

National Capital Territory Of Delhi Laws (Special Provisions) Second Act, 2011

20 of 2011

[23 December 2011]

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PREAMBLE

An Act make special provisions for the National Capital Territory of Delhi for a further period up to the 31st day of December, 2014 and for matters connected therewith or incidental thereto,

Whereas there has 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 for Delhi, 2001 and the relevant Acts and building bye Laws -made thereunder;

And whereas the Master Plan for Delhi, 2001 was extensively modified and notified by the Central Government on the 7th day of 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 for 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 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 is being implemented;

And whereas based on the policy finalised by the Central Government regarding regularisation of unauthorised colonies, village abadi area and their extension, the guidelines and regulations for this purpose have been issued;

And whereas based, on the policy finalised by the Central Government regarding regularisation of unauthorised colonies, village abadi area and their extensions, the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village Abadis, have been made by the Delhi Development Authority under sub-sec. (1) of Sec. 57 of the Delhi Development Act, 1957 (61 of 1957) notified in the Gazette of India vide S.O. 97(E), dated the 17th January, 2011;

And whereas in pursuance of the guidelines and regulations necessary steps are being taken for the regularisation of unauthorised colonies which, inter alia, involve scrutiny of layout plans, assessment of built-up percentage existed as on the 31st day of March, 2002, identification of mixed use of streets, approval of layout plans, fixation of boundaries, change in land use and identification of colonies not eligible for regularisation;

And whereas the Government of National Capital Territory of Delhi has received one hundred forty redrafted layout plans and is in process of fixing the boundary on these layout plans and the complete process of redrafting or finalisation of layout plans is likely to take considerable time to regularise all the unauthorised colonies;

And whereas more time is required for proper implementation of the scheme regarding hawkers and urban street vendors and for the regularisation of unauthorised colonies, village abadi area and their extensions and special areas;

And whereas the Government of National Capital Territory of Delhi is actively considering enactment of law with regard to hawkers and urban street vendors, which is likely to take considerable time due to the legal procedure to be followed in this regard;

And whereas the revised policy for proper arrangements for relocation and rehabilitation of slum dwellers and jhuggi-jhompri clusters in the National Capital Territory of Delhi has been

formulated and accordingly, the Delhi Urban Shelter Improvement Board Act, 2010 (Delhi Act 7 of 2010) has been enacted by the Legislature of the National Capital Territory of Delhi and notified with effect from the 1st July, 2010 to provide for implementation of schemes for improvement of slums and jhuggi-jhompri clusters with a view to bring improvement in environment and living conditions, and to prepare housing scheme for such persons;

And whereas the Delhi Urban Shelter Improvement Board has identified about six hundred and eighty-five jhuggi-jhompri clusters in the National Capital Territory of Delhi and relocation thereof is likely to take considerable time;

And whereas the draft policy regarding farm houses is being prepared by the Delhi Development Authority and its finalisation is likely to take about two years;

And whereas pursuant to the Master Plan for Delhi, 2021, the Zonal Development Plans in respect of various Zones have been notified which provides for regularisation of schools, dispensaries, religious institutions and cultural institutions established on or before the 1st January, 2006 in non-conforming areas;

And whereas the policy with respect to storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land and guidelines for redevelopment of existing godown clusters in nonconforming areas (including those for a storage of non-agricultural goods) required to cater to the needs of the people of the National Capital Territory of Delhi are under consideration of the Central Government in consultation with the Delhi Development Authority;

And whereas with respect to special areas (being the areas consisting of walled city, walled city extension and area known as Karol Bagh and as such other areas as may be designated as special area) referred to in clause (vi) of Regulation 2 of the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village Abadis, 2010 notified in the Gazette of India vide S.C. 97(E), dated the 17th January, 2011, is being taken for formulation of redevelopment plan and schemes by concerned local authority which is likely to take considerable time;

And whereas Rule 12 of the Delhi Development (Master Plan and Zonal Development Plan) Rules, 1959 provides for amendment of whole or any part of the Master Plan, if necessary, at the expiry of every five years and accordingly in pursuance of the aforesaid Rule 12, the process of quinquennial revision of the provisions of the Master Plan notified on the 7th February, 2007, is being

undertaken for such modifications and updating that have emerged based on ground realities which is likely to take some time for finalisation;

And whereas in view of the foregoing paragraphs, it is expedient and in public interest that no hardship be caused (whether by way of sealing or demolition of the structures or otherwise), to the public until the revision of Master Plan as stated in the preceding paragraph is undertaken to facilitate the smooth review of the Master Plan;

And whereas the National Capital Territory of Delhi Laws (Special Provisions) Act, 2007 (43 of 2007) was enacted on the 5th day of December, 2007 to make special provisions for the areas of National Capital Territory of Delhi for a period of up to the 31st day of December, 2008 which ceased to operate after the 31st December, 2008;

And whereas the National Capital Territory of Delhi Laws (Special Provisions) Act, 2009 (24 of 2009) was enacted in continuation of the aforesaid Act for a period up to the 31st day of December, 2009 to make special provisions for the areas of the National Capital Territory of Delhi and that Act ceased to operate after the 31st day of December, 2009;

And whereas the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2009 (40 of 2009) was enacted in continuation of the aforesaid Act for a period up to the 31st day of December, 2010 to make special provisions for the areas of National Capital Territory of Delhi and that Act ceased to operate after the 31st day of December, 2010;

And whereas the National Capital Territory of Delhi Laws (Special Provisions) Act, 2011 (5 of 2011) has been enacted to give continued effect to provisions of the enactment specified in the preceding paragraph for a period up to the 31st day of December, 2011 and to make special provisions for the areas of the National Capital Territory of Delhi and that Act, shall cease to operate after the 31st day of December, 2011;

And whereas it is expedient to have a law in terms of the Master Plan for Delhi, 2021, in continuation of the said Acts for a period up to the 31st day of December, 2014 to provide for relief and to minimise avoidable hardships and irreparable loss to the people of the National Capital Territory of Delhi against any punitive action by any agency in respect of the persons covered by the policies referred to above.

Be it enacted by Parliament in the Sixty-second 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) Second Act, 2011.

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

(3) It shall come into force on the 1st day of January, 2012.

(4) It shall cease to have effect on the 31st day of December, 2014, except as respects things done or omitted to be done before such cesser, and upon such cesser Sec. 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 Sec. 481 of the Delhi Municipal Corporation Act, 1957 (66 of 1957) or the bye-laws made under Sec. 188, sub-sec, (3) of Sec. 189 and sub-sec. (1) of Sec. 190 of the Punjab Municipal Act, 1911 (Punjab Act 3 of 1911), as in force in New Delhi or the regulations made under sub-sec. (1) of Sec. 57 of the Delhi Development Act, 1957 (61 of 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 Sec. 2 of the Delhi Municipal Corporation Act, 1957 (66 of 1957);

(c) "encroachment" means unauthorised occupation of Government land or public land other than streets, lanes, footpath and parks, 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 notification number S.O.14(B), dated the 7th day of 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 then-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) "special area", shall have the meaning assigned to it in clause (vi) of Regulation 2 of the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village Abadis, 2010 notified in the Gazette of India vide S.O. 97(E), dated the 17th January, 2011;

(j) "unauthorised development" means use of land or use of building or construction of building or development of colonies 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, feasible strategies and make orderly arrangements to deal with the problem of encroachment or unauthorised development in the form of encroachment by slum dwellers and Jhuggi-Jhompri clusters, hawkers and urban street vendors, unauthorised colonies, village abadi area (including urban villages), and their extensions, 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) orderly arrangements for relocation and rehabilitation of slum dwellers and Jhuggi-Jhompri clusters in Delhi in accordance with

the provisions of the Delhi Urban Shelter Improvement Board Act, 2010 (Delhi Act 7 of 2010) and the Master Plan for Delhi, 2021 to ensure its development in a sustainable, planned and humane manner;

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

(c) orderly arrangements pursuant to guidelines and regulations for regularisation of unauthorised colonies, village abadi area (including urban villages) and their extensions, 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;

(e) policy or plan for orderly arrangement 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 and guidelines for redevelopment of existing godown clusters (including those for a storage of non-agricultural goods) required to cater to the needs of the people of the National Capital Territory of Delhi;

(f) orderly arrangements in respect of special areas in accordance with the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village Abadis, 2010 within overall ambit of Master Plan in force; and

(g) policy or plan for orderly arrangements in all other areas of the National Capital Territory of Delhi in consonance with the Master Plan on its review.

(2) Subject to the provisions contained in sub-sec. (1) and notwithstanding any judgment, decree or order of any court, status quo--

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

(ii) in respect of unauthorised colonies, village abadi area (including urban villages) and their extensions, 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-sec. (1);

(iii) in respect of special areas as per the Building Regulations for Special Area, Unauthorised Regularised Colonies and Village Abadis, 2010; and

(iv) in respect of all other areas within the National Capital Territory of Delhi as on the 8th day of February, 2007, shall be maintained.

Explanation.--For the purposes of this sub-section, it is hereby clarified that any development approved by the competent authority or the local authority under the relevant laws and the rules or regulations made thereunder, including repairs permissible under the building bye-laws in force, shall continue to remain permitted.

(3) All notices issued by any local authority for initiating action against encroachment or unauthorised development in respect of areas referred to in sub-sec. (1), shall be deemed to have been suspended and no punitive action shall be taken till the 31st day of December, 2014, if--

(a) it is constructed prior to the dates specified for different areas as enumerated in sub-sec. (2);

(b) it conforms to the safety standards as in force or such other safety requirements as may be notified by the Central Government; and

(c) it complies with the directions with respect to safety, if any, issued by the Central Government:

Provided that in case punitive action is required to be taken by any local authority, prior approval of the Administrator of the National Capital Territory of Delhi or the officer authorised by him in this behalf, shall be obtained by the authority or officer concerned.

(4) Notwithstanding any other provision contained in this Act, the Central Government may, at any time before the 31st day of December, 2014, withdraw the exemption by notification in respect of encroachment or unauthorised development mentioned in sub-sec. (2) or sub-sec. (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 Sec. 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-sec. (1) of Sec. 3;

(b) removal of slums and Jhuggi-Jhompri dwellers, hawkers and urban street vendors, unauthorised colonies or part thereof, village abadi area (including urban villages) and their extensions 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. Validation of acts done or omitted to be done, etc., during 1st January, 2012 up to the date of enactment of this Act :-

Notwithstanding any judgment, decree or order of any court, all things done, or, omitted to be done, and all action taken, or, not taken, during the period beginning on or after the 1st day of January, 2012 and ending immediately before the date of enactment of this Act, shall, in so far as they are in conformity with the provisions of this Act, be deemed to have been done, or, omitted to be done, or, taken, or, not taken, under these provisions as if such provisions were in force at the time such things were done or omitted to be done and action taken or not taken during the aforesaid period.