

THE DELHI PREVENTION OF TOUTING AND MALPRACTICES AGAINST TOURISTS ACT, 2010

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Notification No. F. 14 (23)/LA-2008/LAW/32, dated the 15th February, 2011. - The following Act of the Legislative Assembly of the National Capital Territory of Delhi received the assent of the President of India on the 17th January, 2011, and is hereby published for general information:-

An Act to make provision for the prevention of acts of touting and malpractices vis-a-vis tourists visiting the National Capital Territory of Delhi and abetment or attempt thereof, by any person in the National Capital Territory of Delhi and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Sixty-first Year of the Republic of India as follows:-

Part I

Preliminary

1. Short title, extent and commencement. –

(1) This Act may be called the Delhi Prevention of Touting and Malpractices against Tourists Act, 2010.

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

(3) It shall be deemed to have come into force on the 1st day of October, 2010.

2. Definitions

(1) In this Act, unless the context otherwise requires,-

(a) "*Commissioner of Police*" means the Commissioner of Delhi Police appointed under Section 6 of the Delhi Police Act, 1978 (34 of 1978);

(b) "*Delhi*" means the National Capital Territory of Delhi;

(c) "*Government*" means the Lt. Governor of the National Capital Territory of Delhi appointed by the President under Article 239 and designated as such under Article 239-AA of the Constitution;

(d) "*malpractice*" includes dishonesty, cheating, impersonation and obstruction in allowing free choice for shopping or stay or travel arrangements;

(e) "*tourist*" means any person or group of persons including pilgrims who visits or visit Delhi from any part of India or outside India;

(f) "*touting*" includes enticing, misguiding or coercing for shopping, accommodation, transportation, sight-seeing or pestering for any particular premises, including the precincts thereof, any person, establishment, dealer or manufacturer for personal consideration.

Explanation. - Whoever loiters around airports, railway stations, bus stands, markets or any other places frequented by tourists with the intention of offering any unsolicited service to

the tourist or pestering or coercing him to use any such service and exhibits such conduct so as to show such intention (like following arguing, communicating or otherwise drawing attention of tourists through words or gestures or placards or pamphlets thereby causing obstruction or annoyance to tourists or general public) and otherwise has no reasonable explanation for frequenting the said place will be deemed to have committed the act of touting.

(2) Words and expressions used herein and not defined but defined in the Indian Penal Code, 1860 (45 of 1860) shall have the meanings respectively assigned to them in the said Code.

Part II Offences and Penalties

3. Prohibition of malpractice and touting, etc.

No person shall-

- (a) commit any act of touting or malpractice against any tourist;
- (b) abet commission of any act of touting or malpractice against any tourist;
- (c) attempt to commit any act of touting or malpractice against any tourist.

4. Penalties

Any person who-

- (a) touts or commits malpractice shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both;
- (b) abets an offence of touting or malpractice under this Act, shall, notwithstanding anything contained in the Indian Penal Code, 1860 (45 of 1860), be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both;
- (c) attempts to commit an offence punishable under this Act shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to two thousand rupees, or with both.

5. Offences to be cognizable and bailable

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the-offences under this Act shall be cognizable and bailable.

Part III Powers of Police Officers and Procedure for Speedy Investigation and Trial of Offences

6. Powers of arrest, search and seizure

(1) If an offence of malpractice or touting takes place in the presence of a police officer, not below the rank of an assistant sub-inspector of police, such police officer may arrest the person and record his observations about such conduct of the individual that constituted the offence of touting.

(2) Any police officer having reason to suspect a person of indulging in the act of touting or malpractice against a tourist may search such person and may require an account in relation to any articles found in his possession and may seize such article if found suspicious and of such nature which could be used for commission of touting or malpractice against tourists.

(3) A police officer not below the rank of an assistant sub-inspector of Police, may enter a public or private establishment which he has reason to believe was or is being used as a place for commission of touting or malpractice against tourists and inspect the same.

7. Removal of suspected touts or persons causing nuisance from public places frequented by tourists

If a police officer suspects any person of indulging in malpractice or touting or otherwise causing nuisance in a public place frequented by tourists, he may direct such person to remove himself from the said place forthwith.

8. Persons bound to comply with the reasonable directions of police officers.

(1) All persons shall be bound to comply with the reasonable directions given by a police officer in the discharge of his duties under this Act.

(2) Where any person resists, refuses or fails to comply with any direction referred to in sub-section (1), a police officer may, without prejudice to any other action that he may take under any other provision of this Act or any other law for the time being in force, remove such person and either produce him before a Metropolitan Magistrate or, in trivial cases, release him when the occasion which necessitated tire removal has ceased to exist:

Provided that the persons so removed shall, in all cases, be produced before the Metropolitan Magistrate or released, as the case may be, within a period of twenty-four hours of such removal.

9. Investigation, etc. of offences

(1) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall be applicable for the purposes of investigation, inquiry and trial of offences under this Act:

Provided that the investigating officer shall make endeavours to complete the investigation within a period of thirty days and the officer-in-charge of the police station shall forward to the Magistrate, empowered to take cognizance of the offence on a police report, a report in the form prescribed by the Government.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no police officer below the rank of an assistant sub-inspector shall investigate an offence under this Act.

10. Cognizance and trial of offences

No court inferior to that of a Metropolitan Magistrate shall try any offence under this Act.

11. Power of court to try cases summarily

(1) All offences under this Act shall be tried summarily by a Metropolitan Magistrate and the provisions of Sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 (2 of 1974) shall, as far as may be, apply to such trial.

(2) When trying any offence under this Act, the Magistrate may also try any other offence with which a person may be charged in the same trial if the offence is connected with such other offence or offences.

12. Removal of persons repeatedly involved in acts of touting or malpractice

The Commissioner of Police or any police officer not below the rank of a Deputy Commissioner of Police, authorized in this behalf by general or special order by the Commissioner of Police, shall have power to declare any person who is habitually or repeatedly involved in the activities punishable under this Act, out of bounds from Delhi, or any part thereof, for a period which shall not be less than six months but may extend to one year and the provisions of Sections 47 to 56 of the Delhi Police Act, 1978 (34 of 1978) shall apply to the extent they are relevant or necessary.

13. Composition of offences

(1) Any offence punishable under Section 4 may, either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the Government may, by notification in the official Gazette, specify in this behalf.

(2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceeding shall be taken against him in respect of such offence.

14. Plea bargaining

A person accused of an offence under this Act, may file an application for plea bargaining in the Court in which such offence is pending for trial and the provisions of Chapter XXI-A of the Code of Criminal Procedure, 1973 (2 of 1974) shall be applicable in this regard.

Part IV

Miscellaneous

15. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Government or any person or officer authorized by the Government for anything which is in good faith done or intended to be done under this Act.

16. Act not in derogation of any other law

The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

17. Power to make rules

(1) The Government may, by notification published in the official Gazette, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- (a) prescription of the form for forwarding a police report under sub-section (1) of Section 9 to the Magistrate empowered to take cognizance of the offence on a police report;
- (b) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Government under this Act, shall be laid, as soon as may be after it is made, before the House of the Legislative Assembly of Delhi, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and, if before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

18. Repeal of Delhi Ordinance 1 of 2010 and saving

(1) The Delhi Prevention of Touting and Malpractices against Tourists Ordinance, 2010 (Delhi Ordinance 1 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.