

The Haryana Prevention of Defacement of Property Act, 1989

HARYANA

India

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Act 11 of 1990

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The Haryana Prevention of Defacement of Property Act, 1989 Haryana Act No. 11 of 1990 Coming into force. - Notification No. S.O.91/H.A. 11/90/1/92. dated 3rd July 1992 - In exercise of the powers conferred by sub-section (3) of Section 1 of the Haryana Prevention of Defacement of Property Act, 1989, the Governor of Haryana hereby specifies the date of publication of this notification in the official Gazette, as the date on which the said Act shall come into force in the whole of the State of Haryana. Published in the Haryana Gazette, Legislative Supplement, Part III, dated July 7, 1992, dated 3rd July, 1992. Statement of Objects & Reasons of The Haryana Prevention of Defacement of Property Bill, 1989. - The Election Commission of India had intimated that it has been receiving numerous complaints from the public to the effect that at the time of electioneering campaigns, workers of political parties/candidates indulge in defacement of walls of private and public buildings on a large scale giving the cities an ugly look. The helpless owners of the buildings are compelled either to tolerate this type of eye-sore or to have white-wash/re-paint of the walls done at their own cost. The Commission is of the view that the Government ought not to remain a silent spectator to this undesirable act, and must come forward to protect the interests of the public. The Election Commission has, therefore, suggested that a law may be enacted in the Haryana State on the analogy of "The West Bengal Prevention of Defacement of Property Act, 1976" to enable penal action against the persons indulging in the such activities. 2. It has been considered to be desirable and appropriate that Haryana State also should have such legislation. Hence this Bill. Published vide Haryana Government Gazette (Extra.) dated 5th September, 1989 page 1701. Statement of Objects and Reasons - Haryana Act No. 10 of 1996. - After the passing of the Haryana Prevention of Defacement of Property Act, 1989, it was found that it does not meet the requirements of Chief Election Commissioner of India and there was no provision to recover the expenses of erasing/removal of defacement besides lack of provisions regarding indemnity with regard to the action taken by the officials in good faith or in public interest. The principal Act was also deficient for not having the provision of composition of offences, provision for rule making powers of the State Government and recovery of amount due as arrears of land revenue. In order to achieve the objective, it is necessary to amend the Act. Hence the Bill. Received the assent of the President of

India on the 21st April, 1990 and was published in the Haryana Gazette, (Extra), Legislative Supplement, Part I, dated May 18, 1990. An Act to provide for the prevention of defacement of property. Be it enacted by the Legislature of the State of Haryana in the Fortieth Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Haryana Prevention of Defacement of Property Act, 1989. (2) It extends to the whole of the State of Haryana. (3) This Act shall come into force in such areas and on such dates as the State Government may, by notification, specify and different dates may be specified for different areas.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "defacement" includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any other way whatsoever and the word "deface" shall be construed accordingly; [(a-i) "Government" means Government of the State of Haryana; [Added by Haryana Act No. 10 of 1996.]] (a-ii) "local authority" means a Municipal Corporation, Municipal Council, Municipal Committee, Town Improvement Trust, Haryana Urban Development Authority or other authority legally entitled to, or entrusted by the Government with, the control or management of municipal or local fund; (a-iii) "prescribed" means prescribed by rules made under this Act. [(b) "property" includes any building, hut, structure, wall, tree, fence, post, pole or any other erection; and (c) "writing" includes decoration, lettering, ornamentation, produced by stencil.]

3. [Places earmarked for display of advertisement or writing. [Substituted by Haryana Act No. 10 of 1996.]

- All advertisements and writings shall be made only at places earmarked by the Block Development and Panchayats Officer or Social Education and Panchayats Officer in rural areas and Executive Officer or Secretary of the Municipality or any other agency notified by the Government, as the case may be, in urban areas, on the payment of fee to be levied by the above authorities at such rates as may be prescribed.]

3A. [Penalty for defacement of property. [Added by Haryana Act 10 of 1996.]

(1) Whoever defaces any property in public view except any board or wall provided for advertisement and publicity, by writing or marking with ink, chalk, paint or any other material, except for the purpose of indicating the name and address of the owner or occupier of such property, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both : Provided further that sign boards fixed by any person, individual or institution on their own property or property occupied by them at their cost, shall be exempted from the provisions of sub-section (1) : Provided further that the owners or managers of

the organisations making defacement of the properties for their business activities, shall be responsible for removing such defacement and the burden of proving their innocence for such defacement, shall rest on them.(2)Where any offence committed under sub-section (1) is for the benefit of some other person or a company or other body corporate or an association of persons, whether incorporated or not, or a political party or its candidates, then such other person and every president, chairman, director, partner, manager, secretary, agent or any other officer or person concerned with the management thereof, as the case may be, shall unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.]

4. Offences to be cognizable and compoundable.

(1)Any offences punishable under this Act shall be cognizable and compoundable.(2)All offences under this Act shall be compoundable by the authorities mentioned in Section 3 on payment of such composition fee which shall not be less than two hundred and fifty rupees or the amount equal to expenses incurred for removing or erasing the defacement.(3)On composition a person shall stand discharged or acquitted, as the case may be, and if he is in custody he shall be released forthwith.(4)[Sums paid by way of composition under this section shall be credited to local authority fund.] [Substituted by Haryana Act 10 of 1996.]

5. [Power of Government to remove defacement. [Substituted by Haryana Act of 10 of 1996.]

(1)Without prejudice to the provisions of Section 3A, it shall be competent for the Government to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any property. The Government shall have the power to conduct or cause to conduct, through the District Magistrate concerned, spot inspections with regard to defacement of property. If on such inspections it is found that specific permission of the owner or occupier of the property has not been obtained, action for removal of defacement shall be taken forthwith at the expense of the person or persons found guilty. In case the erasing is done by the Government, before doing so, a notice of two weeks shall be given to owner or occupier of the property to erase or remove the defacement. The expenses is removing of erasing the defacement, shall be borne by the owner or occupier found guilty.(2)Any amount due under this Act, on an application made in this behalf by the authorities mentioned in Section 3, to the Collector, shall be recovered as arrears of land revenue.

5A. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against any local authority or person for anything which is in good faith or in public interest done or intended to be done under this Act.]

6. Act to override other laws.

- The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

6A. [Power of Government to make rules. [Inserted by Haryana Act No. 10 of 1996.]

- The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.]