

# The Delhi Restriction of Uses of Land Act, 1941

DELHI

India

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### Act 12 of 1941

- Published in Gazette of India on 8 April 1941
- Not commenced
- [This is the version of this document from 8 April 1941.]
- [Note: The original publication document is not available and this content could not be verified.]

An Act to regulate in the Province of Delhi the use of land for purposes other than agricultural purposes. WHEREAS it is expedient to regulate in the Province of Delhi the use of land for purposes other than agricultural purposes ;It is hereby enacted as follows:-

#### 1. Short title, extent and commencement.-

(1) This Act may be called the Delhi Restriction of Uses of Land Act, 1941. (2) It extends to the 1[Union territory of Delhi.] (3) It shall come into force on such date<sup>2</sup> as the Central Government may, by notification in the Official Gazette, appoint.

#### 2. Definitions.-

In this Act, unless there is anything repugnant in the subject or context, -(1) "agriculture" includes horticulture and the planting and upkeep of orchards ; (2) "building" has the same meaning as in clause (2) of section 3 of the Punjab Municipal Act, 1911 (Punj. Act III of 1911); (3) "Chief Commissioner" means the Chief Commissioner of Delhi; (4) "Deputy Commissioner" means the Deputy Commissioner of Delhi and includes any authority, not being an officer employed by the Delhi Improvement Trust, appointed by the Chief Commissioner, by notification in the Official Gazette, to perform all or any of the functions of the Deputy Commissioner under this Act ; (5) "place of worship" includes an imambara, dargah, karbala or takya; (6) "prescribed" means prescribed by rules made under this Act; (7) "road" means a metalled road maintained by the Central Government or by a local authority; and (8) the expression "to erect or re-erect" in relation to any building has the same meaning as in clause (5) of section 3 of the Punjab Municipal Act, 1911 (Punj. Act III of 1911).

#### 3. Declaration of controlled area.-

(1) The Chief Commissioner may, with the previous sanction of the Central Government, by notification in the Official Gazette, declare any land adjacent to and within a distance of four

hundred and forty yards from the centre line of any road to be a controlled area for the purposes of this Act.(2)Not less than three months before making a declaration under sub-section (1) the Chief Commissioner shall cause to be published in the Official Gazette and in at least two newspapers printed in a language other than English a notification stating that he proposes, with the previous sanction of the Central Government, to make such a declaration and specifying therein the boundaries of the land in respect of which the declaration is proposed to be made, and copies of every such notification or of the substance thereof shall be published by the Deputy Commissioner in such manner as he thinks fit at his office and in every revenue estate of which any part is included within the said boundaries.(3)Any person interested in any land included within the said boundaries may, at any time before the expiration of thirty days from the last date on which a copy of such notification is published by the Deputy Commissioner, object to the making of the declaration or to the inclusion of his land or any part of it within the said boundaries.(4)Every objection under sub-section (3) shall be made to the Deputy Commissioner in writing, and the Deputy Commissioner shall give to every person so objecting an opportunity of being heard either in person or by pleader, and shall after all such objections have been heard and after such further enquiry, if any, as he thinks necessary, forward to the Chief Commissioner the record of the proceedings held by him together with a report setting forth his recommendations on the objections.(5)If before the expiration of the time allowed by sub-section (3) for the filing of objections no objection has been made, the Chief Commissioner may proceed at once to the making of a declaration under sub-section (1). If any such objections have been made, the Chief Commissioner shall consider the record and the report referred to in sub-section (4) and shall hear any parties applying to be heard and may either-(a)abandon the proposal to make a declaration under sub-section (1), or(b)make such a declaration in respect of either the whole or a part or parts of the land included within the boundaries specified in the notification under sub-section (2).(6)For the purposes of sub-section (3) a person shall be deemed to be interested in land if he is "person interested" as defined in clause (b) of section 3 of the Land Acquisition Act, 1894 (1 of 1894), for the purposes of that Act or, where the land is land occupied by or for the purposes of a mosque, imambara, dargah, karbala, takya or Muslim graveyard, if he is a Muslim.(7)A declaration made under sub-section (1) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the area to which it relates is a controlled area.

#### **4. Plans of controlled areas to be deposited at certain offices.-**

(1)The Deputy Commissioner shall deposit at his office and at the office of the Municipal Committee, New Delhi, and at such other places as he considers necessary, plans showing all lands declared to be controlled areas for the purposes of this Act, and setting forth the nature of the restrictions applicable to the land in any such controlled area.(2)The plans so deposited shall be available for inspection by the public free of charge at all reasonable times.

#### **5. Restrictions on building, etc., in a controlled area.-**

No person shall erect or re-erect any building, or make or extend any excavation, or lay out any means of access to a road in a controlled area except with the previous permission of the Deputy Commissioner in writing.

## **6. Application for permission to build, etc., and the grant or refusal of such permission.-**

(1) Every person desiring to obtain the permission referred to in section 5 shall make an application in writing to the Deputy Commissioner in such form and containing such information in respect of the building, excavation or means of access to which the application relates as may be prescribed. (2) On receipt of such application the Deputy Commissioner, after making such enquiry as he considers necessary, shall, by order in writing, either-(a) grant the permission, subject to such conditions, if any, as may be specified in the order; or (b) refuse to grant such permission. (3) When the Deputy Commissioner grants permission subject to conditions under clause (a) of sub-section (2) or refuses to grant permission under clause (b) of sub-section (2), the conditions imposed or the grounds of refusal shall be such as are reasonable having regard to the circumstances of each case. (4) The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building, not being a dwelling house, if such building is required for purposes subservient to agriculture, nor shall the permission to erect or re-erect any such building be made subject to any conditions other than those which may be necessary to ensure that the building will be used solely for the purposes specified in the application for permission. (5) The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building which was in existence on the date on which the declaration under sub-section (1) of section 3 was made, nor shall he impose any conditions in respect of such erection or re-erection unless it involves the addition of one or more storeys to building or the extension of the plinth area of the building by more than one-eighth of the original plinth area, or there is a probability that the building will be used for a purpose other than for which it was used on the date on which the said declaration was made. (6) If at the expiration of a period of three months after an application under sub-section (1) has been made to the Deputy Commissioner no order in writing has been passed by the Deputy Commissioner permission shall be deemed to have been given without the imposition of any conditions. (7) The Deputy Commissioner shall maintain a register with sufficient particulars of all permissions given by him under this section and the register shall be available for inspection without charge by all persons interested and such persons shall be entitled to take extracts therefrom.

## **7. Right of appeal.-**

(1) Any person aggrieved by an order of the Deputy Commissioner under sub-section (2) of section 6 granting permission subject to conditions or refusing permission may within thirty days from the date of such order prefer an appeal to the Chief Commissioner. (2) The order of the Chief Commissioner on appeal shall be final.

## **8. Compensation.-**

(1) No person shall be entitled to claim compensation under this or any other act for any injury, damage or loss caused or alleged to have been caused by an order-(a) refusing permission to make or extend an excavation, or granting such permission but imposing conditions on the grant, or (b) refusing permission to lay out a means of access to a road, or granting such permission but

imposing conditions on the grant, or(c)granting permission to erect or re-erect a building but imposing conditions on the grant.(2)When an order has been made refusing permission to erect or re-erect a building any person who has exercised the right of appeal given by sub-section (1) of section 7 may, within three months of the date of the order of the Chief Commissioner, make to the Chief Commissioner a claim for compensation on the ground that his interest in the land concerned is injuriously affected by the said order: Provided that no claim for compensation may be made under this sub-section in respect of any land situated in a controlled area adjoining a road which has been constructed after the commencement of this Act or which was not at the commencement of this Act or a road within the meaning of clause 1[(7)] of section 2.(3)On receipt of a claim under sub-section (2) the Chief Commissioner shall either proceed to acquire the land concerned under the Land Acquisition Act, 1894 (1 of 1894), or transfer the claim for disposal to an officer exercising the powers of a Collector under the said Act: Provided that in case the Chief Commissioner decides to acquire the land, the claimant shall be entitled to be repaid by the acquiring authority the amount of expense which he may have properly incurred in connection with the preparation and submission of his claim for compensation under this section, and in default of agreement such amount shall be determined by the authority deciding the value of the land in the proceedings under Land Acquisition Act, 1894.(4)Nothing in this section shall be deemed to preclude the settlement of a claim by mutual agreement.

## **9. Compulsory acquisition.-**

If the Chief Commissioner decides to acquire the land under the Land Acquisition Act, 1894 (1 of 1894) then, notwithstanding anything contained in that Act, -(i)proceedings under section 5A of that Act shall not be required ;(ii)the notification under section 6 of that Act shall be published within six months from the date of institution of the claim, failing which the claim shall be transferred for disposal to an officer exercising the powers of a collector under that Act ;(iii)the market value of the land shall be assessed as though no declaration under section 3 (1) had been made in respect of the area in which it is situated and no restrictions upon its use and development had been imposed, any compensation already paid to the claimant or to any of his predecessors in interest for injurious affection being deducted from the market value as so assessed.

## **10. Amount of compensation how determined.-**

(1)when a claim is transferred for disposal under section 8 or section 9 to an officer exercising the powers of a Collector under the Land Acquisition Act, 1894 (1 of 1894), such officer shall make an award determining the amount of compensation, if any, payable to the claimant.(2)the amount of compensation awarded under sub-section (1) shall in no case exceed-(a)the amount that would have been payable if the land had been acquired under section 9; or(b)the difference between the market value of the land in its existing condition having regard to the restrictions actually imposed upon its use and development by the order refusing permission to erect or re-erect a building thereon, and its market value immediately before the publication under sub-section (2) of section 3 of the notification in pursuance of which the area in which it is situated was declared to be a controlled area, and no compensation shall be awarded under sub-section (1)-(i)unless the claimant satisfies the officer making the award that proposals for the development of the land which at the date of the

application under sub-section (1) of section 6 are immediately practicable, or would have been so, if this Act had not been passed, are prevented or injuriously affected by the restrictions imposed under this Act, or(ii)if and in so far as the land is subject to substantially similar restrictions in force under some other enactment which were so in force at the date when the restrictions were imposed under the Act, or(iii)if compensation in respect of the same restriction in force under this Act or of substantially similar restrictions in force under some other enactment has already been paid in respect of the land to the claimant or to any predecessor in interest of the claimant.(3)The provisions of Parts III, IV, V and VIII of the Land Acquisition Act, 1894 (1 of 1894), shall so far as may be apply to an award made under sub-section (1) as though it were an award made under that Act.

## **11. Saving for other enactments.-**

Nothing in this Act shall affect the power of any authority to acquire land or to impose restrictions upon the use and development of land under any other enactment for the time being in force.

## **12. Prohibition of use of any land as a brick-field, etc., without a licence.-**

(1)No land within a controlled area shall be used for the purposes without of a charcoal-kiln, pottery-kiln or lime-kiln and no land either within or outside a controlled area shall be used for the purposes of a brick-field or brick-kiln except under, and in accordance with the conditions of, a licence from the Chief Commissioner which shall be renewable annually.(2)The Chief Commissioner may charge such fees for the grant and renewal of such licences and may impose such conditions in respect thereof as may be prescribed.(3)No person shall be entitled to claim compensation under this or any other Act for any injury, damage or loss caused or alleged to have been caused by the refusal of a licence under sub-section (1).

## **13. Offences and penalties.-**

(1)Any person who-(a)erects or re-erects any building or makes or extends any excavation or lays out any means of access to a road in contravention of the provisions of section 5 or in contravention of any conditions imposed by an order under section 6 or section 7, or(b)uses any land in contravention of the provisions of sub-section (1) of section 12, shall be punishable with fine which may extend to five hundred rupees and, in the case of a continuing contravention, with a further fine which may extend to fifty rupees for every day after the date of the first conviction during which he is proved to have persisted in the contravention.(2)Without prejudice to the provisions of sub-section (1), the Deputy Commissioner may order any person who has committed a breach of the provisions of the said sub-section to restore to its original state or to bring into conformity with the conditions which have been violated, as the case may be, any building or land in respect of which a contravention such as is described in the said sub-section has been committed, and if such person fails to do so within three months of the order may himself take such measures as may appear to him to be necessary to give effect to the order, and the cost of such measures shall be recoverable from such person as an arrear of land-revenue.

## **14. Trial of offences.-**

No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

## **15. Protection of persons acting under this Act.-**

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

## **16. Savings.-**

Nothing in this Act shall apply to-(a)the erection or re-erection of buildings upon land included in the inhabited site of any village as defined in the revenue records ;(b)the erection or re-erection of a place of worship or a tomb or cenotaph or of a wall enclosing a graveyard, place of worship, cenotaph or samadhi on land which is at the time a notification under sub-section (2) of section 3 is published by the Chief Commissioner occupied by or for the purposes of such place of worship, tomb, Samadhi, cenotaph or graveyard ;(c)excavations (including wells) made in the ordinary course of agricultural operations ;(d)the construction of an unmetalled road intended to give access to land solely for agricultural purposes.

## **17. Power to make rules.-**

(1)The Chief Commissioner may make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely : -(a)the form in which applications under sub-section (1) of section 6 shall be made and the information to be furnished in such applications ;(b)the regulation of the laying out of means of access to roads ;(c)the fees to be charged for the grant and renewal of licences under section 12 and the conditions governing such licences.(3)All rules made under this section shall be subject to the condition of previous publication, which publication shall be made in the Official Gazette and in at least two newspapers printed in a language other than English; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897) shall not be less than two months from the date on which the draft of the proposed rules was published.