a land bank, in which all lands acquired, allotted, purchased and obtained, will be monitored and maintained and position reviewed periodically by respective Planning Authorities.

5.9 Mizoram

The Mizoram Urban and Regional Development Act, 1990 was enacted to make provision for the regulation of planned growth and development of urban and rural areas and regions in relation to economic growth and protection and preservation and development of natural setting and urban environment and archaeological monuments and historical places in Mizoram.

The Act empowers the State to constitute Urban Planning and Development Board for the State and for the district or town or a city to advise State Government in regard to the Spatial and Economic Planning and development and also for determining principles and policies under the Act with a view to achieve balance and co-ordinated development of the cities, towns and regions as a whole; and to assist the Board in matters of Development Plan preparation and its implementation.

The act has also elaborated the procedure to constitute District Planning and Development Committee in compliant with 74th CAA.

The functions of Planning Board or Committee are to prepare and enforce following plans, prepared by the Municipalities or Village Councils or any Local authority and assist the State Government to co-ordinate development activities at all levels within the Planning area or region.

- Integrated Interim Development Plan,
- District or Regional Development Plan,
- Rural or Sectoral Plan,
- Urban Development Plan and Action,
- Preparation of Development Scheme,
- Preparation of Regional and Rural Centre Development Plan and
- Integrating Urban and Rural Development schemes and Development Plans

The hierarchy of Development Plans with elaborated content has been established by the Act. The comments and suggestions are invited from any person within 30 days from the publication of notice for publishing the Development Plan, as soon as may be, but not later than 6 months after the submission of the Development Plan the State Government in consultation with the Board or Committee may either Approve the Development Plan in full or Approve with such modifications or return it for further improvement. Once the State has approved the Development Plan, the official notice is published to invite objection and suggestion. After considering objections and suggestions and after giving hearing to the persons desirous of being heard the State Government may confirm the modification in the Development Plan.

For the purpose of implementing the proposals contained in the Development Plan, The Government in consultation with the Board or Committee is empowered to entrust any Government Agency or Local authority or Board to prepare one or more Development Scheme for efficient implementation of Development Plans. Development scheme can be developed in respect of land which is in the course of development, likely to be used for building purposes, or already built up.

Land can be acquired either by compulsorily; or by agreement; or by taking an application to the District Collector for acquiring such land under the Land Acquisition Act, 1894 for Development Schemes.

There is a provision of review and evaluation of Development Plan at any time by the State after Development plan has come into operation and make such modification, however District or Regional Development Plan shall be reviewed at least once in every 10 years whereas, Interim Development Plan, Urban Development Plan and Rural or Sector Plan shall be reviewed at least once in every 5 years.

6 Legal Requirements for Industrial Development

6.1 Industries (Development and Regulation) Act, 1951

The Industries (Development and Regulation) Act, 1951 provides for development and regulation of certain industries. The Act has been amended time to time. The last amendment in the said Act was - The Industries (Development and Regulation) Amendment Act, 1984. It provides for Establishment of the Central Advisory Council and Development Councils; regulation of the industries through the processes of registration, licensing and investigation into industries liquidation or reconstruction of companies and miscellaneous provisions. The Act gives a list of industries which requires compulsory licensing.

6.2 Industrial Policy, 1991

The first Industrial policy of the Government of India was announced in year 1948. The 1991 Industrial policy aims to maintain sustainable growth in productivity, enhance gainful employment, achieve optimal utilisation of human resources, attain international competitiveness and transform India into a major partner in the global arena. The policy is focussed on the following:

- Industry de-regulation
- Market responsive industrial development
- Provision of a policy regime for facilitation and growth of Indian industry.

The major provisions of the policy are as given below:

1) Liberalization of Industrial Licensing Policy

a) Industries requiring compulsory licensing

As per the Industries (Development and Regulation) Act, 1951, industries required compulsory licensing. As of year 2014, only five types of industry sectors require compulsory licensing on account of environmental, safety and strategic considerations, these are:

- Distillation and brewing of alcoholic drinks
- Cigars and cigarettes of tobacco and manufactured tobacco substitutes
- Electronic aerospace and defence equipment
- Industrial explosives including detonating fuses, safety fuses, gun powder, nitrocellulose and matches.
- Specified hazardous chemicals i.e (i) Hydrocyanic acid and its derivatives, (ii) Phosgene and its derivatives, (iii) Isocyanates&diisocyanates of hydrocarbon.

b) Industries under public sector

Since, 1991 only two industry sectors have been reserved for public sector. They are:

- Atomic Energy – Production, separation or enrichment of special fissionable materials and substances and operation of the facilities, specified in the Department of Industrial Policy and Promotion.
- Railway transport

2) Industrial Entrepreneurs' Memorandum (IEM)

The industries which are exempted from compulsory licensing require filing an Industrial Entrepreneurs' Memorandum (IEM) with the Secretariat for Industrial Assistance (SIA). No industrial approval is required for the exempted industries.

6.3 Policy for Foreign Direct Investment (FDI)

URDPFI Guidelines provide the sections of the Consolidated FDI Policy, 2013 which have relevance to the preparation of Regional or Urban Development Plans and its implementation.

Promotion of Foreign Direct Investment (FDI) forms an integral part of Industrial Policy. It helps in accelerating economic growth by means of infusion of capital, technology and modern management practices. The FDI policy is announced through issue of Consolidated FDI Policy Circulars. The latest Circular is effective from April 2013. As per the circular the sectors which have been liberalised are mentioned in Table 6.1.

Table 6.1: Liberalised Sector for Foreign Direct Investment (Related to Urban and Regional Planning)

Sr. No.	Sector	Maximum FDI % allowed
1.	Agriculture and Animal Husbandry, covering the following sectors: a) Floriculture, Horticulture, Apiculture and Cultivation of Vegetables & Mushrooms under controlled conditions; b) Development and production of Seeds and planting material; c) Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture, under controlled conditions; and d) services related to agro and allied sectors	100%
2.	Tea sector including teaplantation	100% subject to 26% divestment in 5 years
3.	Mining, subject to the Mines and Minerals (Development & Regulation) Act, 1957 a) Coal and lignite mining b) Coal processing plants c) Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities	100%
4.	Petroleum and Natural Gas a) Exploration activities and infrastructure for marketing b) Petroleum refining by PSU's	100% 49%
5.	Airports : Greenfield and existing projects	100%
6.	Construction Development: Townships, Housing, Built up infrastructure	100% (subject to conditions) Minimum area to be developed under each project would be as under: (i) In case of development of serviced housing

Sr. No.	Sector	Maximum FDI % allowed
		plots, a minimum land area of 10 hectares (ii) In case of construction-development projects, a minimum built-up area of 50,000 sq.mts (iii) In case of a combination project, any one of the above two conditions would suffice
7.	Industrial park; New and Existing	100%
8.	Power Exchange : Power Exchanges registered under the Central Electricity Regulatory Commission (Power Market) Regulations, 2010	49%
9.	Manufacturing for production in Micro and Small Enterprises	Conditions apply
10.	Defence Industry	26%

Source: Consolidated FDI Policy, 2013

Foreign Investment Implementation Authority (FIIA) has been established to strengthen the foreign investment. As per the Consolidated FDI Policy (effective from April, 5th 2013) salient features relevant to FDI in industrial parks (cited in section 6.2.12, page no. 59) and manufacturing (from section 6.2.5, page no. 45 of the Consolidated FDI policy, 2013) have been mentioned below:

- **Industrial Parks:** FDI allowed in industrial parks is 100%, provided the following conditions are satisfied:
 - The Industrial park shall comprise minimum of 10 units and none shall occupy more than 50% of the allocable area.
 - Minimum percentage of area to be allocated for industrial activity shall not be less than 66% of the total allocable area.
- **Manufacturing:** FDI in MSE (Micro, Small and Medium Enterprises) is subject to sectoral regulations. Any organization other than MSE but manufactures items reserved for MSE sector and has foreign investment in capital of more than 24% would have to come through Government Route. Additionally, such organization shall require industrial license for manufacturing. It has to achieve minimum 50% export of the MSE products within a period of three years.

6.4 Manufacturing Policy for Cluster Developments

The Government of India has announced the National Manufacturing Policy in year 2011 with the objective to enhance the share of manufacturing in GDP upto 25% within a decade and creating 100 million jobs. The National Manufacturing Policy outlines creation of clusters. The clusters play a critical role in technological propagation by facilitating technological learning and manufacturing through the presence of an entire ecosystem in the same geographical location. The XII Five Year Plan of Planning Commission also suggests a cluster approach for promotion of manufacturing industries.

URDPFI Guidelines provides the following Acts / Policies / Guidelines in relevance to the preparation of Regional, Industrial or Urban Development Plans and its implementation:

- National Manufacturing Policy, 2011
- National Investment and Manufacturing Zones (NIMZs) Guidelines
- Special Economic Zone (SEZ) Act, 2005
- Various schemes for cluster development under Ministries
- Provisions for Micro Small and Medium Enterprises (MSME)

National Manufacturing Policy, 2011 and NIMZ Guidelines, SEZ Act, 2005 and Micro, Small & Medium Enterprises Development (MSMED) Act, 2006 are appendices respectively in AppendixS, T and U of Volume II B.

6.4.1 National Manufacturing Policy, 2011

The policy is based on the principle of industrial growth in partnership with the States. The Central Government will create the enabling policy frame work, provide incentives for infrastructure development on a Public Private Partnership (PPP) basis through appropriate financing instruments, and State Governments will be encouraged to adopt the instrumentalities provided in the policy.

Under the policy (section 1.11), the industry verticals which will be given special attention are: employment intensive industries, capital goods, industries with strategic significance like aerospace; shipping; IT hardware and electronics; telecommunication equipment; defence equipment; and solar energy, industries where India enjoy a competitive advantage, Small and Medium Industries and Public sector Enterprises. The policy presents specific action points in the areas identified as constraints that require immediate policy attention

For rationalisation and simplification of business regulations (section 2, page no. 8), several provisions of different acts may be rationalised or implemented in cooperation with public or private institutions under the control of statutory authorities. The provisions are:

- a) Central and State Government may provide exemptions subject to fulfilment of conditions.
- b) Mechanisms to be developed for cooperation of public or private institutions with government inspection services.
- c) In respect of environment laws, it is proposed to delegate the powers as allowed by the relevant statutes to an official of the State Pollution Control Board posted in the NIMZ.
- d) State Pollution Control Boards to evolve mechanisms for third party inspection (by notified private agencies) for compliance monitoring
- e) State Environment Impact Assessment Authorities to expedite prior environment clearances for 'B' category projects under the provisions of EIA notification 2006
- f) Defining the timelines in respect of all clearances – the clearance to be 'deemed' to have been given on expiry of timeline.
- g) Development of Combined Application Form and a Common Registrar for granting various consents and authorisations under various statutes.

The Planning Commission has identified concomitant policy interventions (page no. 1 of Policy document) which impact the manufacturing sector (but which have not been addressed in the National Manufacturing Policy), these are : digitization of land and resource maps and creation of land banks by states; water zoning; offset policy; fiscal and exchange rate measures; strategic acquisitions; development of world class manufacturing management capabilities; trade policy especially boosting India's exports; and reforming the role of public sector enterprises.

6.4.2 National Investment and Manufacturing Zones (NIMZs) Guidelines

The NIMZs are important instrumentality of the National Manufacturing Policy. The NIMZs are envisaged as integrated industrial townships with land use on the basis of zoning, clean and energy efficient technology, necessary social infrastructure, skill development facilities etc. to provide a productive environment for persons transitioning from the primary to the secondary and tertiary sectors.

The key features of the NIMZ Guidelines are:

- 1. The approval process is in two stages:** In principal approval and final approval for the NIMZ. After the in-principal approval, as soon as a substantial part of the land area is in possession of State Government, application for obtaining final approval shall be made which will be granted at the level of Ministry of Commerce and Industry. After obtaining the approval, each NIMZ will be notified by the DIPP in the official gazette.
 - a.** For planning the NIMZ, maps shall be prepared and submitted along with the application for final approval. The maps shall consist of following:
 - Administrative and physical map: indicating the districts, villages, townships, water bodies, high lands, low lands and forests etc. which are located within its boundaries.
 - Existing land use map: At least 30% of the total land area proposed for the NIMZ will be utilized for location of manufacturing units.
 - External and existing internal linkages map of proposed NIMZ.
 - b.** Preparation of Techno-economic feasibility report cum development plan and presentation by the State for final approval. It shall include the following:
 - Overview of the region and adjoining areas
 - External linkages
 - Existing internal infrastructure in NIMZ area
 - Land including status and time frame of land acquisition
 - Assessment of industrial and commercial potential
 - Preliminary environment impact assessment
 - External and technical infrastructure requirement
 - Financial implications
 - Proposed management structure
 - Zone development plan
 - Regulatory environment

- 2. Formation of an agreement of implementation between State Government and DIPP:**

- a. Constitution of Special Purpose Vehicle to discharge the functions: There shall be a provision for suitable representation of a nominee of the Government of India (DIPP), and of the allottees and subsequently of the industrial units on the Board of the SPV.
 - b. Preparation of Master Plan and designing by SPV
 - c. Preparation of a strategy of development of zone and action plan for self-regulation within 3 months from constitution of SPV.
3. **Land Allotment:** Land shall be allotted on leasehold basis by SPV. The SPV will ensure that land is utilised as per the permissible purpose within the specified period of time as indicated in the land allotment letter otherwise, it shall revert back to the SPV.
4. **Land for NIMZs:** NIMZs would be large developed land, with the requisite eco-system for promoting world class manufacturing activity. They would be different from SEZs in terms of size, level of infrastructure planning, and governance structures related to regulatory procedures and exit policies. Following are the land requirements for NIMZ:
- a. Size of land for NIMZ – An NIMZ would have an area of at least **5000 hectares** in size.
 - b. Availability of land- The State Government will be responsible for selection of land suitable for development of the NIMZ including land acquisition, if necessary. The land may constitute:
 - i. Government owned land;
 - ii. Private lands falling within the proposed NIMZ, to be acquired by the State Government;
 - iii. Land under existing industrial areas/estates/sick and defunct units including PSUs.

Following guiding principles will be applied by the State Government for the purpose of acquiring land for NIMZ sites:

- i. Preferably in waste lands; infertile and dry lands not suitable for cultivation;
 - ii. Use of agricultural land to the minimum;
 - iii. All acquisition proceedings to specify a viable resettlement and rehabilitation plan;
 - iv. Reasonable access to basic resources like water;
 - v. It should not be within any ecologically sensitive area or closer than the minimum distance specified for such an area.
5. **Rationalisation and simplification of regulatory processes:**
- High priority shall be given to Environment Clearance under EIA Notification, 2006
 - The entire process of clearances by State authorities will be made web-enabled.
 - Timelines will be defined in respect of all clearances and there is provision of deemed approval of clearances.
6. **Role of Central Government:** the Central Government shall perform the following tasks:
- a. Bearing the cost of Master Planning
 - b. Provision of external infrastructure: Creation/ Up gradation of external infrastructure through PPP and provision of Viability gap funding through existing schemes
 - c. Provisions for creation of internal infrastructure:
 - i. Through Viability Gap Funding (VGF): Supporting Public Private Partnerships in infrastructure (maximum twenty percent of the total project cost).

- ii. Long term soft loans from multilateral financial institutions
 - iii. External commercial borrowings
- 7. Set up of Technology Acquisition and Development Fund for creation of a patent pool; incentivization of production of environment friendly machines/ equipment and of SMEs for adoption of environmental audit, water audit and waste water treatment practices.
- 8. Provision of institutional infrastructure for productivity, quality (testing facilities etc.) and design capabilities, encouraging innovation and skill development within the NIMZ.
- 9. Funding for establishment of an ITI on Built Own Operate basis by the SPV in NIMZ.
- 10. Provision of VGF for setting up specialised polytechnics for relevant industry verticals in a NIMZ

6.4.3 Special Economic Zone (SEZ) Act, 2005

The SEZ Act, 2005 provides for the establishment, development and management of the Special Economic Zones for the promotion of exports. The Act gives tax benefits which shall boost international trade.

The key features of the Act are:

1. Chapter III of the Act provides for Constitution of the Board of approval for granting approval for setting up the SEZ. The Central Government shall upon satisfaction of the requirements notify the specifically identified area in the State as a Special Economic Zone.
2. According to section 5 of the Act, the notification of the SEZ may be guided by the following:
 - a. generation of additional economic activity
 - b. promotion of exports of goods and services;
 - c. promotion of investment from domestic and foreign sources;
 - d. creation of employment opportunities;
 - e. development of infrastructure facilities; and
 - f. maintenance of sovereignty and integrity of India, the security of the State and friendly relations with foreign States.
3. Section 6 of SEZ Act states that areas falling within the SEZ may be demarcated as:
 - a. the processing area for setting up Units for activities such as manufacture of goods, or rendering services;
 - b. the area exclusively for trading or warehousing purposes; or
 - c. the non-processing areas for activities other than those specified under clause (a) and (b)
4. Any goods or services exported, imported or procured from the domestic tariff area by a unit in the SEZ or the developer is exempted from the payment of taxes, duties or cess.
5. According to section 17 (page 20) of the Act, the application for setting up and operation of an Offshore banking unit in a SEZ may be made to the Reserve Bank.
6. The SEZ can be deemed to be a port, inland container depot, land station and land customs station as per notification of Central Government under section 7 of the Customs Act, 1962.

7. The Modifications to the Income Tax Act, 1961; Insurance Act, 1938; banking Regulation Act, 1949; the Indian Stamp Act, 1899 applicable to the SEZ are given in the Act.
8. For computation of total income of an assessee, a deduction of the following is allowed:
 - a. Hundred % of profits and gains derived from exports for a period of first five years
 - b. Fifty % of profits and gains derived from exports for further five assessment years and thereafter
 - c. An amount upto fifty % of the profits shall be credited to a Reserve Account for the next five consecutive assessment years for the purpose of acquiring plant and machinery or for creation of any asset.

6.4.3.1 Minimum land area requirements for setting up of SEZ

- **Area of the SEZ:** As per the amendment (12th August, 2013) of SEZ rules (2006), to address the problem of aggregating large tracts of uncultivable land for setting up SEZs, while conforming to vacancy and contiguity norms, the minimum land area requirements for setting up of SEZ in various categories has been reduced by half. This is also aimed at permitting optimum utilization of land by the existing SEZs.
- **Multi-product SEZ:** can be established with minimum land area of 500 hectares instead of 1,000 hectares. Similarly, a sector specific SEZ can be set-up with a minimum land area requirements of 50 hectares instead of 100 hectares.
- **Agro Sector:** In order to encourage agro-based industries in SEZs, a new sector 'agro-based food processing' sector has been introduced. A sector specific SEZ would require a minimum land area of 10 hectares.
- **IT /ITES Sector:** No minimum land area requirement for IT/ITES SEZs is prescribed, but these will have to conform to a minimum built up area requirement.
 - The minimum built up area requirement of 1,00,000 square meters will now be insisted upon for seven major cities viz: Mumbai, Delhi (NCR), Chennai, Hyderabad, Bangalore, Pune and Kolkata,
 - For the other set of Category B cities 50,000 square meters norm will be applicable and
 - For the remaining cities / locations 25,000 square meters of minimum built up area will be insisted upon.

6.4.4 Schemes for cluster development under Ministries

The schemes proposed for promotion of cluster/ park development by respective Ministries till the fiscal year of 2013 are as mentioned below; however any other latest scheme and the policy shall be referred while planning.

Table 6.2: Schemes proposed for promotion of Cluster/ Park Development

Sr. No.	Ministry	Department	Scheme / Policies	Implementation/ Approval Year
1.	Ministry of Chemicals and Fertilisers	Department of Chemicals and Petrochemicals	Policy Resolution for Promotion of Petroleum, Chemicals and Petrochemical Investment Regions	2007
2.	Ministry of Communications and Information	Department of Electronics and Information technology	Software Technology Parks	1991

Sr. No.	Ministry	Department	Scheme / Policies	Implementation/ Approval Year
Technology (MoCIT)				
3.	MoCIT	Department of Electronics and Information Technology	Electronics Hardware Technology Park/ Export Oriented Unit Scheme	--
4.	Ministry of Food Processing Industries		Mega Food Parks Scheme	--
5.	Ministry of Commerce and Industry	Department of Industrial policy and promotion	Mega Leather Cluster Scheme	2012
6.	Ministry of Micro, Small and Medium Enterprises		Micro and Small Enterprises Cluster Development Programme	2007 (Renamed)
7.	Ministry of Textiles		Modified Comprehensive Power loom Cluster Development Scheme	2013
8.	Ministry of Textiles		Comprehensive Handloom Cluster Development Scheme	2008
9.	Ministry of Textiles		Comprehensive handicraft Cluster Development Scheme	2008
10	Ministry of Textiles		Scheme for Integrated Textile parks	2005

Source: Ministry websites

6.4.5 Provisions for Micro Small and Medium Enterprises (MSME)

MSME sector's contribution to Indian economy is considerable with 4 percent share of GDP and largest employment provider after agriculture. Micro, Small & Medium Enterprises (MSMED) Act, 2006 defines Micro Enterprises, Small Enterprises, and Medium Enterprises for the Manufacturing Sector and service sector. About 21 items are reserved for manufacturing under Small Scale Industries. The MSME as defined by the Act are:

Table 6.3: Micro, Small and Medium Enterprises Classification

For the Manufacturing Sector	
Enterprises	Investment in plant & machinery
Micro Enterprises	Does not exceed Rs. 25 lakh
Small Enterprises	More than Rs. 25 lakh but does not exceed Rs. 5 crore
Medium Enterprises	More than Rs. 5 crore but does not exceed Rs. 10 crore
For the Service Sector	
Enterprises	Investment in plant & machinery
Micro Enterprises	Does not exceed Rs. 10 lakh
Small Enterprises	More than Rs. 10 lakh but does not exceed Rs. 2 crore
Medium Enterprises	More than Rs. 2 crore but does not exceed Rs. 5 crore

Source: Micro, Small and Medium Enterprises Development (MSMED) Act, 2006.

The details of the Micro, Small & Medium Enterprises (MSMED) Act, 2006 are appendices in AppendixU of Volume II B.

6.4.5.1 [Inter-Ministerial Committee for Accelerating Manufacturing in Micro, Small & Medium Enterprises Sector, 2013](#)

Ministry of Micro, Small and Medium Enterprises (MoMSME) had constituted 'Inter-Ministerial Committee for Accelerating Manufacturing in Micro, Small & Medium Enterprises Sector' in year 2013 to suggest short and medium term measures for accelerating manufacturing in the MSME sector. Following are few of the recommendations made by the committee:

- **Land:** State governments may urgently streamline and simplify internal processes and allot over 30,000 vacant plots lying vacant in established industrial estates across the country.
- **Mid-sized Industrial Estates:** State governments should urgently identify mid-sized land parcels close to urban areas, which may be developed with public funding, for allotment to MSMEs.
- **Harmonising Urban Plans with Economic Activity:** Ministries of Urban Development, Urban Poverty Alleviation and MSME, backed by sufficient resources may incentivize State governments and local bodies to designate adequate areas for manufacturing and industrial activity in the urban centres or emerging urban areas.

6.4.5.2 [Prime Minister's Task Force on Micro, Small and Medium Enterprises, 2010](#)

The said task force was constituted to consider various issues raised by the Association of MSMEs. After stakeholders' consultation to overcome the issues raised by MSME sector following recommendations were made by the Task Force:

- For new industrial parks/areas being developed under various programmes of different Ministries, where there is no specific provision for locating Micro and Small Enterprises (MSEs), it may be made mandatory to earmark at least 40-45% (preferably 60%) of available land for MSEs. It was advised that all Ministries/Departments shall take action regarding it within 3 months.
- Local bodies may be encouraged to set aside substantial part of the collections derived from industrial estates, to upgrade infrastructure such as roads, drainage, sewage, power distribution, water supply distribution, etc. for the existing industrial estates. Alternatively, industrial estates could be notified as separate local bodies as envisaged in the Constitution and entrusted with municipal functions that shall include levy of taxes, responsibility to maintain the infrastructure within the Industrial Estate, etc.
- Flatted Factory Complexes may be set up, particularly in and around large cities for MSEs on PPP mode. On similar lines, dormitories for industrial workers in industrial estates may be set up.
- Encourage setting up/earmarking of at least one industrial estate in each block for MSEs. Wherever possible, private sector participation may be encouraged.

6.4.5.3 Micro & Small Enterprises - Cluster Development Programme (MSE-CDP)

The Ministry of Micro, Small and Medium Enterprises (MSME), Government of India (GoI) has adopted the 'Cluster Development Approach' as a key strategy for enhancing the productivity and competitiveness as well as capacity building of Micro and Small Enterprises (MSEs) and their collectives in the country.

The essential characteristics of enterprises in a cluster are:

- a. Similarity or complementarity in the methods of production, quality control and testing, energy consumption, pollution control, etc.
- b. Similar level of technology and marketing strategies/practices
- c. Channels for communication among the members of the cluster
- d. Common challenges and opportunities.

7 Other National Level – Legal Requirements

7.1 National Heritage Conservation

The sections of the Ancient Monuments and Archaeological Sites and Remains Act, 2010, which have relevance to the preparation of Regional, or Urban Development Plans and their implementation have been provided in the URDPFI Guidelines for reference.

7.1.1 The Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010

The Ancient Monuments and Archaeological Sites and Remains Act, 1958 was amended in 2010. This Act provides prohibited and restricted areas around protected monuments as a buffer in which construction activities are prohibited and restricted. According to the Act prohibited and restricted areas are defined as follow:

As per the section 20 A of the Act, **Prohibited Areas**: Every area, beginning at the limit of the protected area or the protected monument, as the case may be, and extending to a distance of one hundred meters in all directions shall be the prohibited area. Government of India can specify an area even more than hundred meters. Construction activities in such areas are prohibited.

Section 20 B defines **Regulated Area**: Every area, beginning at the limit of the prohibited area in respect of ever ancient monument and archaeological site and remains, declared as of national importance, extending to a distance of two hundred meters in all directions shall be the regulated area in respect of such protected area or protected monument. Government of India can specify an area even more than two hundred meters. Construction activities in such areas are regulated.

The said Act in section 20 F provides for the constitution of National Monuments Authority, by Central Government through notification in the Official Gazette. Some of the functions granted to the Authority are:

- To make recommendations to the Central Government for grading and classifying protected monuments and protected areas,
- To consider the impact of large-scale developmental projects, including public projects and projects essential to the public which may be proposed in the regulated area.

The details of The Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010 are appended in Appendix V of Volume II B.

7.2 National Environmental Legal Requirements

The key National level environmental legal requirements, which have relevance to planning and implementation, are briefly explained in this section. These are:

- Environment Impact Assessment Notification 2006,
- Environment Protection Act, 1986,
- Forest Conservation Act, 1980,
- Coastal Regulation Zone, 2011

- Eco-Sensitive Zone

7.2.1 Environment Impact Assessment Notification 2006

Considering recent developments, and to ensure that the economic growth and development in our country is in conformity with regulations for environmental conservation, the Ministry of Environment & Forests has notified the Environmental Impact Assessment Notification, 2006. The environmental clearance (EC) process under implementation prior to 2006 highlighted the need to introduce specific processes /categories/ activities and also the need for new sectors such as coal washery to be brought in the ambit of the EC process due to their extent of impact on environment. The EIA Notification 2006 has notified 39 developmental sectors which require prior EC.

The MoEF has prepared EIA guidelines on each sector as identified by EIA notification 2006, which elaborates the procedure and mandatory requirements of EIA with respect to the sector. For example Manual on norms and standards for environment clearance of large construction projects has been prepared by MoEF to assist developers and project proponents' measure and quantify environmental impacts of proposed construction, and derive mitigation options to minimise impacts.

EIA is an exercise to be carried out before any project or major activity is undertaken to ensure that it will not in any way harm the environment on a short term or long term basis. Any developmental endeavour requires not only the analysis of the need of such a project, the monetary costs and benefits involved but most important, it requires a consideration and detailed assessment of the effect of a proposed development on the environment. EIA should provide information to decision makers at early stage of the project planning cycle. It should be initiated as early as possible before the commencement of projects. If the projects secure approval, EIA should include a provision to cover the audit of the project. Following is the general list of projects that require Environmental clearance from the central government:

- Nuclear Power and related projects such as heavy water plants, nuclear fuel complex, rare earths.
- River Valley projects including hydel power, major irrigation & their combination including flood control.
- Ports, Harbours, Airports (except minor ports and harbours).
- Petroleum Refineries including crude and product pipelines.
- Chemical Fertilizers.
- Pesticides.
- Petrochemical complexes.
- Bulk drugs and pharmaceuticals.
- Exploration for oil and gas and their production, transportation and storage.
- Synthetic Rubber.
- Asbestos and Asbestos products.
- Hydrocyanic acid and its derivatives.
- (a) Primary metallurgical industries, (b) Electric arc furnaces (Mini Steel Plants).
- Chlor alkali industry.
- Integrated paint complex including manufacture of resins and basic raw materials required in the manufacture of paints.

- Viscose staple fibre and filament yarn.
- Storage batteries integrated with manufacture of oxides of lead and lead antimony alloys.
- All tourism projects between 200m—500 metres of High Water Line and at locations with an elevation of more than 1000 metres with investment of more than Rs.5 crores.
- Thermal Power Plants.
- Mining projects with leases more than 5 hectares.
- Highway Projects.
- Tarred Roads in the Himalayas and or Forest areas.
- Distilleries.
- Raw Skins and Hides.
- Pulp, paper and newsprint.
- Dyes.
- Cement.
- Foundries (individual)
- Electroplating
- Meta amino phenol

7.2.2 Environment Protection Act, 1986

The Environment Protection Act, 1986 (EPA) has notified various rules under EPA for protecting the environment which are mentioned below:

- The Manufacture, Use, Import, Export and Storage of Hazardous Micro-Organism Genetically Engineered Organism or Cells Rules, 1989
- The Hazardous Wastes (Management and Handling) Rules, 1989
- The Manufacture, Storage and Import of Hazardous Chemicals Rule, 1989
- Scheme of Labeling of Environment Friendly Products (ECO-MARK)
- Restricting certain activities in special Specified area of Aravalli Range
- The Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996
- The Bio -Medical Waste (Management and Handling) Rules, 1998,
- The Recycled Plastics Manufacture and Usage Rules,1999
- The Municipal Solid Wastes (Management and Handling) Rules, 2000
- The Noise Pollution (Regulation and Control) Rules, 2000
- The Ozone Depleting Substances (Regulation) Rules, 2000
- The Batteries (Management and Handling) Rules, 2001

Alongwith the above rules as identified in EPA 1986, The Air (Prevention and Control of Pollution) Act, 1981 and the Noise-Pollution (Regulation and Control) 2000 shall also be referred to formulate norms and standards while preparing development plan for a city. The various statutory obligations for different clearances are mentioned in table below:

Table 7.1: Statutory Obligations of Environment Clearances

Type of Clearances	Statutory obligations
Environment Clearances	As per EIA notification, 2006

Type of Clearances	Statutory obligations
Forest Clearances	As per Forest Conservation Act, 1980
GEAC Clearances	Rules for Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms/Genetically Engineered Organisms or Cells 1989, under EPA 1986
GEAC Clearances	Rules for Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms/Genetically Engineered Organisms or Cells 1989, under EPA 1986

Environment Protection Act has been appended in Appendix W of the Volume II B.

7.2.3 Forest Conservation Act, 1980

With the rising rate of deforestation and the resulting environmental degradation, the Central Government enacted the forest (conservation) Act in 1980. The Act prohibits the deletion of a reserved forest or the diversion of forestland for any non-forest purpose, and prevents the cutting of trees in a forest without the prior approval of the Central government. The salient features of the act are given below:

- This Act has five Sections which deal with conservation of forests.
- The Act was enacted with the twin objectives under Section 2 of restricting the use of forest land for non-forest purposes, and preventing the de-reservation of forests that have been reserved under the Indian Forest Act, 1927. However, in 1988 the Act was further amended to include two new provisions under Section 2, where it sought to restrict leasing of forest land to private individuals, authority, corporations not owned by the Government, and to prevent clear felling of naturally grown trees.
- The Act empowers the Central Government to constitute a committee to advise the Government with a grant of approval under Section 2, as also on any other matter connected with the conservation of forest and referred to it by the Central Government.
- The Act provides for the punishment of imprisonment, extendable to fifteen days for the contravention of the provisions of the Act.
- The Act provides for punishment of offenders from the Government Departments, including Head of the Departments and authorities.

The detailed Act can be referred from Appendix X of Volume II B.

7.2.4 Coastal Regulation Zone, 2011

Central Government declared the following areas as CRZ and imposed restrictions on the setting up and expansion of industries, operations or processes and the like in the CRZ through the Coastal Regulation Zone Notification, 2011:

- The land area from High Tide Line (HTL means the line on the land up to which the highest water line reaches during the spring tide) to 500 meters on the landward side along the sea front.
- CRZ shall apply to the land area between HTL to 100 meters or width of the creek whichever is less on the landward side along the tidal influenced water bodies that are connected to the sea and the distance upto which development along such tidal influenced water bodies is to be regulated shall be governed by the distance up to which the tidal effects are experienced which shall be determined

based on salinity concentration of 5 Parts Per Thousand (ppt) measured during the driest period of the year and distance upto which tidal effects are experienced shall be clearly identified and demarcated accordingly in the Coastal Zone Management Plans (CZMPs).

- The land area falling between the hazard line and 500 meters from HTL on the landward side, in case of seafront and between the hazard line and 100 meters line in case of tidal influenced water body the word 'hazard line' denotes the line demarcated by Ministry of Environment and Forests (MoEF) through the Survey of India (Sol) taking into account tides, waves, sea level rise and shoreline changes.
- Land area between HTL and Low Tide Line (LTL) is termed as the intertidal zone.
- The water and the bed area between the LTL to the territorial water limit (12 Nm) in case of sea. The water and the bed area between LTL at the bank to the LTL on the opposite side of the bank, of tidal influenced water bodies.

The following activities have been declared prohibited under the CRZ notifications:

- i. Setting up of new industries and expansion of existing industries with some exception,
- ii. Manufacture or handling oil storage or disposal of hazardous substance, with some exception,
- iii. Setting up and expansion of fish processing units including warehousing except hatchery and natural fish drying in permitted areas
- iv. Land reclamation, bunding or disturbing the natural course of seawater with some exception,
- v. Setting up and expansion of units or mechanism for disposal of wastes and effluents with some exception,
- vi. Discharge of untreated waste and effluents from industries, cities or towns and other human settlements. The concerned authorities shall implement schemes for phasing out existing discharge of this nature, if any, within a time period not exceeding two years from the date of issue of this notification.
- vii. Dumping of city or town wastes including construction debris, industrial solid waste, flyash schemes for phasing out any existing practice, if any, shall be phased out within a period of one year from date of commencement of this notification.
- viii. Port and harbour projects in high eroding stretches of the coast, except those projects classified as strategic and defence related in terms of EIA notification, 2006 identified by MoEF based on scientific studies and in consultation with the State Government or the Union territory Administration.
- ix. Reclamation for commercial purposes such as shopping and housing complexes, hotels and entertainment activities.
- x. Mining of sand, rocks and other sub-strata materials.
- xi. Drawl of groundwater and construction related thereto, within 200mts of HTL; with some exception.

(Source: Coastal Regulation Zone Notification; 6th January, 2011)

7.2.5 Eco-Sensitive Zones

Wild Life Protection Act, 1972 gave provision for the creation of National Parks, Sanctuaries and Closed Area. Further, for the purpose of buffers around these protected areas as shock absorber, Eco-sensitive Zones were declared. Eco-sensitive Zones would also act as transition zone from areas of high protection to areas involving lesser protection. The activities in the eco-sensitive zones are regulatory in nature rather than prohibitive nature.

By the time this guideline was declared, many of the protected areas had undergone tremendous development in close vicinity to their boundaries. Therefore, defining the extent of Eco-sensitive zone around protected areas was kept flexible and protected area specific.

The width of Eco-sensitive Zone and type of regulations differ from one protected area to another. However, as a general principle the width of the Eco-sensitive Zone could go up to 10 kms around a Protected Area as provided in the Wildlife Conservation Strategy, 2002. In case where sensitive corridors, connectivity and ecologically important patches, crucial for landscape linkage, are even beyond 10Kms width; these should be included in the Eco-sensitive Zone. Further, in context of a particular protected area, the distribution of an area of Eco-sensitive Zone and the extent of regulation may not be uniform all around and it could be of variable width and extent.

Table 7.2: Activities Prohibited, Regulated or Permitted in Eco-sensitive Zone

S.no.	Activity	Prohibited	Regulated	Permitted	Remarks
1	Commercial Mining	Y			Regulation will not prohibit the digging of earth for construction or repair of houses and for manufacture of country tiles or bricks for housing for personal consumption
2	Felling of tress		Y		With permission from appropriate authority
3	Setting of saw mills	Y			
4	Setting of industries causing pollution (Water, Air, Soil, Noise, etc.	Y			
5	Establishment of hotels and resorts		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals
6	Commercial Use of fire wood	Y			For hotels and other business related establishment
7	Drastic change of agriculture systems		Y		
8	Commercial use of natural water resources including ground water harvesting		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals
9	Establishment of major hydroelectric projects	Y			Promote underground cabling
10	Erection of electrical cables		Y		

S.no.	Activity	Prohibited	Regulated	Permitted	Remarks
11	Ongoing agriculture and horticulture practices by local communities			Y	However, excessive expansion of some of these activities should be regulated as per the master plan
12	Rain water harvesting			Y	Should be actively promoted
13	Fencing of premises of hotels and lodges		Y		
14	Organic farming			Y	Should be actively promoted
15	Use of polythene bags by shopkeepers		Y		
16	Use of renewable energy sources			Y	Should be actively promoted
17	Widening of roads		Y		This should be done with proper EIA and mitigation measures
18	Movement of vehicular traffic at night		Y		For commercial purpose
19	Introduction of exotic species		Y		
20	Use or production of any hazardous substances	Y			
21	Undertaking activities related to tourism like over flying the national park area by any aircraft, hot air balloons	Y			
22	Protection of hill slopes and river banks		Y		As per the master plan
23	Discharge of effluents and solid waste in natural water bodies or terrestrial area	Y			
24	Air and vehicular pollution		Y		
25	Sign boards and hoardings		Y		As per the master plan
26	Adoption of green technology for all activities			Y	Should be actively promoted

Source: Guidelines for the Declaration of Eco-sensitive Zones around National Parks and Wildlife Sanctuaries; dated 9th February, 2011

7.3 Cantonment Act, 2006

Following provisions of The Cantonment Act, 2006 have been identified by URDPFI guidelines that have relevance to the preparation of Regional or Urban Development Plans and their implementation. The detailed Act can be referred from Appendix Y of Volume II B.

1. The Central Government can declare any place or places along with boundaries in which the Forces is quartered or which is required for the service of such forces, to be a cantonment and can also declare that any such area shall cease to be a cantonment, by notification in the Official Gazette.

2. The Central Government can define the limits of any cantonment for the aforesaid purposes, by a like notification.
3. The Central Government can, by notification in the Official Gazette, direct that in any place declared a cantonment under this Act, the provisions of any enactment relating to local self-government other than this Act shall have effect only to such extent, as may be specified in the notification.

For the alteration of limits of cantonments, The Contentment Act, 2006, prescribes:

4. The Central Government can declare to include or to exclude the cantonment any local area, by notification in the Official Gazette.
5. Any inhabitant of a cantonment or local area in respect of which notification has been published under subsection (1) may, within eight weeks from the date of notification, submit in writing to the Central Government through the General Officer Commanding-in-Chief, the Command, an objection to the notification, and the Central Government shall take such objection into consideration.
6. The Central Government considers the objections which have been submitted, after the expiry of eight weeks from the date of the notification, by notification in the Official Gazette, include or exclude the local area in respect of which the notification was published or any part thereof, in the cantonment.