

PUNJAB VIDHAN SABHA

BILL NO. 2-PLA-2019

**THE PUNJAB ONE-TIME VOLUNTARY DISCLOSURE AND
SETTLEMENT OF BUILDING CONSTRUCTED IN
VIOLATIONS OF THE BUILDING BYE-LAWS
BILL, 2019**

A

BILL

to provide for one-time settlement for non-compoundable building violations made in respect of buildings constructed in the Municipal Corporations, Municipal Councils and Nagar Panchayats and for the matters incidental thereto.

BE it enacted by Legislature of the State of Punjab in the Seventieth Year of the Republic of India as follows :—

1. (1) This Act may be called the Punjab One-time Voluntary Disclosure and Settlement of Building constructed in Violations of the Building Bye-laws Act, 2019.

Short title,
application and
commencement.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

(3) This Act shall be applicable in the areas falling under the jurisdiction of the Municipal Corporations, Municipal Councils, Nagar Panchayats and Improvement Trusts in the State of Punjab.

(4) It shall cease to operate on the expiry of one year from the date of its commencement, except as respects things done or omitted to be done before such cesser, and upon such cesser section 4 of the Punjab General Clauses Act, 1898 shall apply.

2. In this Act, unless the context otherwise requires,—

Definitions.

- (a) "applicant" means any person who applies under this Act for compounding of the non-compoundable violations;
- (b) "competent authority" means authority appointed under section 3 of this Act;
- (c) "non-compoundable violation" means construction made in violation of the sanctioned plan or without getting the plan sanctioned from the competent authority, whole or part of which is non-compoundable under the provisions of the Punjab Municipal Corporation Act, 1976, the Punjab Municipal Act, 1911 or the Punjab Town Improvement Act, 1922;

- (d) "one-time settlement" means one-time voluntary disclosure and settlement of non-compoundable building violations subject to provisions of this Act;
- (e) "public land" means land owned by the Central or the State Government, Boards, Corporations and Trusts owned by the Central or the State Government, Public Sector Undertakings constituted under any law and the local authorities;
- (f) "scheme area" means area under the Town Planning or Building Schemes, Improvement Trust Schemes, Urban Estates, Industrial Focal Points or Scheme formulated under any other law; and
- (g) all other expressions used in this Act but not defined shall have their respective meanings as assigned to them in the Punjab Municipal Act, 1911, the Punjab Municipal Corporation Act, 1976 or the Municipal Building bye-laws framed thereunder or in the Punjab Town Improvement Act, 1922 or Schedule of Clauses appended to any Scheme framed under the Punjab Town Improvement Act, 1922.

Competent
Authority.

3. The competent authority shall be-
- (a) in case of a Municipal Corporation, the Commissioner concerned of Municipal Corporation, for all categories of buildings;
 - (b) in case of a Municipal Council or a Nagar Panchayat or an Improvement Trust, Executive Officer concerned;
 - (i) for residential buildings;
 - (ii) for non-residential buildings up to plot area of 500 square yards; and
 - (iii) for non-residential buildings of plot area of more than 500 square yards in case of a Municipal Council or a Nagar Panchayat or an Improvement Trust, Regional Deputy Director concerned, Urban Local Bodies.

Mode of
application.

4. (1) Within a period of three months from the date of coming into force of this Act, any owner of the building, who has committed a non-compoundable building violation while constructing such building, may disclose voluntarily such violation and apply online in the specified Form along with photographs of such building, duly signed by the owner, to the competent authority concerned.

(2) Thereafter within a period of two months, the applicant shall submit the required information in specified Form alongwith all the requisite documents/plans and prescribed application fee.

5. (1) (A) Non-compoundable building violations in a residential plotted building,— The non-compoundable building violations in residential plotted buildings, disclosed voluntarily under sub-section (1) of section 4, may be settled by the competent authority, on as is where is basis, after spot verification, subject to maximum height of 50'-0", as one time measure by realizing the following composition fee:-

One-time
Settlement.

Serial No.	Urban Local Bodies	Composition Fees
1	In the case of Municipal Corporation and Improvement Trusts of Amritsar, Jalandhar and Ludhiana	Rs. 300/- per square feet of the total non-compoundable area on all floors.
2	In the case of remaining Municipal Corporations and Improvement Trusts and all the Municipal Councils or Nagar Panchayats	Rs. 200/- per square feet of the total non-compoundable area on all floors.
3	The aforesaid charges are for maximum 50% excess of the permissible floor area ratio. Over and above 50% excess floor area ratio (maximum upto 75%), double the above charges shall be applicable.	

Note:-

(i) Front house-line in case of scheme areas shall not be compounded.

(ii) In other cases where front house-line has been compounded, if at any time, any portion from the front setback, so compounded, is required for road widening or laying any other infrastructure by the Urban Local Bodies, no compensation for built-up shall be given to the owner.

(B) Non-compoundable building violations in a non-residential building,—The non-compoundable building violations in non-residential buildings, disclosed voluntarily under sub-section (1) of section 4, may be settled by the competent authority, on as is where is basis (except the mandatory fire

safety and parking requirement as mentioned in Schedule-I of the Municipal Building Bye-laws, 2018 and public safety/security and public convenience shall not be compromised) after spot verification, as one-time measure by realizing the following composition fee, namely:—

Serial No.	Urban Local Bodies	Composition Fees
1	In the case of Municipal Corporation and Improvement Trusts of Amritsar, Jalandhar and Ludhiana	Rs. 1000/- per Square feet of the total non-compoundable area on all floors.
2	In the case of remaining Municipal Corporations and Improvement Trusts and all the Municipal Councils or Nagar Panchayats.	Rs. 600/- per square feet of the total non-compoundable area on all floors.
3	The composition fees in case of Institutional buildings shall be 75% of the aforesaid charges and for Industrial/Religious buildings shall be 40% of the aforesaid charges.	
4	The aforesaid charges are for maximum 50% excess of the permissible floor area ratio. Over and above 50% excess floor area ratio (maximum up to 75%), double the above charges shall be applicable.	

Note:- In case at any time any portion from the front setback, so compounded, is required for road widening or laying any other infrastructure by the Urban Local Bodies, no compensation for built-up shall be given to the owner.

(C) If the building is constructed on site without taking any change of land use, then prior to compounding of building, change of land use charges are to be deposited as per current applicable rates, as amended from time to time.

(D) The fee collected under this Act shall be deposited by Urban Local Bodies in a separate ESCROW account and the fee collected shall be used only for creating / upgrading parking and infrastructure only.

(2) The applicant shall have to make structural changes in the building, if required, to fulfill the requirements of fire safety and parking within a period of two months from the date of submission of details in Form as specified in sub-section (2) of section 4 and shall also submit mandatory clearances from other departments, if required along with a certificate from the Structural Engineer that the building fulfills the structural safety requirements as per Bureau of Indian Standard norms.

(3) The applicant applying for compounding of—

- (i) residential building having one basement or height upto 15 meters shall be required to submit structural safety certificate from Structural Engineer;
- (ii) non-residential building having one basement or height upto 15 meters shall be required to submit a structural safety certificate from one of the following institutes:-
 - (a) Indian Institute of Technology;
 - (b) Dr. B. R. Ambedkar National Institute of Technology, Jalandhar;
 - (c) Punjab Engineering College (PEC), Chandigarh;
 - (d) Thapar University, Patiala;
 - (e) Guru Nanak Dev Engineering College, Ludhiana; and
 - (f) Giani Zail Singh College of Engineering and Technology, Bathinda; and
- (iii) buildings having multiple basement or height more than 15 meters shall submit a structural safety certificate obtained from Indian Institute of Technology.

(4) For violation of parking requirements, the competent authority, if deem fit, may on the request of an applicant or a group of applicants, permit either individually or collectively, an alternate parking site within the vicinity not exceeding a distance of 250 meters from the site under reference exclusively earmarking such parking spaces for the building under consideration, should such a parking space be provided in the vicinity, the said parking lots shall be either owned or in enjoyment under lease for a continuous period of not less than ten years.

(5) In case the applicant does not provide parking area, the applicant shall pay parking cess equivalent to the prevailing collector rate of land required to fulfill the shortage of equivalent car space at the time of regularization of the building.

(6) The owner shall be responsible for the building under application to be in conformity with the provisions of the Master Plan and this Act.

6. (1) This Act shall apply only to those non-compoundable violations which have been made on or before the 30th day of June, 2018.

Non-Compoundable
violations to be
covered under this
Act.

(2) The cases of non-compoundable violations, which have already been detected by the competent authorities and in respect of which the proceedings are still pending with the authorities concerned, shall also be settled in accordance with this Act. However, for getting such cases settled, the owner shall have to apply afresh under this Act.

(3) The one-time settlement shall, however, be without any prejudice to the disciplinary action, as may be taken against the officer or official concerned of the Municipal Corporation, Municipal Council or Nagar Panchayat or Improvement Trust, as the case may be, who is found responsible for aiding or abetting such violation.

Finalization of action under this Act and the time limit.

7. (1) The competent authority shall pass the final order

- (i) granting permission unconditionally; or
- (ii) granting permission subject to such conditions as it may think necessary to impose; or
- (iii) refusing permission; and
- (iv) where permission is granted subject to the conditions or is refused, the ground of imposing such conditions or such refusal shall be recorded in the order and such order shall be communicated to the applicant.

(2) The competent authority shall finalize the matter within a period of one year after the commencement of this Act.

(3) After the expiry of a period of one year as specified in sub-section (2), there shall be no settlement of non-compoundable violations, which have not been disclosed within the aforesaid stipulated period or if disclosed, but not finally settled within the said period. Such violations shall be identified by the competent authority and action shall be taken as per the provisions of the Punjab Municipal Corporation Act, 1976 or the Punjab Municipal Act, 1911 or the Punjab Town Improvement Act, 1922, whichever is applicable.

Appeal against the orders of the competent authority.

8. (1) Any person aggrieved by any order of the competent authority under this Act, may within a period of thirty days from the communication of the order to him, prefer an appeal to the Director, Local Government, Punjab in such form and manner, as may be specified.

(2) The appellate authority may, after giving an opportunity to be heard to the parties and to the competent authority, pass such order, as it may deem fit, either confirming, modifying or setting aside the order of the competent authority, and record its reasons in writing and the order of the appellate authority shall be final.

(3) In discharging its functions, the appellate authority shall have all the powers under the Code of Civil Procedure, 1908 of a civil court while deciding an appeal.

9. During the period of operation of this Act, no relief shall be available under the provisions of this Act in respect of the following categories of non-compoundable building violations, namely:—

Restrictions of regularization in certain cases.

- (a) any non-compoundable building violations made after the 30th day of June, 2018;
- (b) encroachment on public land;
- (c) area, which is notified under the Land Acquisition Act, 1894, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Forest(Conservation) Act, 1980, the Punjab Land Preservation Act, 1900, the Environment (Protection) Act, 1986 and the Works of Defence Act, 1903 or restricted area covered under any other Central or State Act prohibiting the construction of buildings in a particular area;
- (d) the violation of land use, except conversion of shop-cum-flat to commercial, in the Town Planning or Building Schemes, Improvement Trust Schemes, Urban Estates, Industrial Focal Points or Schemes formulated under any other Act;
- (e) violations of mandatory fire safety and public safety security; and
- (f) any type of building as may be decided by the Government.

10. No person shall be entitled to claim any benefit or relief unless all the terms and conditions have been fulfilled and the requisite fee and development charges, as specified by the Government, have been deposited.

Entitlement of claim.

11. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed of by any authority empowered by this Act or the rules or regulations made thereunder.

Bar of jurisdiction of courts.

12. Notwithstanding anything inconsistent contained in the Punjab Municipal Act, 1911, the Punjab Municipal Corporation Act, 1976 and the Punjab Town Improvement Act, 1922 and the rules, regulations and bye-laws made thereunder or in any other law enacted by the State Legislature, which is in force in the State of Punjab, the provisions of this Act shall have an over-riding effect.

Over-riding effect.

Repeal and saving.

13. (1) The Punjab One-time Voluntary Disclosure and Settlement of Violations of the Buildings constructed in Violation of the Building Bye-laws in the Corporations and the Municipalities Act, 2004 (Punjab Act No. 6 of 2004), is hereby repealed.

(2) Notwithstanding such repeal, anything done or action taken under the Act referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provision of this Act.

STATEMENT OF OBJECTS AND REASONS

There are large number of unauthorised buildings in the state where the buildings plans have not been approved. Most of these buildings violations are non-compoundable and therefore such buildings cannot be regularized under the existing provisions. These unauthorised constructions are constructed over a period of time and at this stage neither it is possible nor desirable to demolish such buildings. The State Government therefore, feels that the best course of action to deal with such buildings is to regularise them provided these buildings meet fire and safety standards and do not compromise on public safety/security and convenience. Hence the present Bill i.e. "The Punjab One-Time Voluntary Disclosure and Settlement of Violations of the Buildings Bill, 2019" aims to make suitable provisions. Hence this Bill.

NAVJOT SINGH SIDHU,
Minister for Local Government,
Punjab.

CHANDIGARH :
The 18th February, 2019.

SHASHI LAKHANPAL MISHRA,
Secretary.

N.B.—The above Bill was published in the *Punjab Government Gazette (Extraordinary)*, dated the 18th February, 2019 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).