

## **GUIDELINES FOR THE EXEMPTION OF BUILDINGS, 2017**

### **PREAMBLE**

*In exercise of the powers conferred by section 113-c of the Tamil Nadu Town and country Planning Act, 1971 (Tamil Nadu Act 35 of 1972), the Governor of Tamil Nadu hereby makes the following Guidelines: -*

### **GUIDELINES**

#### **1. Short title and application.--**

(1) These Guidelines may be called the Guidelines for the Exemption of Buildings, 2017.

(2) They shall be applicable to the areas covered by the provisions of the Tamil Nadu Town and country Planning Act, 1971 (Tamil Nadu Act 35 of 1972).

#### **2. Definition.--**

In these guidelines, unless the context otherwise requires, -

(a) "Act" means the Tamil Nadu Town and country Planning Act, 1971 (Tamil Nadu Act 35 of 1972);

(b) "amount for exemption" means an amount collected under the Tamil Nadu Assessment and collection of Amount for Exemption of Buildings Rules, 2017;

(c) "Buildings" means building or class of buildings developed on or before the 1st day of July 2007;

(d) "competent Authority" means, -

(1) In respect of Chennai Metropolitan Area, -

(i) in respect of "buildings as specified under Category-A, in Development Regulations 14 to 21 in Development Regulations of the Second Master Plan for Chennai Metropolitan Area," the commissioner of Greater Chennai Corporation or Municipalities or Executive Officer of the Town Panchayats or Block Development Officers of the Panchayat Unions who will receive regularisation applications and issue

suitable orders by following the procedures set out in the guidelines.

(ii) in respect of the "Buildings specified in the Development Regulations other than those specified in item number (i) above," the Member Secretary of the chennai Metropolitan Development Authority (CMDA) who will receive the regularisation applications and issue suitable orders by following the procedures set out in the guidelines.

(2) In respect of Directorate of Town and Country Planning Areas: -

(i) in case of "ordinary buildings", the concerned Commissioner or Executive Officer, as the case may be, Commissioner of the Municipal Corporation and Municipality, the Executive Officer of the Town Panchayat and the Block Development Officer (Village Panchayats) of the concerned Block in which the Village Panchayat falls, who will receive regularisation applications and pass suitable orders by following the procedures set out in the guidelines;

(ii) in case of "buildings other than ordinary buildings", the Regional Deputy Director or the Assistant Director of Town and country Planning Department of the concerned area, the Member-Secretary of the composite Local Planning Authority or the New Town Development Authority, as the case may be, who will receive regularisation applications and process the applications and pass suitable orders by following the procedures set out in the guidelines;

(iii) in case of a "Multi-Storied Building", the Director of Town and country Planning, chennai who will receive and process the regularisation application and issue concurrence to the respective Regional Deputy Directors/Member-Secretary, Planning Authorities to pass suitable orders by following the procedures set out in the guidelines;

(e) "flat/apartment" means a part of the property intended for any type of independent use including one or more rooms or enclosed spaces located in one or more floors (or part or parts thereof) in a building, intended to use for residence, office, practice of any profession or for carrying any occupation trade or business or for other type of independent use and with a direct exit to a public street, road or highway or to a common area leading to such street, road or highway.

(f) "Floor Space Index (FSI)" means the quotient obtained by dividing the total covered (plinth) area on all floors excepting the areas specifically exempted under the respective rules and regulations prevailing in the respective areas, by the plot area which includes part of the site used as exclusive passage. (FSI = Total covered area on all floors ÷ Plot area);

(g) "guideline value" means the prevailing guideline value of the land in terms of rupees per square metre fixed by the Registration Department of the State of Tamil Nadu, as on the date of filing of application for regularization.

(h) "land use zoning" means the use zone of a site specifically designated in the prevailing master plan and/or a detailed development plan or a new town development plan in the respective areas prepared under the Act;

(i) "local authority" means-

(i) a Municipal corporation established under any law for the time being in force; or

(ii) a Municipality or a Town Panchayat constituted under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920); or

(iii) a Panchayat Union council constituted under the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994);

(j) "Multi-Storied building" means the building defined as Multi-Storied building in the respective rules and regulations prevailing as on the date of notification of these guidelines;

For the purpose of this scheme Multi-Storied building includes buildings of height exceeding 17.25 m.

(k) "group development" means the building defined as group development in the respective rules and regulations prevailing as on the date of notification of these guidelines;

(l) "special building" means the building defined as special building in the respective rules and regulations prevailing as on the date of notification of these guidelines;

For the purpose of this scheme the special building shall include all buildings of height upto 17.25 m irrespective of number of floors;

(m) "ordinary building" means a building, which does not fall within the definition of special building, the group development or Multi-Storied

building defined in the respective rules and regulations prevailing as on the date of notification of these guidelines;

(n) "parking space" means an area covered or open, sufficient in size to park vehicles together with drive way connecting the parking lot with road or street and permitting ingress or egress of the vehicles;

(o) "road or street width" means the whole extent of space within the boundaries of the road or street measured at right angles to the course of direction of such road or street; road width measurements for the above, shall be of the road as designed and laid;

(p) "setback" means open space across front or sides or rear of a plot between the building and street alignment or boundary of the plot, as the case may be;

(q) "Rules" means the Tamil Nadu Assessment and collection of Amount for Exemption of Buildings Rules, 2017.

(r) other words and expression used in these guidelines but not defined shall have the same meaning assigned them in section 2 of the Act, or any other law relating to the local authorities for the time being in force or in any other rule or bye-law or regulation made there under or in the respective rules prevailing as on the date of notification of these guidelines.

### **3. Application for exemption.--**

(1) Application for exemption, shall be made to the competent Authority through online.

(2) The application shall be accompanied by the following:-

(a) Five copies of plans showing the construction as per site conditions including its usage, duly signed by both the applicant who has the right over the land to develop and the Architect or a Licensed Surveyor and other professionals as prescribed by the local authorities concerned in their respective Act or Building Rules.

(b) The plans accompanying the applications for Special Buildings, Group Developments and Multi Storied Buildings have to be signed by an Architect or a Licensed Surveyor as per requirement.

(c) Any proof of existence of the construction as on 01.07.2007 submitted by the applicant will be taken as the proof of existence of the building in its present form.

(d) A copy of ownership document duly self attested;

(e) If there is an earlier approval for existing developments within the plot, a copy of the approved plan, duly attested by an Architect or a civil Engineer or a Licensed Surveyor and other professionals as prescribed by the local authority concerned in their respective Act or Building Rules;

(f) A copy of patta with Field Measurement Book (FMB) sketch or Permanent Land Register (PLR) Extract duly attested by the concerned Revenue official.

(g) NOC and Compliance Certificate from the Directorate of Fire & Rescue Services for Commercial Special Buildings, all Multi-storied Buildings and all public buildings is a prerequisite for filing the applications for exemption under section 113-c of the Act.

(h) The Structural Stability Certificate issued by a registered Structural Engineer in cases of Special Buildings, Group Developments and Multi-storied Buildings in consultation with the competent Geo-Technical Engineer is a pre-requisite for filing the application seeking exemption under section 113-C of the Act.

(i) In case of ordinary building, certification by a Civil Engineer is sufficient for filing application seeking exemption under section 113-c of the Act.

(j) clearance from the Tamil Nadu Pollution control Board for any industrial development including cottage industry.

(k) Rs. 1 per sq. ft. for ordinary building applications and Rs. 2 per sq. ft. for applications other than ordinary buildings will be collected as scrutiny fee which has to be paid online along with the Application.

(3) Any application made by any person for the assessment of amount for exemption who does not have any right over the land or building shall be summarily rejected.

(4) Filing an application for exemption under these regulations will not in any way prevent the competent authority from taking action under any of the provisions of the Act, unless otherwise ordered so by the competent authority.

#### **4. Compulsory application for regularization.--**

It shall be compulsory for all the individual building owners and building promoters eligible under guideline number 3(1) to file an application online in Form-A for regularisation to the competent authority concerned within six months from the date of notification of these guidelines along with the fees and charges as per the self assessment made and annexed with the applications and further accompanied with other required particulars as prescribed. The competent authority shall process the application and pass orders of regularisation/rejection.

## **5. Guidelines for exemption.--**

The following shall be the guidelines for exemption of any building or class of building developed on or before the 1st day of July 2007 and deviated from all or any of the provisions of the Act or any rule or regulation made thereunder: -

(i) The developments considered for exemption:-The developments considered for exemption shall be in conformity with the following Acts/regulations prevailing as on the date of notification of these guidelines: -

(a) The civil Aviation Regulations of the Ministry of Tourism and civil Aviation, under the Aircraft Act, 1934 (central Act XXII of 1934).

(b) The Ministry of Defence Regulations for developments in the vicinity of the Air Force stations within 100 metres around areas notified under the works of Defence Act, 1903 (Central Act 7 of 1903)

(c) The Tamil Nadu Nuclear Installations (Regulation of Buildings and Use of Land) Act, 1978, Tamil Nadu Act 16 of 1978)

(d) The coastal zone Regulations of the Ministry of Environment and Forest under the Environment (Protection) Act, 1986 (central Act 29 of 1986).

(e) The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (central Act 24 of 1958).

(f) The Tamil Nadu Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1966 (Tamil Nadu Act 25 of 1966)

(g) Developments in a site within 15 metres from the water body subject to the conditions imposed by the Public Works Department or Executive Authority of the local body, as the case may be.

(h) Any development or regularization shall conform to the rules 79 and 80 of the Indian Electricity Rules, 1956 in respect of clearance from high tension and extra high voltage lines.

(ii) The following shall not be considered for exemption: -

(a) Building with any encroachment including aerial encroachment on to a public road or street or any Government/local authority owned lands including water bodies, open spaces reserved as parks and play grounds in Master Plan or Detailed Development Plan or new town development plan or approved layouts and notified under:

(i) the Tamil Nadu Parks, Play-Fields and Open Spaces (Preservation and Regulation) Act, 1959,

(ii) buildings in Government lands including water bodies, land acquired under the Land Acquisition Act, 1894 (central Act I of 1894) or Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (central Act 30 of 2013)

(iii) the Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002)

(iv) the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (Tamil Nadu Act 31 of 1978) or any other land acquisition laws for the time being in force and the lands affected by the erstwhile Tamil Nadu Urban Land (ceiling and Regulation) Act, 1978 (Tamil Nadu Act 24 of 1978)

(v) the Tamil Nadu Land Reforms (Fixation of ceiling on Land Act, 1961 (Tamil Nadu Act 58 of 1961)

(b) The building in a filled up tank or low lying or made up of soil by depositing rubbish or offensive matters and the proposal is likely to be affected by dampness owing to the sub-soil water, subject to ameliorative measures as may be prescribed by the Public Works Department.

(c) Hazardous activities or hazardous industries including storages of hazardous materials like inflammable materials, chemicals, gas, etc. in a zone other than the special and hazardous industrial use zone.

(d) Developments in a site within 500 metre radius from the boundary line of the Reserve Forest in the areas covered under the Tamil Nadu Town and country Planning Act, 1971 (Tamil Nadu Act 35 of 1972) shall be subject to the compliance, in toto, of the norms prescribed in the Forest conservation Act and Wild Life Protection Act.

(e) Aquifer Recharge Area/Redhills catchment Area of Chennai Metropolitan Planning Area.

(iii) Parking requirements: -

(a) Parking shortfall will be condonable on payment of charges prescribed. However, for Multi-storied Buildings above 17.25 m, atleast 50% of the parking shall be provided onsite or offsite and for the balance shortfall upto 50%, charges shall be collected as prescribed.

(b) Wherever feasible, the applicant can comply with the parking requirements by way of mechanical parking.

(iv) In cases where the construction has been made in violation of land use zone, the applicant cannot make any additional construction in future and has to give an undertaking to that effect.

(v) The building shall comply with the minimum requirements of Fire and Life Safety measures as given in Annexure-II.

(vi) The building shall comply with the minimum structural stability requirements as given in Annexure-III.

(vii) The school buildings shall be considered for regularization, irrespective of number of floors subject to compliance of structural stability norms and fire and life safety measures.

(viii) Lifeline buildings as defined in Annexure-IV shall conform to the Bureau of Indian Standard codes related to earthquake resistance with reference to the provisions like importance factor 1.5 as stipulated in Indian Standard code, 1893, etc. For other buildings, the applicant shall give an undertaking that the building is in conformity with design documents including earthquake resistance based on zonal classification in addition to the structural stability certificate issued by the registered structural engineer.

(ix) The Architect and Registered Structural Engineer engaged by the applicant shall give a certificate specifying the violations of planning

parameters and stability aspects of the building as per the prescribed format in Annexure-V and VI respectively.

(x) Filing an application for exemption under these regulations will not in any way prevent the officials from taking action under any of the provisions of the Act, unless otherwise ordered so by the competent authority.

## **6. Processing of the application.--**

(1) All the applications under the scheme have to be filed only through online.

(2) The competent authority shall, on receipt of an application made online under guideline 3, examine the same with reference to the provisions of the Act or other laws or rules and regulations made thereunder prevailing as on the date of notification of these guidelines, in the respective areas, as the case may be and call for any additional details or particulars, if necessary from the applicant.

(3) The competent Authority shall decide on the corrective measures, if any, and communicate the same to the applicant for carrying out the corrections, within a time period as specified by the Competent Authority but not more than 6 months, failing which the regularization application shall be rejected.

(4) The Competent Authority shall, on the fulfilment of the conditions prescribed in these guidelines, process accordingly and issue suitable orders of regularisation/rejection.

(5) The Government may, at any time, require the competent authority, to forward the application submitted for exemption, with or without their remarks and, the competent authority shall comply with the same.

## **7. Consequences of non-regularisation.--**

Where no regularisation is ordered under these guidelines for an unauthorised/deviated building; then-

(a) no electricity, water supply, drainage and sewerage connections shall be extended to such unauthorised/deviated building;

(b) such unauthorised/deviated building shall not be registered under the Registration Act, 1908 (central Act 9 of 1908) by the Registration Department.

In order to give effect to the consequences indicated above, the departments, namely, Tamil Nadu Generation and Distribution corporation Limited (TANGEDCO), Chennai Metro Water Supply and Sewerage Board (CMWSSB) and Registration Department shall make necessary amendments in their respective Acts and Rules relating to Local Bodies.

**8. Penalty amount to be levied and collectable as regularisation charges.--**

shall be credited into the Infrastructure and Amenities Fund and shall be used to fund amenities and infrastructure development programmes.

**9. Appeal.--**

Any person aggrieved by an order passed by competent authority may prefer an appeal to the Government in Housing and Urban Development Department in case of Chennai Metropolitan Planning Area or the Directorate of Town and Country Planning, in case of areas other than the Chennai Metropolitan Development Area, within thirty days from the date of receipt of the order:

Provided that the Government or the Director of Town and Country Planning, as the case may be, may admit an appeal preferred after the expiration of the said limitation period, if they are satisfied that the appellant had sufficient cause for not preferring the appeal within the said limitation period:

Provided further that no appeal shall be entertained unless it is accompanied by satisfactory proof of the payment of the self-assessed amount for exemption.

**DHARMENDRA PRATAP YADAV,**

Secretary to Government.