

The Delhi Special Police Establishment Act, 1946

UNION OF INDIA

India

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Act 25 of 1946

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The Delhi Special Police Establishment Act, 1946(25 of 1946)Last Updated 4th January, 2022In 1943 the Government of India set up a police staff called the Special Police Establishment (War Department) under the Special Police Establishment (War Department) Ordinance No. XXII of 1943 for the purpose of investigating offences of bribery and corruption connected with the Departments of the Central Government. The organisation has done useful work in the investigation of cases in which employees and contractors of the Central Government were involved and in bringing offenders to book. The Government of India, with the advice of the Standing Committee of the Central Legislature for the Home Department has decided that it is necessary to retain this police staff on a permanent basis by means of legislation. The Special Police Establishment (War Department) Ordinance, No. XXII of 1943, lapsed on 30th September 1946 and necessary legislation could not be undertaken before that date. To avoid a break in continuity an Ordinance entitled the Delhi Special Police Establishment, Ordinance 1946 (22 of 1946), was promulgated on the 25th September, 1946, which will remain in force upto 25th March 1947. The object of this Bill is the retention of the special police staff as a permanent organisation by means of legislation. Under the terms of the proposed Bill the force will be able to conduct investigations in all Provinces with their consent. All Provisional Governments with the exception of Sind have agreed to the special police staff functioning in their jurisdiction. An Act to make provision for the constitution of a special police force in Delhi for the investigation of certain offences in the Union territories, for the superintendence and administration of the said force and for the extension to other areas of the powers and jurisdiction of the members of the said force in regards to the investigation of the said offences. Whereas it is necessary to constitute a special police force in Delhi for the investigation of certain offences in the Union territories and to make provisions for the superintendence and administration of the said force and for the extension to other areas of the powers and jurisdiction of the members of the said force in regard to the investigation of the said offences; It is hereby enacted as follows:

1. Short title and extent.

(1) This Act may be called The Delhi Special Police Establishment Act, 1946 .(2) It extends to the whole of India.

1A. [Interpretation section. [Inserted by Act 45 of 2003, Section 26 (w.e.f. 12.9.2003).]

- Words and expressions used herein and not defined but defined in the Central Vigilance Commission Act, 2003 (45 of 2003), shall have the meanings, respectively, assigned to them in that Act.]

2. Constitution and powers of special police establishment.

(1) Notwithstanding anything in the Police Act, 1861 (5 of 1861), the Central Government may constitute a special police force to be called the Delhi Special Police Establishment for the investigation in any Union Territory of offences notified under section 3.(2) Subject to any orders which the Central Government may make in this behalf, members of the said police establishment shall have throughout any Union Territory, in relation to the investigation of such offences and arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers of that Union Territory have in connection with the investigation of offences committed therein.(3) Any member of the said police establishment of or above the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise any Union Territory or any of the powers of the officer-in-charge, of a police station in the area in which he is for the time being and when so exercising such powers shall, subject to any such order as aforesaid, be deemed to be an officer-in-charge of a police station discharging the functions of such an officer within the limits of his station.

3. Offences to be investigated by special police establishment.

- The Central Government may, by notification in the Official Gazette, specify the offences or classes of offences which are to be investigated by the Delhi Special Police Establishment.

4. [Superintendence and administration of special police establishment. [Substituted by Act 45 of 2003, Section 26 (w.e.f. 12.9.2003).]

(1) The superintendence of the Delhi Special Police Establishment insofar as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988), shall vest in the Commission.(2) Save as otherwise provided in sub-section (1), the superintendence of the said police establishment in all other matters shall vest in the Central Government.(3) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government (hereinafter referred to as the Director) who shall exercise in respect of that police establishment such of the powers exercisable by an

Inspector-General of Police in respect of the police force in a State as the Central Government may specify in this behalf.]

4A. Committee for appointment of Director. [Added by Act 45 of 2003, Section 26 (w.e.f. 12.9.2003).]

(1)The Central Government shall appoint the Director on the recommendation of the Committee consisting of

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| (a) The Central Vigilance Commissioner | Chairperson; |
| (b) Vigilance Commissioners | Members; |
| (c) Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government | Member; |
| (d) [The Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the Delhi Special Police Establishment [Substituted by Act 20 of 2006, Section 2 (w.e.f. 6.4.2006).] | Member.] |

[Provided that the period for which the Director holds the office on his initial appointment may, in public interest, on the recommendation of the Committee under sub-section (1) of section 4A and for the reasons to be recorded in writing, be extended up to one year at a time:Provided further that no such extension shall be granted after the completion of a period of five years in total including the period mentioned in the initial appointment.](2)While making any recommendation under sub-section (1), the Committee shall take into consideration the views of the outgoing Director.(3)The Committee shall recommend a panel of officers(a)on the basis of seniority, integrity and experience in the investigation of anti-corruption cases; and(b)chosen from amongst officers belonging to the Indian Police Service constituted under the All-India Services Act, 1951 (61 of 1951), for being considered for appointment as the Director.]

4B. Terms and conditions of service of Director. [Added by Act 45 of 2003, Section 26 (w.e.f. 12.9.2003).]

(1)The Director shall, notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office.(2)The Director shall not be transferred except with the previous consent of the Committee referred to in sub-section (1) of section 4-A.]

4C. Appointment for posts of Superintendent of Police and above, extension and curtailment of their tenure, etc. [Added by Act 45 of 2003, Section 26 (w.e.f. 12.9.2003).]

(1)The Committee referred to in section 4-A shall, after consulting the Director, recommend officers for appointment to the posts of the level of Superintendent of Police and above and also recommend

the extension or curtailment of the tenure of such officers in the Delhi Special Police Establishment.(2)On receipt of the recommendation under sub-section (1), the Central Government shall pass such orders as it thinks fit to give effect to the said recommendation.]

5. Extension of powers and jurisdiction of special police establishment to other areas.

(1)The Central Government may by order extend to any area (including Railway areas), in a State, not being a Union Territory the powers and jurisdiction of members of the Delhi Special Police Establishment for the investigation of any offences or classes of offences specified in a notification under section 3.(2)When by an order under sub-section (1) the powers and jurisdiction of members of the said police establishment are extended to any such area, a member thereof may, subject to any orders which the Central Government may make in this behalf, discharge the functions of a police officer in that area and shall, while so discharging such functions, be deemed to be a member of the police force of the area and be vested with the powers, functions and privileges and be subject to the liabilities of a police officer belonging to that police force.(3)Where any such order under sub-section (1) is made in relation to any area, then, without prejudice to the provisions of sub-section (2) any member of the Delhi Special Police Establishment of or above the rank of Sub-Inspector may subject to any orders which the Central Government may make in this behalf, exercise the powers of the officer in charge of a police station in that area and when so exercising such powers, shall be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station.

6. Consent of State Government to exercise of powers and jurisdiction.

- Nothing contained in section 5 shall be deemed to enable any member of the Delhi Special Police Establishment to exercise powers and jurisdiction in any area in a State, not being a Union Territory of Railway, area, without the consent of the Government of that State.

6A. [Approval of Central Government to conduct inquiry or investigation. [Inserted by Act 45 of 2003, Section 26 (w.e.f. 12.9.2003).]

(1)The Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988) except with the previous approval of the Central Government where such allegation relates to(a)the employees of the Central Government of the level of Joint Secretary and above; and(b)such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.(2)Notwithstanding anything contained in sub-section (1), no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than legal remuneration referred to in clause (c) of the Explanation to section 7 of the Prevention of Corruption Act, 1988 (49 of 1988).]

7. Repeal of Ordinance 22 of 1946.

- [Repealed by the Repealing and Amending Act, 1950 (35 of 1950), section 2 and Schedule I.]