

(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) specifying attested copies of documents to be attached with application for obtaining permission to fell, cut, remove or otherwise dispose of a tree and prescribing the form in which such permission shall be granted;
- (b) specifying the manner for recovery of the expenditure by Tree Officer from owners who default to protect trees from damage;
- (c) specifying the manner for recovery of cost of plantation from persons who fail to plant trees;
- (d) regulating the procedure for disposal of appeal by the Appellate Authority;
- (e) specifying the manner of disposal of forfeited timber, other produce from the trees, tools and implement etc.;
- (f) prescribing the form of bond to be executed by an owner in case of release of property seized under section 15;
- (g) specifying the manner of regulating the management of class of trees felling of which for specified period is prohibited;
- (h) any other manner which is to be, or may be, prescribed under this Act.

(3) Every rule made by the Government under this Act, shall be laid as soon as may be after it is made, before the Legislative Assembly.

**35. Provision of this Act to be in addition to any other law for the time being in force.**—Nothing in this Act shall be deemed to affect the operation of any other law and the rules made thereunder and the provisions of this Act shall be in addition to and not in derogation of the provisions of the said Act and rules made thereunder.

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# THE DELHI PRESERVATION OF TREES ACT, 1994

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# **THE DELHI PRESERVATION OF TREES ACT, 1994**

## **INTRODUCTION**

Due to ever increasing population in the National Capital Territory of Delhi the need for accommodating large number of people has forced the private as well as Government agencies to construct more and more residential as well as commercial complexes with the result the forest area in and around the National Capital Territory of Delhi is declining. The trees are being axed indiscriminately either to pave way for the residential or commercial complexes or for widening of roads for free flow of increasing traffic. The declining forest area, urbanisation of rural belts and widening of roads has been affecting the environment very badly. In order to safeguard the forest area and to provide for the preservation of trees the Delhi Preservation of Trees Bill was introduced in the Legislative Assembly.

### **ACT 11 OF 1994**

The Delhi Preservation of Trees Bill having been passed by the Legislative Assembly received its assent on 12th October, 1994. It came on the Statute Book as THE DELHI PRESERVATION OF TREES ACT, 1994 (11 of 1994).

# THE DELHI PRESERVATION OF TREES ACT, 1994

(Delhi Act 11 of 1994)

[12th October, 1994]

*An Act to provide for the preservation of trees in the National Capital Territory of Delhi.*

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Forty-fifth Year of Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act, may be called the Delhi Preservation of Trees Act, 1994.

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

(3) It shall come into force at once.

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

(a) “Appellate Authority” means an authority appointed by the Government as appellate authority under this Act;

(b) “Deputy Conservator of Forests” means a forest officer in charge of a forest division and exercising jurisdiction over the area;

(c) “Secretary” means the Secretary of Forests, Government of the National Capital Territory of Delhi;

(d) “forest produce” includes—

(a) the following whether found in, or brought from, forest or not, that is to say:—

timber, charcoal, caoutchoue, catechu, wood-oil, resin, natural narnish, bark, lac, mahua flowers, mahua seeds, kuth and myrabolams, and

(b) the following when found in, or brought from, a forest, that is to say:—

(i) trees and leaves, flowers and fruits, and all the other parts of produce and herein before mentioned, of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax; and all other parts or produce of animals, and

(iv) peat, surface soil, rock and minerals (including limestone, laterite, mineral oils, and oil products of mines or quarries);

(e) “Government” means the Government of the National Capital Territory of Delhi;

(f) “notification” means a notification published in the Official Gazette;

- (g) "organisation" means any company (public or private) government or semi-government department, undertaking; board or local authority;
- (h) "to fell a tree" with its cognate expression, means severing the trunk from the roots, uprooting the tree and includes bulldozing, cutting, girdling, lopping, pollarding, applying arboricides, burning or damaging a tree in any other manner;
- (i) "tree" means any woody plant whose branches spring from and are supported upon a trunk or body and whose trunk or body is not less than five centimetres in diameter at a height of thirty centimetres from the ground level and is not less than one metre in height from the ground level;
- (j) "Tree Officer" means a forest officer appointed as such by the Government for the purposes of this Act;
- (k) "prescribed" means prescribed by rules made under this Act;
- (l) words and expressions used in this Act and defined in the Indian Forest Act, 1927 (Central Act 16 of 1927), but not defined in this Act, shall have the meanings respectively assigned to them in that Act.

## CHAPTER II

### TREE AUTHORITY

**3. Establishment of the Tree Authority.**—(1) The Government shall, by notification, constitute a Tree Authority for the whole of the National Capital Territory of Delhi.

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

- (i) Secretary of Forests or any other officer not below the rank of Secretary to the Government nominated by the Government. —Chairman
- (ii) Deputy Commissioner, Delhi. —Member
- (iii) Two Members of the Legislative Assembly Nominated by the Government. —Members
- (iv) Two Representatives of the local bodies nominated by the Government. —Members
- (v) Deputy Conservator of Forests. —Member-Secretary

(3) The Tree Authority may co-opt as members in such manner and for such period as it may determine not more than five representatives of non-official organisations and Government Departments having special knowledge or practical experience in the preservation of trees.

**4. Meeting of the Tree Authority.**—(1) The Tree Authority shall meet at least once in three months at such place and time as the Chairman may decide.

(2) The quorum to constitute a meeting of the Tree Authority, shall be three members referred to in sub-section (2) of section 3.

(3) No co-opted member shall have the right to vote at a meeting.

(4) In the case of an equality of votes on any matter, the Chairman shall have a second or casting vote.

### CHAPTER III

#### OFFICERS AND SERVANTS

**5. Appointment of Tree Officer.**—The Government may appoint one or more Forest Officers of the rank not below that of a Deputy Conservator of Forests as Tree Officers for the purposes of this Act.

**6. Appointment of other officers.**—The Government may, from time to time, appoint such other officers and servants as may be considered necessary who shall be subordinate to the Tree Officer.

### CHAPTER IV

#### DUTIES OF TREE AUTHORITY

**7. Duties of Tree Authority.**—Notwithstanding anything contained in any other law for the time being in force, the Tree Authority shall, subject to any general or special order of the Government, be responsible for—

- (a) the preservation of all trees within its jurisdiction;
- (b) carrying out census of the existing trees and obtaining, whenever considered necessary, declarations from all owners or occupants about the number of trees in their lands;
- (c) development and maintenance of nurseries, supply of seeds, saplings and trees to persons, who are required to plant new trees or to replace trees which have been felled;
- (d) getting planting and transplanting of trees necessitated by construction of buildings, new roads or widening of existing roads or replacement of trees which have failed to come up along roads or for safeguarding danger of life and property;
- (e) organization of demonstrations and extension services for the purposes of this Act and assisting private and public institution is connected with planting and preservation of trees;
- (f) undertaking such schemes or measures as may be directed from time to time by the Government for achieving the objects of this Act;
- (g) undertaking critical study of the proposals of various government departments and private bodies for construction of buildings, roads, factories, irrigation works, laying out of electric, telephone, telegraph and other transmission lines with regard to protection of existing trees and planting of more trees, wherever possible.

### CHAPTER V

#### RESTRICTIONS ON FELLING AND REMOVAL OF TREES AND LIABILITIES FOR PRESERVATION OF TREES

**8. Restrictions on felling and removal of trees.**—Notwithstanding anything contained in any other law for the time being in force or in any custom or usage or

contract and except as provided in this Act or the rules made thereunder, no person shall fell or remove or dispose of any tree or forest produce in any land, whether in his ownership or occupancy or otherwise, except with the previous permission of the Tree Officer.

Provided that if the tree is not immediately felled, there would be grave danger to life or property or traffic, the owner of the land may take immediate action to fell such tree and report the fact to the Tree Officer within twenty-four hours of such felling.

#### COMMENTS

No person can fell or remove or dispose of any tree or forest produce in any land either owned or occupied by him, without the permission of the Tree Officer, but in case if the tree is not immediately felled, there would be grave danger to life or property or traffic, the owner of the land can take immediate action to fell such tree and should report the fact to the Tree Officer within twenty-four hours.

**9. Procedure for obtaining permission to fell, cut, remove or dispose of, a tree.**—(1) Any person desiring to fell or remove or otherwise dispose of, by any means, a tree, shall make an application to the concerned Tree Officer for permission and such application shall be accompanied by attested copies of such documents as may be prescribed in support of ownership over the land, the number and kind of trees to be cut, their girth measure at a height of 1.85 metres from ground level and the reasons therefor, copy of *sajra* showing clearly the site and *khasra* numbers of the property.

(2) On receipt of the application, the Tree Officer may, after inspecting the tree and holding such enquiry as he may deem necessary, either grant permission in whole or in part or for reasons to be recorded in writing, refuse permission:

Provided that such permission may not be refused if the tree—

- (i) is dead, diseased or wind fallen; or
- (ii) is silviculturally mature, provided it does not occur on a steep slope; or
- (iii) constitutes a danger to life or property; or
- (iv) constitutes obstruction to traffic; or
- (v) is substantially damaged or destroyed by fire, lightning, rain or other natural causes; or
- (vi) is required in rural areas to be cut with a view to appropriating the wood or leaves thereof, or any part thereof for *bona fide* use for fuel, fodder, agricultural implements or other domestic use.

(3) The Tree Officer shall give his decision within sixty days from the date of receipt of the application:

Provided that no permission shall be granted to any person from the same area on more than two occasions during the same year subject to a maximum area of one hectare at a time.

(4) If the Tree Officer fails to communicate his permission on request within the period specified under sub-section (3), the permission referred to in section 8, shall be deemed to have been granted.



(5) Every permission granted under this Act shall be in such form and subject to such conditions, including taking of security for ensuring regeneration of the area and replanting of trees or otherwise, as may be prescribed.

#### COMMENTS

Any person who wants to fell or remove or otherwise dispose of any tree has to make an application to the concerned Tree Officer and with the application he has to submit attested copies of the documents in support of his ownership on the land. He has also to state the number and kind of trees to be cut, their girth measure at a height of 1.85 meters from ground level and the reasons therefore. A copy of *sajra* showing the site and *khasara* numbers of the property is also required to be submitted.

**10. Obligation to plant trees.**—Every person, who is granted permission under this Act to fell or dispose of any tree, shall be bound to plant such number and kind of trees in the area from which the tree is felled or disposed of by him under such permission as may be directed by the Tree Officer:

Provided that the Tree Officer may, for reasons to be recorded in writing, permit lesser number of trees to be planted or trees to be planted in any different area or exempt any person from the obligation to plant or tend any tree.

#### COMMENTS

Every person, to whom permission has been granted to fell or dispose of any tree, is bound to plant such number and kind of trees in the area from which the tree is felled or disposed of by him as may be directed by the Tree Officer.

**11. Preservation of trees.**—(1) Subject to the provisions of section 13, it shall be the duty of the owner of the land to comply with an order made under section 9, or a direction issued under section 10 and to plant trees in accordance with such an order or direction and to ensure that they grow well and are well preserved.

(2) All the owners shall effectively protect all lands or trees growing in the lands or the areas under their control and where the Tree Officer is of the opinion that adequate measures have not been taken to protect the trees from any damage, he may direct the owner to take such measures as are considered necessary to protect trees from damage. In case of default, the Tree Officer may himself arrange such measures and recover the expenditure thereon from the owner in the prescribed manner.

**12. Implementation of order made or direction given under sections 9 and 10 and recovery of expenditure on failure to comply with them.**—(1) Every person who is under an obligation to plant trees under an order made under section 9 or a direction given under section 10 shall start preparatory work within thirty days of the date of receipt of the order or directions, as the case may be, and shall plant trees in accordance with such order or direction in the ensuing or following rainy season or within such extended time as the Tree Officer may allow and shall provide adequate and effective protection to the trees that exist or are planted in the land or the area from any damage.

(2) In case of default by such person, the Tree Officer may cause trees to be planted and may recover the cost of plantation from such person in the prescribed manner.

**13. Adoption of trees.**—Notwithstanding anything contained in this Act, or in any other law for the time being in force, the Tree Authority may, subject to such terms and conditions as it may specify in that behalf, after giving notice to the owner of the tree to show cause, if any, as to why the trees should not be given in adoption, allow, by a written permission, any body corporate or institution to adopt the tree for such period as may be specified in the permission and during such period, the said body corporate or institution shall be responsible for the maintenance and preservation of the said tree.

**14. Appeal.**—(1) An appeal shall lie against the order or direction of the Tree Officer under sections 9, 10 and 11, to the Appellate Authority within a period of thirty days of passing the order or direction by the Tree Officer.

(2) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the order or direction appealed against and a fee or rupees ten.

(3) In disposing of an appeal, the Appellate Authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the applicant has been given a reasonable opportunity of being heard.

## CHAPTER VI

### PENALTIES AND PROCEDURE

**15. Seizure of property.**—Where the Tree Officer has reasons to believe that an offence under this Act has been committed in respect of any tree, he may seize the tools, implements, any boats, vehicles, animals or other conveyances used for the commission of the said offence, along with the tree or part thereof, which has been severed from the ground or the trunk, as the case may be.

### COMMENTS

If any offence has been committed under the Act in respect of any tree, the Tree Officer can seize the tools, implements, any boats, vehicles, animals or other conveyances used for the commission of the said offence, along with the tree or part thereof.

**16. Forfeiture of timber and other produce from the tree, implements used for felling and the vehicle and animals used for transport of such trees.**—(1) Where any person is convicted of an offence under this Act, any timber of the tree in respect of which an offence is committed, the tools and implements used for felling and any boats, vehicles, animals or other conveyances used for its transport, may be ordered by the court to be forfeited to Government.

(2) Any timber produce from the tree, tools and implements, etc., and any boats, animals or other conveyances forfeited under sub-section (1) shall be disposed of by the Tree Officer in such manner as may be prescribed.

**17. Power to release property seized under section 15.**—The Tree Officer may release the property seized under section 15 if the owner of the land executes a bond in such form as may be prescribed for its production whenever required.

**18. Power to arrest without warrant.**—(1) Any Tree Officer or a Forest Officer not below the rank of a Forest Ranger or a Police Officer not below the rank of a Sub-Inspector may, without a warrant, arrest any person reasonably suspected of having been concerned in any offence under this Act, and such person refuses to give his name or address or gives a name or address which the concerned officer has reason to believe to be false or if he has reason to believe that the person will abscond.

(2) Any person arrested under sub-section (1) shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate having jurisdiction in the case within twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of the Magistrate.

#### COMMENTS

Any person suspected of having been concerned in any offence under the Act, and if such person refuses to give his name or address or gives a name or address which is believed to be false or he is likely to abscond, can be arrested without a warrant by the Tree Officer or a Forest Officer not below the rank of a Forest Ranger or a Police Officer not below the rank of a Sub-Inspector.

**19. Power to release person arrested.**—Any officer, who has arrested any person under the provision of sub-section (1) of section 18 may release such person on his executing a bond with proper surety to appear, if and when so required before the Magistrate having jurisdiction in the case, or before the Police or the Forest Officer not below the rank of Deputy Conservator of Forests or the Tree Officer.

**20. Power to prevent commission of offence.**—Every Tree Officer or his subordinates or any Forest, Revenue or Police Officer shall prevent and may interfere, for the purpose of preventing the commission of any offence under this Act.

**21. Power to compound offence.**—(1) The Government may, by notification empower a Tree Officer or any Forest Officer not below the rank of Deputy Conservator of Forest—

(a) to compound any offence committed under this Act on payment of—

- (i) a sum not exceeding rupees ten thousand by way of composition for the offence which such person is suspected to have committed; and
- (ii) the value of timber and other produce, if any, from the tree in respect of which the offence has been committed;

(b) to release any property seized or liable to confiscation, on payment of the value thereof as estimated by such officer and the amount determined as payable for composition of the offence, as ordered by the Tree Officer or any Forest Officer, as the case may be.

(2) On the payment of such sums or such value or both, as the case may be, to such officer, the property seized and the offender, if in custody, shall be released and no further proceeding shall be taken against such offender or property.

**22. Contravention of Act to be reported by certain officers.**—It shall be the duty of every Forest Officer, Panchayat Secretary, Police Constable or any officer superior to him and every officer of the Department of Agriculture, Horticulture, Block Development and Revenue—

- (a) to give immediate information coming to his knowledge of any contravention of section 8 and of preparation to commit such contravention to the Tree Officer or the Deputy Conservator of Forests;
- (b) to take all reasonable measures in his power to prevent such contravention which he may know or has reason to believe that it is about or likely to be committed.

**23. Offences by organisations.**—If the person committing an offence under this Act, is an organisation, the organization as well as every person in charge of, and responsible to, the organization for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be prosecuted 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 and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by an organization 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 its Head of the Department/officer/unit, director, manager, secretary, treasurer or other officer of the organisation shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

#### COMMENTS

If any organisation commits any offence under the Act, the organisation as well as every person in charge of, and responsible to, the organisation for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be prosecuted against and punished accordingly.

**24. Penalty.**—(1) Any person who contravenes any of the provisions of this Act or rules or orders made thereunder shall, on conviction, be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

#### COMMENTS

Contravention of any of the provisions of the Act or rules or orders made thereunder is, on conviction, punishable with imprisonment up to one year or with fine up to one thousand rupees or with both.

**25. Award of penalty of forfeiture not to interfere with other punishment.**—The award of penalty or forfeiture of any property under this Act shall not prevent the inflicting or any punishment to which the person affected thereby is liable under any other law.

### CHAPTER VII

#### MISCELLANEOUS

**26. Officers to be public servants.**—The officers exercising powers or discharging any duties or functions under the Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, (Central Act 45 of 1860).

**27. Bar of proceedings.**—No suit or proceedings shall lie against the Government or any person empowered to exercise power or to perform duties or discharge functions under this Act, for anything done or purporting to be done or omitted to be done in good faith under this Act or the rules and orders made thereunder.

**28. Execution of order for payment of money.**—Any sum, including any amount of composition of an offence, the payment of which has been directed to be made by any person under this Act shall, without prejudice to any other mode of recovery under any law for the time being in force, be recoverable from him as an arrear of land revenue.

**29. Power of the Government to exempt.**—Subject to such conditions, if any, as may be imposed, the Government may, if it considers it necessary so to do in the public interest, by notification, exempt any area or any species of trees from all or any of the provisions of this Act.

**30. Power of the Government for preservation of trees.**—(1) The Government may in the interest of general public, declare by notification that any class of trees shall not be felled for such period as is specified in that notification.

(2) The management of such trees shall be regulated in the prescribed manner.

**31. Investing Trees Officer with certain powers.**—(1) The Government may, by notification, invest the Tree Officers and other officers with all or any of the following powers, namely:—

- (a) power to enter upon any land and to survey, demarcate and make a map of the same;
- (b) powers of a civil court to compel the attendance of witness and the production of documents and material objects;
- (c) power to issue a search warrant under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974);
- (d) power to hold enquiries into offence under the Act and in the course of such inquiry to receive and record evidence;
- (e) power to take possession of property under the Act;
- (f) power to direct release of property or withdrawal of charges; and
- (g) power to require any person to plant tree or trees of suitable species in adequate numbers on any land owned or occupied by him.

**32. Transit of felled material.**—The provisions of sections 41 and 42 of the Indian Forest Act, 1927 (Central Act 16 of 1972) shall *mutatis mutandis*, apply to the transit of the felled trees under this Act.

**33. Power of the Government to give directions.**—The Government may, from time to time, give to the Tree Officers, other officers of the Tree Authority and officers subordinate to them general or special directions regarding the discharge of their functions and for carrying out effectively the purposes of this Act, and such Tree Officers and other officers shall comply with the directions issued.

**34. Power to make rules.**—(1) The Government may, after previous publication make, by notification, in the Official Gazette, rules to carry out the purposes of this Act.