

AS INTRODUCED IN THE RAJYA SABHA
ON THE 3RD AUGUST, 2018

Bill No. XXIX of 2018

THE NATIONAL CAPITAL TERRITORY OF DELHI LAWS
(SPECIAL PROVISIONS) BILL, 2018

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BILL

*to make special provisions for the National Capital Territory of Delhi for a period
upto the 31st day of March, 2020 and for matters connected therewith
or incidental thereto.*

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 acknowledges the need for permitting use of land for purposes other than that for which it was originally envisaged and lays down the conditions under which this may be applied in different situations;

AND WHEREAS a strategy and a scheme has been prepared by the local authorities in the National Capital Territory of Delhi for regulation of commercial activities in residential areas in accordance with the Master Plan for Delhi, 2021, and is being implemented;

AND WHEREAS based on the policy finalised by the Central Government regarding categorisation of colonies, mixed land use 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 construction for commercial activities in residential areas which, *inter alia*, involve scrutiny of layout plans, assessment of built up percentage existed as on the 31st day of March, 2002, identification of mixed use of land, approval of layout plans, fixation of boundaries and changes in land use;

AND WHEREAS more time is required for dealing with the situation arising out of unauthorised construction in residential areas for commercial activities keeping people of the National Capital Territory of Delhi in mind;

AND WHEREAS the National Capital Territory of Delhi Laws (Special Provisions) Act, 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 the National Capital Territory of Delhi Laws (Special Provisions) Act, 2009 was enacted in continuation of the aforesaid Act for a period up to the 31st day of December, 2009 followed by the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2009 enacted in continuation for a period up to 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 March, 2020 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-ninth Year of the Republic of India as follows:—

Short title,
extent,
commencement
and duration.

1. (1) This Act may be called the National Capital Territory of Delhi Laws (Special Provisions) Act, 2018.

(2) It extends to the National Capital Territory of Delhi. 5

(3) It shall be deemed to have come into force on the day of its notification.

(4) It shall cease to have effect on the 31st day of March, 2020, 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, shall apply as if this Act had then been repealed by a Central Act. 10 of 1897.

Definitions.

2. (1) In this Act, unless the context otherwise requires,— 10

(a) "building bye-laws" means bye-laws made under section 481 of the Delhi Municipal Corporation Act, 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, as in force in New Delhi or the regulations made under sub-section (1) of section 57 of the Delhi Development Act, 1957, relating to buildings; 66 of 1957. Punjab Act 3 of 1911. 15 61 of 1957.

(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) "sealing" means shutting down of unauthorised constructions for commercial use in residential areas by way of prohibiting all economic activity; 20

(d) "local authority" means the Delhi Municipal Corporation established under the Delhi Municipal Corporation Act, 1957, or the New Delhi Municipal Council established under the New Delhi Municipal Council Act, 1994 or the Delhi Development Authority established under the Delhi Development Act, 1957, legally entitled to exercise control in respect of the areas under their respective jurisdiction; 66 of 1957. 44 of 1994. 61 of 1957. 25

(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—

61 of 1957.

(i) the Delhi Development Authority, the Delhi Development Act, 1957;

66 of 1957.

(ii) the Municipal Corporation of Delhi, the Delhi Municipal Corporation Act, 1957; and

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44 of 1994.

(iii) the New Delhi Municipal Council, the New Delhi Municipal Council; Act, 1994;

(l) "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.

61 of 1957

66 of 1957

44 of 1994

(2) Words and expressions used but not defined herein shall have the meanings respectively assigned to them in the Delhi Development Act, 1957, the Delhi Municipal Corporation Act, 1957 and the New Delhi Municipal Council Act, 1994.

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3. (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 sealing of unauthorised constructions in the form of commercial enterprises in residential areas, as mentioned below:—

Enforcement to be kept in abeyance.

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(a) orderly arrangements for regularisation and rehabilitation of unauthorised commercial establishments in residential areas in the National Capital Territory of Delhi in accordance with the provisions of the Master Plan for Delhi, 2021 to ensure its development in a sustainable, planned and humane manner;

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(b) orderly arrangements pursuant to guidelines and regulations for regularisation of unauthorised constructions, as existed on the 1st day of January, 2006, and where construction took place even beyond that date and up to the 8th day of February, 2007;

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(c) policy regarding existing residences involving construction for commercial use beyond permissible building limits; and

(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 unauthorised development;

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(ii) in respect of unauthorised construction for commercial activities in residential areas, which existed on the 31st day of January, 2006 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 or unauthorised construction 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 March, 2020.

Provision of this Act set to apply in certain cases.

4. During the period of operation of this Act, no relief shall be available under the provisions of section 3 in respect of the encroachment on public land except in those cases which are covered under clauses (a), (b) and (c) of sub-section (1) of section 3;

Power of Central Government to give directions.

5. The Central Government may, from time to time, in consultation with the Government of National Capital Territory of Delhi 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. 5

Validation of acts done or omitted to be done, etc. during 12th March, 2018 upto the date of commencement of this Act.

6. 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 12th day of March, 2018 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. 10

STATEMENT OF OBJECTS AND REASONS

A situation has arisen in National Capital Territory of Delhi with the sealing activity leading to loss of economic activity and livelihood of people including daily wage workers. The economic ecosystem has collapsed as large sections of people dependent directly or indirectly on commercial establishments being targeted by sealing drive have suffered avoidable hardships and irreparable loss. Worst affected are daily wage earners and marginal shopkeepers whose lives are increasingly getting defined by uncertainty, insecurity and poverty rooted in whimsical policymaking and lax implementation.

There is no unified underlying criteria for sealing as even family-run establishments operating for decades, some of them existing before any regulatory framework got into play are being sealed. Almost Rupees 4,000 Crore, collected as conversion charges on the direction of the Honourable Supreme Court for the development of local area, has not been used to provide temporary relief to minimise hardships and undertake development work. Economic activity in National Capital Territory of Delhi has taken a setback as traders, workers and other allied individuals are unable to experience a conducive climate of doing business. Instead, the regulations, fines and punitive measures have adversely affected individuals involved in all kinds of commercial activity. In some instances, establishments have been sealed despite paying conversion charges. If continued, sealing might result into deterioration of law and order situation on account of rising discontent among the people and may result in violent outbreaks of anger which must be stopped through sound, far-reaching and humane legislation.

This Bill seeks to exempt the category of people affected by sealing going on currently in order to lay down measures for immediate relief to affected citizens.

Hence, this Bill.

SANJAY SINGH

RAJYA SABHA

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(Shri Sanjay Singh, M.P.)