

THE DELHI (CONTROL OF BUILDING OPERATIONS)

ACT, 1955

Repealed by

Act 61 of 1957

ACT NO: 53 OF 1955

[28th December, 1955]

An Act to provide for the control of building operations in Delhi.

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

Short title,
extent, com-
mencement
and duration.

1. (1) This Act may be called the Delhi (Control of Building Operations) Act, 1955.

(2) It extends to the whole of the ~~State of Delhi~~

[Union Territory of Delhi]

(3) It shall be deemed to have come into force on the 22nd day of October, 1955, and shall cease to have effect on the ~~1st day of January, 1957~~, except as respects things done or omitted to be done before such cesser of operation of this Act, and section 6 of the General Clauses Act, 1897, shall apply upon such cesser of operation as if it had then been repealed by a Central Act.

*[1st day of
January, 1958]*

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) 'amenity' includes roads, water supply, street lighting, drainage, sewerage, public parks and any other convenience which the Authority constituted under section 3 may, by notification in the Official Gazette, specify to be an amenity for the purposes of this Act;

↓ Enlis. by the A.O. (no. 3), 1956.

↓ Enlis. by Act 98 of 1956, s. 2.

(b) 'building' means any structure or erection or part of a structure or erection which is intended to be used for residential, commercial, industrial or other purposes, whether in actual use or not;

(c) 'controlled area' means any area in respect of which a declaration has been made under section 4;

(d) 'Delhi', except where it occurs in the expression '~~State of Delhi~~', means such area in the ~~State of Delhi~~ as the Central Government may, by notification in the Official Gazette, specify;

↓ [Union Territory of Delhi]

(e) 'development', with its grammatical variations and cognate expressions, means the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in any buildings or land;

(f) 'prescribed' means prescribed by regulations made under this Act;

(g) 'to erect' in relation to any building has the same meaning as the expression 'to erect or re-erect' in clause (5) of section 3 of the Punjab Municipal Act, 1911.

Punjab Act
III of 1911.

3. (1) The Central Government shall, as soon as may be after the commencement of this Act, constitute for the purposes of this Act an authority to be called the Delhi Development Provisional Authority (hereafter in this Act referred to as the Authority). The Delhi Development Provisional Authority. ✓

(2) The Authority shall consist of the following members, namely:—

(a) the Chief Commissioner of the ~~State of Delhi~~, *ex-officio*, who shall be the Chairman of the Authority;

↓ [Union Territory of Delhi]

(b) three representatives of the Central Government to be nominated by that Government, one from the Ministry of Finance, one from the Ministry of Health and one from the Ministry of Works, Housing and Supply;

(c) two representatives of the Delhi State Government to be nominated by that Government;

(d) the President of the New Delhi Municipal Committee, *ex-officio*;

(e) the President of the Delhi Municipal Committee, *ex-officio*;

(f) the Chairman of the Delhi Improvement Trust, *ex-officio*;

1005 M. of Law.

↓ Subs. by the A.O. (no: 3), 1956.

35

(g) three members of Parliament, two to be elected by the members of the Lok Sabha from among themselves and one to be elected by the members of the Rajya Sabha from among themselves.

(3) The number of members necessary to form a quorum and the procedure to be followed by the Authority in the conduct of its business shall be such as may be prescribed.

(4) The functions of the Authority may be exercised notwithstanding any vacancy therein.

(5) The Chairman of the Delhi Improvement Trust besides being a member of the Authority shall also be the Secretary thereof; and the Central Government shall provide the Authority with such clerical and other staff as that Government considers necessary.

(6) All action taken by the Authority shall be expressed to be taken in the name of the Authority; and orders and other instruments made and executed in the name of the Authority shall be authenticated in such manner as may be prescribed and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Authority.

Declaration
of controlled
area.

4. If, in the opinion of the Authority, any area within Delhi requires to be controlled under this Act with a view to the prevention of bad laying out of land, haphazard erection of buildings or growth of sub-standard colonies or with a view to the development and expansion of Delhi according to proper planning, it may, by notification in the Official Gazette, declare the area to be a controlled area.

Power to
issue direc-
tions in res-
pect of
controlled
areas.

5. The Authority may, by notification in the Official Gazette, issue in relation to any controlled area such directions as may be considered necessary regarding any one or more of the following matters, namely :—

(a) the division of any site into plots for the erection of buildings and the manner in which such plots may be allotted to intending purchasers or lessees;

(b) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and other public purposes;

(c) the development of any site into a township or colony and the restrictions and conditions subject to which such development may be undertaken or carried out;

(d) the erection of buildings on any site and the restrictions and conditions in regard to the open spaces to be maintained in or around buildings and the height and character of buildings;

- (e) the alignment of buildings on any site;
- (f) the architectural features of the elevation or frontage of any building to be erected on any site;
- (g) the number of residential buildings which may be erected on any site;
- (h) the amenities to be provided in relation to any site or buildings on such site whether before or after the erection of buildings and the person or authority by whom such amenities are to be provided;
- (i) the prohibition or restrictions regarding erection of shops, workshops, warehouses or factories or buildings of a specified architectural feature or buildings designed for particular purposes in any locality;
- (j) the maintenance of walls, fences, hedges or any other structural or architectural construction and the height at which they shall be maintained;
- (k) the restrictions regarding the use of any site for purposes other than the erection of buildings;
- (l) any other matter which is necessary for the proper planning of any controlled area and for preventing buildings being erected haphazardly in such area.

6. No person shall undertake or carry out the development of any site in any controlled area or erect any building or make or extend any excavation or lay out any means of access to a road in such area except in accordance with the directions, if any, issued under section 5 and with the previous permission of the Authority in writing.

Control of
Development
and building
operations
in controlled
areas.

7. (1) Every person desiring to obtain the permission referred to in section 6 shall make an application in writing to the Authority in such form and containing such information as may be prescribed in respect of the development, building, excavation or means of access to which the application relates.

Application
for permis-
sion.

(2) On receipt of such application the Authority, after making such enquiry as it considers necessary in relation to any direction which may have been issued under section 5 or in relation to any other matter, shall, by order in writing, either grant the permission, subject to such conditions, if any, as may be specified in the order or refuse to grant such permission.

(3) Where permission is refused, the grounds of such refusal shall be communicated to the applicant in the prescribed manner.

Powers of
entry on
buildings or
land.

8. The Authority may authorize any person to enter into or upon any site or building with or without assistants or workmen for the purpose of—

(a) making any enquiry, inspection, measurement or survey or taking levels of such site or buildings;

(b) examining works under construction or ascertaining the course of sewers or drains;

(c) ascertaining whether any site is being or has been developed or any building is being or has been erected in contravention of any direction issued under section 5 or without the permission referred to in section 6 or in contravention of any condition subject to which such permission has been granted :

Provided that no entry shall be made except between the hours of sun-rise and sun-set and without giving not less than twenty-four hours written notice to the occupier, or if there be no occupier, to the owner of the building or land.

Penalties.

9. (1) Any person who undertakes or carries out the development of any site or erects any building or makes or extends any excavation or lays out any means of access to a road in contravention of any direction issued under section 5 or without the permission referred to in section 6 or in contravention of any condition subject to which such permission has been granted shall be punishable with fine which may extend to ten thousand rupees and in the case of a continuing offence, with a further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

(2) Any person who obstructs the entry of a person authorized under section 8 to enter into or upon any building or land or molests such person after such entry shall be punishable with fine which may extend to one thousand rupees.

(3) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(4) Notwithstanding anything contained in sub-section (3), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) 'company' means a body corporate and includes a firm or other association of individuals; and

(b) 'director' in relation to a firm means a partner in the firm.

10. Where the erection of any building has been commenced, or is being carried on, or has been completed in contravention of any direction issued under section 5 or without the permission referred to in section 6 or in contravention of any condition subject to which such permission has been granted, the Authority may, in addition to any prosecution that may be instituted under this Act, make an order directing that such erection shall be demolished by the owner thereof within such period not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order the Authority may itself cause the erection to be demolished and the expenses of such demolition shall be recoverable from the owner in the same manner as an arrear of land revenue :

Order of demolition of buildings in certain cases.

Provided that no such order shall be made unless the owner has been given an opportunity of being heard.

11. No court inferior to that of a magistrate of the first class shall try an offence punishable under this Act.

Jurisdiction of courts. ✓

12. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Authority or an officer authorized by the Authority in this behalf.

Previous sanction of the Authority or officer authorized by it for prosecution. ✓

V of 1898. 13. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any court of a magistrate of the first class to pass any sentence authorized by this Act, in excess of its powers under the said section.

Magistrate's power to impose enhanced penalties.

14. The Authority may, by notification in the Official Gazette, direct that any power exercisable by it under this Act may also be exercised in such cases and subject to such conditions, if any, as may be specified in the notification, by such officer or local authority as may be mentioned therein.

Power to delegate.

Orders granting or refusing permission to be final.

15. Any order made under sub-section (2) of section 7 refusing or granting any permission shall be final and shall not be questioned in any court :

Provided that where the power exercisable under sub-section (2) of section 7 has been delegated to any officer or local authority referred to in section 14, any person aggrieved by an order of such officer may, within thirty days from the date of such order; prefer an appeal to the Authority; and the order of the Authority on appeal shall be final and shall not be questioned in any court.

Protection of action taken in good faith.

16. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the regulations made thereunder.

Effect of provisions of the Act inconsistent with other laws.

17. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Savings.

18. Nothing in this Act shall apply to—

(a) the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building ;

(b) the carrying out by any local authority in the ~~State of Delhi~~ or the Delhi Improvement Trust or any Department of the Central Government or of the Delhi State Government of any works for the purpose of inspecting, repairing, or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose ;

(c) the erection of a building, not being a dwelling house if such building is required for the purposes subservient to agriculture ;

(d) the erection of buildings upon land included in the inhabited site of any village as defined in revenue records ;

(e) the 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 at the commencement of this Act is occupied by or for the purposes of such place of worship, tomb, cenotaph, graveyard or *samadhi* ;

(f) excavations (including wells) made in the ordinary course of agricultural operations ;

(g) the construction of unmetalled road intended to give access to land solely for agricultural purposes.

Power to make regulations.

19. (1) The Authority, with the previous approval of the Central Government, may, by notification in the Official Gazette, make regulations to carry out the purposes of this Act :

[Union territory of Delhi]

Subs. by the A.O. (no. 3), 1956.

Provided that the Central Government may make the first regulations under this section and any regulation so made may be altered or rescinded by the Authority in exercise of the powers conferred by this section.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held, the procedure to be followed by the Authority, the conduct of all business to be transacted by the Authority and the number of members necessary to form a quorum;

(b) the manner of authentication of orders and other instruments of the Authority;

(c) the form in which an application under sub-section (1) of section 7 shall be made and the information to be furnished in such application;

(d) the regulation of the laying out of means of access to roads;

(e) the principles under which applications for permission under this Act may be granted;

(f) the officers or local authorities to whom powers may be delegated under section 14;

(g) any other matter which has to be, or may be, prescribed.

(3) All regulations made under this Act shall, as soon as may be after they are made, be laid before both Houses of Parliament.

20. The Delhi (Control of Building Operations) Ordinance, 1955, is hereby repealed.

Repeal of
Ordinance
5 of 1955.