

Kerala Gazette No. 22 dated 27th May 2008.

PART I

Section i



GOVERNMENT OF KERALA

Law (Legislation-Publication) Department

NOTIFICATION

No. 5068/Leg.Pbn.3/08/Law. *Dated, Thiruvananthapuram, 25th March 2008.*

The following Act of Parliament, published in the Gazette of India, Extraordinary, Part II, Section I, dated the 6th December, 2007 is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 5th December, 2007.

By order of the Governor,

P. S. GOPINATHAN,
Law Secretary.

G.249/2008/DTP.

THE NATIONAL CAPITAL TERRITORY OF DELHI LAWS
(SPECIAL PROVISIONS) ACT, 2007

(ACT No. 43 OF 2007)

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ACT

to make special provisions for the National Capital Territory of Delhi for a further period upto 31st December, 2008 and for matters connected therewith or incidental thereto.

WHEREAS there had been phenomenal increase in the population of the National Capital Territory of Delhi owing to migration and other factors resulting in tremendous pressure on land and infrastructure leading to encroachment or unauthorised developments which are not in consonance with the concept of planned development as provided in the Master Plan of Delhi, 2001 and the relevant Acts and building bye-laws made thereunder;

AND WHEREAS the Master Plan of Delhi, 2001 has been extensively modified and notified by the Central Government on 7th February, 2007 with the perspective for the year 2021 keeping in view the emerging new dimensions in urban development *vis-a-vis* the social, financial and other ground realities;

AND WHEREAS the Master Plan of Delhi with the perspective for the year 2021 specifically provides for strategies for housing for urban poor as well as to deal with the informal sector;

AND WHEREAS a revised policy for relocation and rehabilitation of slum dwellers in the National Capital Territory of Delhi is also under consideration of the Central Government;

AND WHEREAS a strategy and a scheme has been prepared by the local authorities in the National Capital Territory of Delhi for regulation of urban street vendors in accordance with the National Policy for Urban Street Vendors and the Master Plan for Delhi, 2021;

AND WHEREAS some time is required for making orderly arrangements in accordance with the revised policy for relocation and rehabilitation of slum dwellers of Delhi as well as for putting in place the scheme for regulation of urban street vendors in terms of the Master Plan of Delhi, 2021 and also the national policy in this regard;

AND WHEREAS the Central Government has considered and finalised a policy regarding regularisation of unauthorised colonies, village *abadi* area and its extension, as existed on the 31st day of March, 2002 for which the guidelines are being framed;

AND WHEREAS the Central Government require time to take a considered view on the policy regarding existing farm houses involving construction beyond permissible building limits and regarding schools, dispensaries, religious institutions and cultural institutions, storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land, *inter alia*, in the light of recommendations of the Expert Committees constituted by the Central Government in the year 2006;

AND WHEREAS the National Capital Territory of Delhi Laws (Special Provisions) Ordinance, 2007 (ord. 6 of 2007) for making special provisions for the areas of the National Capital Territory of Delhi for a further period of one year promulgated on 4th July, 2007 will cease to operate from the 21st day of September, 2007;

AND WHEREAS the National Capital Territory of Delhi Laws (Special Provisions) Bill, 2007 introduced in Parliament to replace the National Capital Territory of Delhi Laws (Special Provisions) Ordinance, 2007 (ord. 6 of 2007) could not be taken up for consideration and passing since Parliament adjourned *sine die*;

AND WHEREAS it is expedient to have a law in terms of the Master Plan of Delhi, 2021, in continuation of the said Act for a period up to 31st December, 2008 to provide temporary relief and to minimise avoidable hardships and irreparable loss to the people of the National Capital Territory of Delhi against any action by the concerned agency in respect of persons covered by the policies referred to above which are expected to be finalised within the period so extended;

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. *Short title, extent, commencement and duration.*—(1) This Act may be called the National Capital Territory of Delhi Laws (Special Provisions) Act, 2007.

(2) It extends to the National Capital Territory of Delhi.

(3) It shall be deemed to have come into force on the 19th day of May, 2007.

(4) It shall cease to have effect on the 31st day of December, 2008 except as respects things done or omitted to be done before such cesser, and upon such cesser section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply as if this Act had then been repealed by a Central Act.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires,—

(a) “building bye-laws” means bye-laws made under section 481 of the Delhi Municipal Corporation Act, 1957 (66 of 1957) or the bye-laws made under section 188, sub-section (3) of section 189 and sub-section (1) of section 190 of the Punjab Municipal Act, 1911 (Punjab Act 3 of 1911), as in force in New Delhi or the regulations made under sub-section (1) of section 57 (61 of 1957) of the Delhi Development Act, 1957, relating to buildings;

(b) “Delhi” means the entire area of the National Capital Territory of Delhi except the Delhi Cantonment as defined in clause (11) of section 2 of the Delhi Municipal Corporation Act, 1957 (66 of 1957);

(c) “encroachment” means unauthorised occupation of Government land or public land by way of putting temporary, semi-permanent or permanent structure for residential use or commercial use or any other use;

(d) “local authority” means the Delhi Municipal Corporation established under the Delhi Municipal Corporation Act, 1957 (66 of 1957), or the New Delhi Municipal Council established under the New Delhi Municipal Council Act, 1994 (44 of 1994), or the Delhi Development Authority established under the Delhi Development Act, 1957 (61 of 1957), legally entitled to exercise control in respect of the areas under their respective jurisdiction;

(e) “Master Plan” means the Master Plan for Delhi with the perspective for the year 2021 notified, *vide* the notification number S.O.141(E), dated 7th February, 2007 under the Delhi Development Act, 1957 (61 of 1957);

(f) “notification” means a notification published in the Official Gazette;

(g) “punitive action” means action taken by a local authority under the relevant law against unauthorised development and shall include demolition, sealing of premises and displacement of persons or their business establishment from their existing location, whether in pursuance of court orders or otherwise;

(h) “relevant law” means in case of—

- (i) the Delhi Development Authority, the Delhi Development Act, 1957 (61 of 1957);
- (ii) the Municipal Corporation of Delhi, the Delhi Municipal Corporation Act, 1957 (66 of 1957); and
- (iii) the New Delhi Municipal Council, the New Delhi Municipal Council Act, 1994 (44 of 1994);

(i) “unauthorised development” means use of land or use of building or construction of building or development of colonies, village *abadi* area and its extension, carried out in contravention of the sanctioned plans or without obtaining the sanction of plans, or in contravention of the land use as permitted under the Master Plan or Zonal Plan or layout plan, as the case may be, and includes any encroachment.

(2) The words and Expressions used but not defined herein shall have the meanings respectively assigned to them in the Delhi Development Act, 1957 (61 of 1957), the Delhi Municipal Corporation Act, 1957 (66 of 1957), and the New Delhi Municipal Council Act, 1994 (44 Of 1994).

3. *Enforcement to be kept in abeyance.*—(1) Notwithstanding anything contained in any relevant law or any rules, regulations or bye-laws made thereunder, the Central Government shall before the expiry of this Act, take all possible measures to finalise norms, policy guidelines and feasible strategies to deal with the problem of enroachment or unauthorised development in the form of enroachment by slum dwellers and *Jhuggi-Jhompri* clusters, hawkers and urban street vendors, unauthorised colonies, village *abadi* area and its extension, existing farm houses involving construction beyond permissible building limits and schools, dispensaries, religious institutions, cultural institutions, storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land, as mentioned below:

(a) policy for relocation and rehabilitation of slum dwellers and *Jhuggi-Jhompri* clusters in accordance with provisions of the Master Plan of Delhi, 2021 to ensure development of Delhi in a sustainable, planned and humane manner;

(b) strategy for regulation of urban street vendors in consonance with the national policy for urban street vendors and hawkers as provided in the Master Plan of Delhi, 2021;

(c) scheme containing guidelines for regularisation of unauthorised colonies, village *abadi* area and its extension, as existed on the 31st day of March, 2002, and where construction took place even beyond that date and up to the 8th day of February, 2007;

(d) Policy regarding existing farm houses involving construction beyond permissible building limits; and

(e) Policy regarding schools dispensaries, religious institutions, cultural institutions, storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land.

(2) Subject to the provisions contained in sub-section (1) and notwithstanding any judgement, decree or order of any court, status quo—

(i) as on the 1st day of January, 2006 in respect of encroachment or unauthorised development; and

(ii) in respect of unauthorised colonies, village abadi area and its extension, which existed on the 31st day of March, 2002 and where construction took place even beyond that date and up to the 8th day of February 2007, mentioned in sub-section (1), shall be maintained.

(3) All notices issued by any local authority for instituting action against encroachment or unauthorised development referred to in sub-section (1), shall be deemed to have been suspended and no punitive action shall be taken till the 31st day of December 2008.

(4) Notwithstanding any other provision contained in this Act, the Central Government may, at any time before the 31st day of December 2008, withdraw the exemption by notification in respect of encroachment or unauthorised development mentioned in sub-section (2) or sub-section (3) as the case may be.

4. *Provisions of this Act not to apply in certain cases.*—During the period of operation of this Act, no relief shall be available under the provisions of section 3 in respect of the following encroachment or unauthorised development, namely:—

(a) encroachment on public land except in those cases which are covered under clauses (a), (b) and (c) of sub-section (1) of section 3;

(b) removal of slums and *Jhuggi-Jhompi* dwellers, hawkers and urban street vendors, unauthorised colonies or part thereof, village abadi area and its extension in accordance with the relevant policies approved by the Central Government for clearance of land required for specific public projects.

5. *Power of Central Government to give directions.*—The Central Government may, from time to time, issue such directions to the local authorities as it may deem fit, for giving effect to the provisions of this Act and it shall be the duty of the local authorities to comply with such directions.

6. *Repeal and savings.*—(1) The National Capital Territory of Delhi Laws (Special Provisions) Second Ordinance, 2007 (Ord. 7 of 2007) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the National Capital Territory of Delhi Laws (Special Provisions) Second Ordinance 2007 (Ord. 7 of 2007) shall be deemed to have been done or taken under the corresponding provisions of this Act.
