

THE NATIONAL CAPITAL TERRITORY OF DELHI LAWS (SPECIAL PROVISIONS) ACT, 2011

DELHI

India

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Act 5 of 2011

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THE NATIONAL CAPITAL TERRITORY OF DELHI LAWS (SPECIAL PROVISIONS) ACT, 2011 ACT NO. 5 OF 2011 [29th March, 2011.] An Act to make special provisions for the National Capital Territory of Delhi for a further period up to the 31st day of December, 2011 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 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 its extension, the guidelines and regulations for this purpose have been issued; AND WHEREAS in pursuance of the guidelines and regulations necessary steps are being taken for regularisation of unauthorised colonies which, inter alia, involve scrutiny of layout plans, assessment of built up percentage existed as on 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 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 its extension; 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 Government of 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 draft policy regarding farm houses is under consideration in the Delhi Development Authority;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;ANDWHEREAS 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 are under consideration of the Central Government in consultation with the Delhi Development Authority;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 the National Capital Territory of Delhi for a period 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 the National Capital Territory of Delhi and that Act ceased to operate after the 31st day of December, 2010;AND WHEREAS it is expedient to have a law in terms of the Master Plan for Delhi, 2021, in continuation of the said Act for a period up to the 31st day of December, 2011 to provide for 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.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) Act, 2011.(2)It extends to the National Capital Territory of Delhi.(3)It shall be deemed to have come into force on the 1st day of January, 2011.(4)It shall cease to have effect on the 31st day of December, 2011, 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 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 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 notification number S.O.141(E), 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 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 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)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-Jhomprri clusters, hawkers and urban street vendors, unauthorised colonies, village abadi area (including urban villages), 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)orderly arrangements for relocation and rehabilitation of slum dwellers and Jhuggi-Jhomprri clusters in the National Capital Territory of 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 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 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.(2)Subject to the provisions contained in sub-section (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; and(ii)in respect of unauthorised colonies, village abadi area (including urban villages) 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 initiating 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, 2011.(4)Notwithstanding any other provision contained in this Act, the Central Government may, at any time before the 31st day of December, 2011, 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-Jhompri dwellers, hawkers and urban street vendors, unauthorised colonies or part thereof, village abadi area (including urban villages) 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. Validation of acts done or omitted to be done, etc., during 1st January, 2011 up to the date of commencement 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, 2011 and ending immediately before the date of commencement 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. _____