

DEPARTMNT OF LAW, JUSTICE AND LGISLATIVE AFFAIRS

NOTIFICATION

Delhi, the 6th December 2006

No.F.1(1)/LA-2003/L/J/06/7697—The following Act of the Legislative Assembly of Delhi received the assent of the Lt. Governor of the National Capital Territory of Delhi on the 25th November, 2006 and is hereby published for general

THE DELHI COMMISSION FOR SAFAI KARAMCHARIS BILL. 2006
(DELHI ACT 7 OF 2006)

(As passed by the Legislative Assembly of the National Capital Territory of Delhi on the 8th November 2006).

An Act to provide for the establishment and functioning of a Commission for Safai Karamcharis to safeguard the rights and interests and the redressal the grievances of the Safai Karamcharis residing 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 Fifty Seventh Year the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement. – (1) This Act may be called the Delhi Commission for Safai Karamcharis Act, 2006.

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

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.
2. Definitions.- In this Act, unless the context otherwise requires,-
 - (a) “Chairperson” means the Chairperson of the Delhi Commission for Safai Karamcharis appointed under sub-section (2) of section 3 of this Act;
 - (b) “Commission” means the Delhi Commission for Safai Karamcharis constituted under section 3 of this Act;
 - (c) “Delhi” means the National Capital Territory of Delhi;
 - (d) “Government” means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under article 239 and designated as such under article 239AA of the Constitution;
 - (e) “Lieutenant Governor” means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under article 239 of the Constitution;

- (f) “member” means a member of the Commission;
- (g) “prescribed” means prescribed by rules made under this Act;
- (h) “Safai Karamchari” means a person engaged in, or employed for, assisting in disposal of human excreta, or any sanitation work;
- (i) “National Commission” means the National Commission for Safai Karamcharis, constituted under the National Commission for Safai Karamcharis Act, 1993 (64 of 1993).

CHAPTER II

THE DELHI COMMISSION FOR SAFAI KARAMCHARIS

- 3. Constitution of the Commission.- (1) As soon as may be after the commencement of this Act, the Government shall, by notification in the official Gazette, constitute a body to be called the Delhi Commission for Safai Karamcharis to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
 - (2) The Commission shall consist of a Chairperson and two part-time members to be nominated by the Government from amongst persons of eminence, ability and integrity from Safai Karamcharis of Delhi.
- 4. Term of office and conditions of service of Chairperson and members- (1) The Chairperson shall hold office for a period of five years or till the age of sixty five years (whichever is less) and members will hold office for a period of five years or till the age of sixty two years (whichever is less) from the date he assumes office.
 - (2) The Chairperson or a member may, by writing under his hand, addressed to the Government, resign from office of Chairperson or of member, as the case may be, at any time.
 - (3) The Government shall remove a person from the office of Chairperson or member, if that person-
 - (a) becomes an un-discharged insolvent;
 - (b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude;
 - (c) becomes of unsound mind and stands so declared by a competent court;
 - (d) refuses to act or becomes incapable of acting as such;

- (e) remains absent, without obtaining leave of absence from the Commission, from three consecutive meetings of the Commission; or
- (f) has, in the opinion of the Government, so abused the position of Chairperson, or member, as to render that person's continuance in office detrimental to the interests of Safai Karamcharis or the public interest :

Provided that no person shall be removed under this section until that person has been given an opportunity of being heard in the matter.

(4) Any vacancy occurring in the Commission shall be filled as soon as may be by the Government for the un-expired part of the term of the out-going Chairperson or member, as the case may be.

5. Salaries, allowances, etc. of Chairperson and members.- The Chairperson shall be entitled to the status, salary, allowances and other facilities as may be decided by the Government of NCT of Delhi in accordance with rules framed for the purpose. The part-time members will be eligible only for sitting fee and not for any other facilities.

6. Secretary of the Commission.- (1) The Secretary of the Commission shall be appointed by the Government in consultation with the Chairperson and he shall not be below the rank of a Secretary to the Government.

(2) The Secretary shall be the head of the department of the Commission and shall look after the day-to-day administration and shall work as per directions of the Commission.

(3) The Secretary shall be responsible for having the agenda prepared for the meetings of the Commission and for circulating the minutes of meetings.

(4) The Secretary shall cause the accounts of the Commission to be maintained and shall discharge the other duties imposed on him by or under this Act.

(5) The Secretary shall assist the Commission in finalizing its reports.

(6) The Secretary may, in his discretion, delegate any of his functions or authority to any other officer of the Commission.

(7) The Secretary shall be entitled to such salary and allowances as may be prescribed.

7. Staff of the Commission.- (1) The Government shall provide such staff and facilities to the Commission as may be determined by the Government for the effective functioning of the Commission.

(2) The administrative expenses of the Commission, including the salaries, allowances, pensions and other amounts payable to the Secretary, officers and staff of the Commission shall be paid, as prescribed, out of the grants referred to in sub-section (2) of section 20 of this Act.

8. Procedure to be regulated by the Commission.- The Commission shall regulate its own procedure.

9. Headquarters of the Commission.- The Commission shall have its headquarters at Delhi but may meet as and when necessary at such place or places in Delhi and at such time as the Chairperson may deem fit.

10. Authentication of orders and decisions of the Commission.- All orders and decisions of the Commission shall be authenticated by the Secretary, or any other officer of the Commission duly authorized by the Chairperson in this behalf.

11. Vacancies, etc. not to invalidate proceedings of the Commission.- No act, decision or proceeding of the Commission shall be called in question or held invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

12. Functions and powers of the Commission.- (1) The Commission shall perform all or any of the following functions, namely :-

(a) to investigate, examine and monitor all matters relating to –

(i) the safeguards provided to Safai Karamcharis, residing in Delhi, under the Constitution of India, or under any law for the time being in force or under any judicial decisions or any orders or instructions issued by the Government of India or the Government, and to evaluate the working of such safeguards;

(ii) denial or violation of any right of Safai Karamcharis;

(iii) any other matter pertaining to the welfare and protection of Safai Karamcharis;

(b) to look into the specific complaints with respect to the deprivation of the rights and safeguards of Safai Karamcharis;

(c) to monitor and evaluate the implementation of the policies and schemes of the Government for the welfare of Safai Karamcharis and to advise the Government on the planning process of socio-economic development of Safai Karamcharis;

(d) to conduct studies and research in order to make recommendations to promote the socio-economic upliftment of Safai Karamcharis;

- (e) to hold seminars, debates and discussions on problems affecting Safai Karamcharis to create public awareness;
 - (f) to assess the representation of Safai Karamcharis in the services of the Government, semi-government bodies, local bodies and government undertakings and in case of inadequate representation, to recommend remedial measures;
 - (g) to deal with any other matter pertaining to the welfare of Safai Karamcharis which may be referred to it by the Government.
- (2) The exercise of powers and functions by the Commission shall not be in contradiction or in violation of the powers and functions or directions of the National Commission.

13. Annual report of the Commission.— (1) The Commission shall prepare every year an annual report giving a true and full account of its activities during the year, alongwith its recommendations and shall forward it to the Government.

(2) The Government shall, without delay, cause the annual report to be laid before the House of the Legislative Assembly of Delhi along with a report setting out the action taken or proposed to be taken on the recommendations and the reasons for non-acceptance, if any, of such recommendations.

14. Special report by the Commission.— The Commission may submit to the Government a special report on any matter of public importance pertaining to the interests of Safai Karamcharis.

15. Commission's right to be heard.— In case of non-acceptance of any of its recommendations, the Commission shall have the right to be heard by the Minister-in-charge.

16. Government to consult Commission.— The Government may consult the Commission on all major policy matters affecting Safai Karamcharis.

17. Powers of Civil Court.— The Commission shall have in carrying out its functions, the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof, from any office or institution of the Government;
- (e) issuing commissions for the examination of witnesses and documents.

18. Power to utilize services of investigation agencies of Government.— The Commission may, for the purposes of conducting any investigation under this Act, utilize the services of any investigating agency of the Government with the prior approval of the Government.

19. Protection of statement made before the Commission.— No statement made by a person to the Commission in the course of giving evidence shall be used against him in any court proceeding except for perjury.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

20. Budget and grants by the Government.— (1) The Commission shall prepare every year budget estimates for the financial year as per prescribed norms and shall forward to the Government.

(2) The Government shall, after due appropriation made by the Legislative Assembly of Delhi in this behalf, make provision for such sums of money as are adequate for carrying out the purposes of this Act.

(3) Commission may spend such sums, out of the budget provisions, as it deems fit for performing its functions under this Act or incidental thereto.

21. Annual Statement of Accounts.- (1) The Commission shall maintain proper accounts and other relevant records and also prepare an annual statement of accounts as may be prescribed by the Government.

(2) The Accounts of the Commission shall be audited at such intervals as may be specified by the Government.

(3) Any person appointed by the Government in connection with the audit of the accounts of the Commission shall have the same rights and the authority as the Comptroller and Auditor General of India generally has in connection with audit of Government accounts and, in particular, shall have right to demand the production of book, account, connected vouchers and other documents and papers, as he may consider necessary, and to inspect any of the offices of the Commission.

CHAPTER V

MISCELLANEOUS

22. Chairperson, members and officers of Commission to be public servants.— The Chairperson, members and officers authorized by the Commission to perform functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

23. Protection of action taken in good faith.— No suit, prosecution or other legal proceeding shall lie against the Chairperson, members or officers performing functions under this Act under the authority of the Commission, for anything which is done in good faith or done or intended to be done under this Act.

24. Establishment of library and cells.— The Government may establish a library, an information cell, a research cell and such other cells as may be recommended by the Commission.

25. Power to make rules.- (1) The Government may, by notification in the official Gazette, make rules for carrying out the provisions 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) salary and allowances payable to the secretary to the Commission;

(b) prescribing of the administrative expenses of the Commission including the salaries, allowances, pension and other amounts payable to the Secretary, officers and staff of the Commission;

(c) making of rules in accordance with which an account of income and expenditure of the Commission shall be kept;

(d) prescribing the form in which the Commission shall prepare the annual statement of accounts;

(e) prescribing the manner of publication of the annual statement of accounts of the Commission together with a copy of the audit report by the Government;

(f) any other matter which is required to be or may be prescribed.

(3) Every rules made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of National Capital Territory 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 Assembly agrees in making any modification in the rule or the Assembly 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.

26. Power to remove difficulties.— (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before the Legislative Assembly of Delhi.

Sd/

(RAKESH SYAL, JT.SECRETARY)

(TO BE PUBLISHED IN PART-IV OF THE DELHI GAZETTE-EXTRA-ORDINARY)

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
(DEPARTMENT FOR THE WELFARE OF SC/ST/OBC/MINORITIES)
2ND FLOOR, B-BLOCK, VIKAS BHAWAN, NEW DELHI-110002.**

No. F. 7(4)/97-98 /DSCST/SCP/12230

Dated 9th January 2007

NOTIFICATION

No. F.7 (4)/97-98 /DSCST/SCP/ -12230 In exercise of the powers conferred by sub-section (3) of section 1 of the Delhi Commission for Safai Karamcharis Act, 2006(Delhi Act No. 7 of 2006), the Lieutenant Governor of the National Capital Territory of Delhi, hereby, appoints the 30th day of January 2007 as the date on which the said Act shall come into force.

**By order and in the name of the
Lieutenant Governor of the
National Capital Territory of Delhi,**

Sd/.

**(R.K. SRIVASTAVA)
SECRETARY (SC/ST/OBC/MINORITIES)**

No. F. 7(4)/97-98 /DSCST/SCP/12231-48

Dated 9-1-2007

Copy forwarded for information and necessary action to :-

1. The Secretary (GAD), Govt. of NCT of Delhi (In duplicate) for favour of publication in the Delhi Gazette (Extra-ordinary) Part IV. 20 copies of the Gazette may kindly be supplied to this Deptt. for official use.
2. The Secretary, Ministry of Home Affairs, Govt. of India, North Block, New Delhi.
3. The Secretary, Ministry of Social Justice and Empowerment, Govt. of India, Shastri Bhawan, New Delhi.

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4. The Member-Secretary, National Commission for Safai Karamcharis, Govt. of India, Lok Nayak Bhawan, New Delhi .

5. The Secretary to Lt. Governor, Raj Niwas, Delhi-110054.
6. The Secretary to the Hon'ble Speaker, Delhi Vidhan Sabha, Old Secretariat, Delhi-110054.
7. The Pr. Secretary to Chief Minister, Delhi.
8. Secretaries to all the Ministers, Govt. of NCT of Delhi, Delhi Sectt., New Delhi.
9. The OSD to Chief Secretary, Delhi.
10. All Pr. Secretaries/Secretaries/HODs, Govt. of NCT of Delhi.
11. The Pr. Secretary (Law), Govt. of NCT of Delhi.
12. The Secretary (Services), Govt. of NCT of Delhi.
13. The Secretary (Language), Govt. of NCT of Delhi.
14. The Secretary, Delhi Vidhan Sabha, Old Secretariat, Delhi-54.
15. The Secretary, Department of Public Relations, Govt. of NCT of Delhi, Old Secretariat, Delhi.
16. All Heads of Autonomous Bodies functioning under Govt. of NCT of Delhi.
17. Dy. Director (SC/ST), Govt. of NCT of Delhi.
18. Guard File.

Sd/.

(R.K. SRIVASTAVA)
SECRETARY (SC/ST/OBC/MINORITIES)

Financial Memorandum

The Annual Financial implications for setting up this Commission are estimated at an amount of Rs. 50 lakhs, which includes Rs. 31 lakhs as recurring expenditure. This includes the remuneration for the Chairman and other employees of the Commission and office expenses.

Recurring expenditure

Pay & Allowances etc.	Rs. 31 lakhs
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Non-Recurring expenditure

Office expenses including Photostat Machine, Duplicating Machine, Computers/Stationery, Furniture etc. and TA/DA/LTC/Hometown/Medical etc. and unforeseen contingencies.	Rs. 19 lakhs
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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 5,6 and 7 of the Bill confer on the Government the power to make rules in relation to the salary, allowances and other amounts payable to the Chairperson and members of the Commission, the Secretary, officers and the Staff of the Commission, including administrative expenses of the Commission.

Sub-section 2 (c) of Clause 25 of the Bill confers on the Government the power to make rules in accordance with which the accounts of the income and expenditure of the Commission shall be kept. Sub-section 2 (d) of Clause 25 of the bill confers on the Government the power to prescribe the form in which the Commission shall prepare an annual statement of accounts. It also lays down in sub-clause 2 (e) of clause 25 that the Government shall make rules to lay down the manner in which the annual statement of the accounts and the audit report shall be published.

Clause 25 of the Bill contains general power conferred on the Government to make rules to carry out the purposes of the Bill.

The matters in respect of which rules may be made are matters of administrative detail and procedure and, as such, the delegation of legislative power is of a normal character.

STATEMENT OF OBJECTS AND REASONS

A large number of non-governmental organizations and public representatives have been urging the Government of National Capital Territory of Delhi to provide a forum for redressal of grievances of Safai Karamcharis population of Delhi. The issues relating to service matters, exploitation, harassment and also to ensure proper and just implementation of various Acts, orders, instructions of the Government of India for safeguarding their interests provided in the Constitution of India need to be redressed. So far there has been no proper forum in the Government of National Capital Territory of Delhi for this purpose. To meet this long standing demand of Safai Karamcharis and to ensure that their grievances are redressed in proper way and the safeguards provided to them under the Constitution of India and other Acts, laws, etc., are also properly protected, it is proposed to set up the Delhi Commission for Safai Karamcharis.

The Bill seeks to achieve the aforesaid objectives.

(RAJ KUMAR CHAUHAN)
Minister (Food & Civil Supplies, Development, Revenue,
Irrigation & Flood, Environment & Forest and Welfare of
SC/ST)

