

The Haryana Municipal Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014

HARYANA

India

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Act 13 of 2014

- Published on 1 April 2014
- Commenced on 1 April 2014
- [This is the version of this document from 1 April 2014.]
- [Note: The original publication document is not available and this content could not be verified.]

The Haryana Municipal Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 Haryana Act No. 13 of 2014 Haryana Government Law and Legislative Department Notification The 1st April, 2014 No. Leg. 16/2014. - The following Act of the Legislature of the State of Haryana received the Assent of the Governor of Haryana on the 22nd March, 2014, and is hereby published for general information :- An Act to protect urban street vendors to earn livelihood, to regulate street vending activities and for matters connected therewith or incidental thereto. Be it enacted by the Legislature of the State of Haryana in the Sixty-fifth Year of the Republic of India as follows :-

1. Short title and extent.

(1) This Act may be called the Haryana Municipal Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. (2) It shall extend to all the municipalities in the State of Haryana.

2. Definitions.

(1) In this Act, unless the context otherwise requires, -(a) "competent authority" means Commissioner in case of Municipal Corporation and Deputy Commissioner in case of Municipal Council/Committee, as the case may be; (b) "Government" means the Government of the State of Haryana in the Administrative Department; (c) "municipality" means a municipality as defined in the Haryana Municipal Act, 1973 (24 of 1973); (d) "natural market" means a market where sellers and buyers have traditionally congregated for the sale and purchase of products or services determined as such by

the municipality on the recommendations of town vending committee;(e)"no vending zone" means an area which is not a vending zone;(f)"prescribed" means prescribed by rules made under this Act;(g)"Schedule" means the Schedule annexed to this Act;(h)"State Nodal Officer" means the Director, Urban Local Bodies Department, Haryana;(i)"stationary vendors" mean street vendors who carry out vending activities on a regular basis at a specific location;(j)"street vendor" means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place and includes hawker, peddler and all other synonymous terms which may be local or region specific; and the words "street vending" with their grammatical variations and cognate expressions, shall be construed accordingly;(k)"town vending committee" means a committee constituted under section 3;(l)"vending zone" means an area or a place or a location designated as such by the municipality on the recommendations of the town vending committee, for the specific use by street vendors for street vending and includes footpath, side walk, pavement, embankment, portions of a street or any such place considered suitable for vending activities and providing services to the general public.

3. Town vending Committee.

(1)The competent authority shall constitute a town vending committee in each municipality and may constitute more than one town vending committees for each ward, in each municipality.(2)The town vending committee shall consist of the following, namely:-(a)Municipal Commissioner in case of Municipal Corporation or Deputy Commissioner in case of Municipal Council/ Committee, as the case may be, who shall be the Chairperson; and(b)such number of other members as maybe prescribed, to be nominated by the Chairperson, representing the local authority, traffic police, local police, association of street vendors, market associations, traders associations, non-governmental organizations, community based organization, resident welfare associations banks and such other interests, as it deems proper;(c)ten percent members to be nominated to represent the non-governmental organizations and the community based organizations;(d)forty percent members representing the street vendors operating in that particular area:Provided that one-third of the members shall be from amongst the women vendors:Provided further that due representation shall be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities from amongst the members representing the street vendor.

4. Survey and registration of street vendors.

(1)The town vending committee shall within such a period and in such a manner, as may be specified by the Government, conduct a survey of all existing street vendors, within the area under its jurisdiction and subsequent survey shall be carried out at least once in every five years.(2)The town vending committee shall ensure that all existing street vendors, identified in the survey are accommodated in the vending zones in accordance with the plan for street vending and the holding capacity in the vending zones.(3)The town vending committee shall ensure timely registration of the new street vendors and allotment of space to them for vending in accordance with the plan for street vending and holding capacity of vending zones.

5. Issuance of certificate of vending.

(1) Every street vendor, identified under the survey carried out under sub-section (1) of section 4, who has completed the age of eighteen years, shall be issued a certificate of vending by the town vending committee subject to such terms and conditions and within such period, as may be prescribed, including restrictions prescribed for street vending. (2) Where during the intervening period between two surveys, any person seeks to vend, the town vending committee may grant a certificate of vending to such a person, subject to the plan for street vending and the holding capacity of the vending zones. (3) Where the number of street vendors identified under sub-section (1) or the number of persons seeking to vend under sub-section (2) are more than the holding capacity of the vending zone and exceeds the number of persons to be accommodated in that vending zone, the town vending committee shall carry out a draw of lots for issuing the certificate of vending for that vending zone and the remaining persons shall be accommodated in any adjoining vending zone to avoid relocation.

6. Conditions for issuance of certificate of vending.

(1) Every street vendor shall give an undertaking to the town vending committee prior to the issue of a certificate of vending under section 5 in such form and manner, as may be prescribed. (2) Where a street vendor to whom a certificate of vending is issued, dies or suffers from any permanent disability or illness, one of his family members in the following order of priority, may vend in his place, till the validity of the certificate of vending-(a) spouse of the street vendor; (b) dependent child of the street vendor: Provided that where a dispute arises as to who is entitled to vend in the place of the vendor, the matter shall be decided by the State Nodal Officer.

7. Categories of certificate of vending and issuance of Identity card.

(1) The certificate of vending shall be issued to the followings, namely :-(a) a stationary vendor; or (b) a street vendor; or (c) a mobile vendor; or (d) any other category, as may be prescribed. (2) The certificate of vending issued for the categories specified in sub-section (1) shall be in such form and issued in such manner, as may be prescribed. It shall specify the vending zone where such vendor shall carry on his vending activities, the days and timings and the conditions and restrictions subject to which he shall carry on such vending activities. (3) Every vendor who has been issued certificate of vending shall be issued identity card in such form and manner, as may be prescribed.

8. Criteria for issuing certificate of vending.

- The criteria to be followed by the town vending committee for issuing certificate of vending to a street vendor shall be such, as may be prescribed which may, apart from other things, provide for preference to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, women, persons with disabilities, minorities or such other categories.

9. Vending fee.

- Every street vendor who has been issued certificate of vending shall pay such vending fee, as may be prescribed.

10. Validity and renewal of certificate of vending.

- Every certificate of vending shall be valid for such period and shall be renewable for such period, in such manner and on payment of such fee, as may be prescribed.

11. Cancellation or suspension of certificate of vending.

- Where a street vendor who has been issued a certificate of vending under this Act, commits breach of any of the conditions thereof or any other terms and conditions prescribed or where the town vending committee is satisfied that such certificate of vending has been secured by the street vendor through misrepresentation or fraud, the town vending committee may, notwithstanding any other penalty which may be imposed upon the street vendor under this Act, cancel the certificate of vending or suspend the same in such manner, as may be prescribed :Provided that no such cancellation or suspension shall be made by the town vending committee unless an opportunity of hearing has been given to the street vendor.

12. Appeal.

(1)Any person who is aggrieved by any decision of the town vending committee with respect to issue of certificate of vending under section 5 or cancellation or suspension of certificate of vending under section 11 may prefer an appeal to the Divisional Commissioner in such form, within such period, and in such manner, as may be prescribed.(2)No appeal shall be disposed of by the Divisional Commissioner unless the appellant has been given an opportunity of hearing.

13. Right of street vendor.

(1)Every street vendor shall have right to carry on the business of street vending activities in accordance with the terms and conditions mentioned in the certificate of vending.(2)Notwithstanding anything contained in sub-section (1), where any area or space, as the case may be, has been earmarked as no-vending zone, no street vendor shall carry out any vending activity in that zone.

14. Right of street vendor for a new site or area on relocation.

- Every street vendor who possesses a certificate of vending shall in case of his relocation under section 16, be entitled, as far as possible, for new site or area, as the case may be, for carrying out his vending activities as may be determined by the municipality in consultation with the town vending committee.

15. Duty of street vendors.

(1)Where a street vendor occupies space on a time sharing basis, he shall remove his goods and wares every day at the end of the time-sharing period allowed to him.(2)Every street vendor shall,-(i)maintain cleanliness and public hygiene in the vending zones and the adjoining areas;(ii)maintain civic amenities and public property in the vending zone in good condition and not damage or destroy or cause any damage or destruction to the same; and(iii)pay such periodic maintenance charges for the civic amenities and facilities provided in the vending zones, as may be determined by the municipality.

16. Relocation or eviction of street vendors and confiscation of goods.

(1)The municipality may, on recommendation of the town vending committee, declare a zone or part of it to be a no vending zone for any public purpose and as far as possible relocate the street vendors vending in that area, in such manner, as may be prescribed.(2)The municipality shall evict such street vendor whose certificate of vending has been cancelled under section 11 or who does not have a certificate of vending and vends without such certificate, in such a manner, as may be prescribed.(3)No street vendor shall be relocated or evicted by the municipality from the place specified in the certificate of vending unless he has been given seven days notice for the same, in such manner, as may be prescribed.(4)A street vendor shall be relocated or evicted by the municipality physically in such manner, as may be prescribed only after he had failed to vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice.(5)Every street vendor who fails to relocate or vacate the place specified in certificate of vending, after the expiry of the period specified in the notice, shall be liable to pay, for every day of such default, a penalty which may extend up to two hundred and fifty rupees but shall not be more than the value of the goods seized.(6)Every street vendor shall vacate the premises immediately in case of any emergency on the notice of the District Magistrate or Sub-Divisional Magistrate for the period as specified in the notice.

17. Seizure and reclaiming of goods.

(1)If the street vendor fails to vacate the place specified in the certificate of vending, after the lapse of period specified in the notice given under sub-section (3) of section 16, the municipality, in addition to evicting the street vendor under section 16, may, if it deems necessary, seize the goods of such a street vendor in such manner, as may be prescribed:Provided that where any such seizure is carried out, a list of goods seized shall be prepared as may be prescribed and a copy thereof, duly signed by the person authorized to seize the goods, shall be issued to the street vendor.(2)The street vendor whose goods have been confiscated under sub-section (1) may, reclaim his goods in such manner and after paying such fee, as may be prescribed:Provided that in case of non-perishable goods, the municipality shall release the goods within two working days of the claim being made by the street vendor and in case of perishable goods the municipality shall release the goods on the same day of the claim being made by the street vendor.

18. Plan for street vending.

(1) Every municipality shall, in consultation with the town vending committee once in every five years prepare a plan to promote the vocation of street vendors covering matters contained in First Schedule. (2) The street vending plans prepared by the municipality shall be submitted to the town vending committee for approval.

19. Meetings of town vending committee.

- The town vending committee shall meet at least once in three months.

20. Temporary association of persons with town vending committee for particular purposes.

- The town vending committee may associate with itself in such manner and for such purposes, as may be prescribed, any person whose assistance or advice it may desire, in carrying out any of the provisions of this Act.

21. Office space and other employees for town vending committee.

- The municipality shall provide the town vending committee with appropriate office space and such employees as required to carry out the provision of this Act.

22. Publication of street vendor's charter and data-base.

(1) Every town vending committee shall publish the street vendor's charter specifying therein the time within which the certificate of vending shall be issued to a street vendor and the time within which such certificate of vending shall be renewed and other activities to be performed within the time limit specified therein. (2) Every town vending committee shall maintain up-to-date records of registered street vendors and street vendors to whom certificate of vending has been issued containing name of such street vendor, stall allotted to him, nature of business carried out by him, category of street vending and such other particulars which may be relevant to the street vendors.

23. Prevention of harassment by police and other authorities.

- Notwithstanding anything contained in any State law for the time being in force, no street vendor, who carries on the street vending activities in accordance with the terms and conditions of his certificate of vending shall be prevented from exercising such rights by any person or police or any other authority.

24. Penalty for contravention.

- Any street vendor who, - (a) indulges in vending activities without a certificate of vending; (b) contravenes the terms of certificate of vending; or (c) contravenes any other terms and conditions specified for the purpose of regulating street vending under this Act or any rules or schemes made thereunder, shall be liable to a penalty for each such contravention which may extend upto two thousand rupees or as may be determined by the municipality.

25. Provisions of this Act, not to be construed as conferring ownership, rights etc.

(1) Nothing contained in this Act shall be construed as conferring upon a street vendor any temporary, permanent or perpetual right of carrying out vending activities in the vending zones allotted to him or in respect of any place on which he carries on such vending activity. (2) Nothing contained in sub-section (1) shall apply to any stationery vendor, if a temporary leasehold or ownership right has been conferred on him by a lease deed or otherwise, in respect of a place at specific location where he carries on such vending activity.

26. Returns.

- Every town vending committee shall furnish, from time to time, to the Government and the municipality such returns, as may be prescribed.

27. Promotional measures.

- The Government may, in consultation with the town vending committee, municipality and street vendor's associations or unions, undertake promotional measures of making available credit, insurance and other welfare schemes of social security for the street vendors.

28. Research, training and awareness.

- The Government may, to the extent of availability of financial and other resources, - (a) organise capacity building programmes to enable the street vendors to exercise the rights contemplated under this Act; (b) undertake research, education and training programmes to advance knowledge and understanding of the role of the informal sector in the economy, in general and the street vendors, in particular and to raise awareness among the public through the town vending committee.

29. Duties of competent authority.

- The competent authority for the purposes of this Act shall perform the following duties, namely: - (i) monitor the execution of schemes in the municipality; (ii) monitor the record of revenue generation and expenses by the town vending committee; (iii) resolve any discrepancy which arises

within the town vending committee;(iv)call a joint meeting within every six months with the town vending committee.

30. Power to delegate.

- The Government may, by general or special order in writing, delegate such of its powers and functions under this Act, as it may deem necessary, to the municipality or the town vending committee or any other officer, subject to such conditions, if any, as may be specified in that order.

31. Power to amend Schedule.

- On the recommendations made by the town vending committee, if the Government is satisfied that it is necessary or expedient to do so, it may, by notification, amend the Schedules.

32. Power to make rules.

(1)The Government shall have the power to make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules/policy may provide for all or any of the following matters, namely:-(a)the number of other members of the town vending committee;(b)the form, period and manner of filing appeal with the Divisional Commissioner;(c)the term of, and the manner of constituting, the town vending committee;(d)the manner and the purpose for which a person may be associated;(e)the returns to be furnished;(f)the manner of publishing summary of scheme;(g)determination of monthly maintenance charges for the civic amenities and facilities in the vending zones;(h)determination of penalty;(i)any other matter which has to be or may be prescribed for carrying out the objective of this Act.

33. Power to make bye-laws.

- Subject to the provisions of this Act or any rule or scheme made thereunder, the municipality may make bye-laws to provide for all or any of the following matters, namely:-(a)the regulation and manner of vending in vending zones;(b)the regulation of the collection of taxes and fee in the vending zones;(c)the regulation of traffic in the vending zones;(d)the regulation of the quality of products and services provided to the public in vending zones and maintenance of public health, hygiene and safety standards;(e)the regulation of civic services in the vending zones; and(f)the regulation of such other matters in the vending zones as may be necessary.

34. Scheme for street vendors.

(1)For the purposes of this Act, the competent authority shall frame a scheme, within six months from the date of commencement of this Act, after due consultations with the town vending committee, specifying all or any of the matters provided in the Second Schedule.(2)A summary of the scheme under sub-section (1) shall be published by the municipality in at least two local Hindi newspapers in such manner, as may be prescribed.

35. Power to issue directions.

- The Government shall be competent to issue such directions in consonance with section 32 of this Act for the proper enforcement of the provisions issue till the rules are framed thereunder.

36. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: Provided that no order shall be made under this section after expiry of three years from the commencement of this Act.

37. Repeal and savings.

(1) The Haryana Municipal Street Vendors (Protection of Livelihood and Regulation of Street Vending) Ordinance, 2013 (Haryana Ordinance No.2 of 2014) is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act. The First Schedule (See section 18) Plan for Street vending (1) The Plan for street vending shall, - (a) ensure that all existing street vendors identified in the survey are accommodated in the plan for street vending; (b) ensure the right of commuters to move freely and use the roads without any impediment; (c) ensure that the provision of space or area for street vending is reasonable and consistent with existing natural markets; (d) take into account the civic facilities for appropriate use of identified spaces or areas as vending zones; (e) promote convenient, efficient and cost effective distribution of goods and provision of services; (f) such other matters as may be specified in the scheme to give effect to the plan for street vending. (2) The plan for street vending shall contain all of the following matters, namely: - (a) determination of spatial planning norms for street vending; (b) earmarking of space or area for vending zones; (c) determination of vending zones as restriction-free-vending zones, restricted vending zones and no-vending zones; (d) making of spatial plans conducive and adequate for the prevalent number of street vendors in that city or town and also for the future growth, by adopting such norms as may be necessary; (e) consequential changes needed in the existing master plan, development plan, zonal plan, layout plan and any other plan for accommodating street vendors in the designated vending zones. (3) Declaration of no-vending zone shall be carried out by the plan for street vending, subject to the following principles, namely: - (a) any existing market, or a natural market as identified under the survey shall not be declared as a no-vending zone; (b) declaration of no-vending zone shall be done in a manner which displaces the minimum percentage of street vendors; (c) The area considered as overcrowded area by the Town Vending Committee may be declared as no-vending zone and the vendors in that area shall be relocated as far as possible to other locations; (d) sanitary concerns may not be the basis for declaring any area as a no-vending zone unless such concerns can be solely attributed to street vendors and cannot be resolved through appropriate civic action by the local authority; The Second Schedule (See section 34) Matters to be provided in the Scheme for Street Vendors framed by the municipality: - (a) the manner of conducting survey; (b) the period within which certificate of vending shall be issued to the street vendors identified under the survey; (c) the terms and conditions subject to which certificate of

vending may be issued to a street vendor including to those persons who wish to carry on street vending during the intervening period of two surveys;(d)the form and the manner in which the certificate of vending may be issued to a street vendor;(e)the form and manner of issuing identity cards to street vendors;(f)the criteria for issuing certificate of vending to street vendors;(g)the vending fee to be paid on the basis of category of street vending which may be different for different cities;(h)the manner of collecting, through banks, counters of municipality and counters of Town Vending Committee, vending fee, maintenance charges and penalties for registration, use of parking space for mobile stalls and availing of civic services;(i)the period of validity of certificate of vending;(j)the period for which and the manner in which a certificate of vending may be renewed and the fee for such renewal;(k)the manner in which the certificate of vending may be suspended or cancelled;(l)the categories of street vendors other than stationery vendors and mobile vendors;(m)the other categories of persons for preference for issue of certificate of vending;(n)the public purpose for which a street vendor may be relocated and the manner of relocating street vendor;(o)the manner of evicting a street vendor;(p)the manner of giving notice for eviction of a street vendor;(q)the manner of evicting a street vendor physically on failure to evict;(r)the manner of seizure of goods by the municipality, including preparation and issue of list of goods seized;(s)the manner of reclaiming seized goods by the street vendor and the fee for the same;(t)the form and the manner for carrying out social audit of the activities of Town Vending Committee;(u)the conditions under which private places may be designated as restriction free-vending zones, restricted-vending zones and n-vending zones;(v)the terms and conditions for street vending including norms to be observed for up keeping public health and hygiene;(w)the designation of State Nodal Officer for co-ordination of all matters relating to street vending at the State Level;(x)the manner of maintenance of proper records and other documents by the town vending committee, municipality, and State Nodal Officer in respect of street vendors;(y)the manner of carrying out vending activities on time-sharing basis;(z)the principles for determination of vending zones as restriction-free-vending zones, restricted-vending zones and no-vending zones;(za)the principles for determining holding capacity of vending zones and the manner of undertaking comprehensive census and survey;(i)relocation should be avoided as far as possible, unless there is clear and urgent need for the land in question;(ii)affected vendors or their representatives shall be involved in planning and implementation of the rehabilitation project;(iii)livelihood opportunities created by new infrastructure development projects shall accommodate the displaced vendors so that they can make use of the livelihood opportunities created by the new infrastructure;(iv)loss of assets shall be avoided and in case of any loss, it shall be compensated;(v)any transfer of title or other interest in land shall not affect the rights of street vendors on such land, and any relocation consequent upon such a transfer shall be done in accordance with the provisions of this Act;(vi)State machinery shall take comprehensive measures to check and control the practice of forced evictions;(vii)natural markets where street vendors have conducted business for over fifty years shall be declared as heritage markets, and the street vendors in such markets shall not be relocated.(zc)any other matter which may be included in the scheme for carrying out the purposes of this Act.(zb)principles of relocation subject to the following :-