

# THE DELHI SPECIAL POLICE ESTABLISHMENT ACT, 1946

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## ARRANGEMENT OF SECTIONS

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### SECTIONS

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THE DELHI SPECIAL POLICE ESTABLISHMENT ACT, 1946  
ACT No. 25 OF 1946<sup>1</sup>

[19th November, 1946.]

An Act to make provision for the constitution of a special police force <sup>2</sup>[in Delhi for the investigation of certain offences in <sup>3</sup>[the Union territories]] for the superintendence and administration of the said force and for the extension to other areas <sup>4</sup>\* \* \* of the powers and jurisdiction of members of the said force in regard to the investigation of the said offences.

WHEREAS it is necessary to constitute a special police force <sup>2</sup>[in Delhi for the investigation of certain offences in <sup>3</sup>[the Union territories]] and to make provision for the superintendence and administration of the said force and for the extension to other area <sup>4</sup>\*\*\* of the powers and jurisdiction of the members of the said force in regard to the investigation of the said offences;

It is hereby enacted as follows: —

**1. Short title and extent.**—(1) This Act may be called the Delhi Special Police Establishment Act, 1946.

(2) It extends to the whole of India <sup>5</sup>\*\*\*.

**6[1A. Interpretation section.**— Words and expressions used herein and not defined but defined in the Central Vigilance Commission Act, 2003 (45 of 2003), shall have the meanings, respectively, assigned to them in that Act.]

**2. Constitution and powers of special police establishment.**—(1) Notwithstanding anything in the Police Act, 1861 (5 of 1861), the Central Government may constitute a special police force to be called the Delhi Special Police Establishment <sup>7</sup>\*\*\* for the investigation <sup>8</sup>[in any <sup>9</sup>[Union territory]] of offences notified under section 3.

(2) Subject to any orders which the Central Government may make in this behalf, members of the said police establishment shall have throughout <sup>10</sup>[any <sup>9</sup>[Union territory]], in relation to the investigation of such offences and arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers of <sup>11</sup>[that Union territory] have in connection with the investigation of offences committed therein.

(3) Any member of the said police establishment of or above the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise in <sup>10</sup>[any <sup>9</sup>[Union territory]] any of the powers of the officer in charge of a police station in the area in which he is for the time being and when so exercising such powers shall, subject to any such

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1. The Act has been extended to Goa, Daman and Diu by Reg. 12 of 1962, s. 3 and the Sch. to Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and the Sch. I (w.e.f. 1-7-1965); and to Pondicherry by Reg. 7 of 1963, s. 3 and the Sch. I (w.e.f. 1-10-1963), to Lakshadweep (w.e.f. 1-10-1967) *vide* Reg. 8 of 1965, s. 3 and the Sch. and to Sikkim (w.e.f. 15-5-1976); *vide* notification No. S. O. 1668, dated 6-5-1976.

2. Subs. by Act 26 of 1952, s. 2, for certain words.

3. Subs. by the A.O. 1956, for “Part C States”.

4. The words “in the States” omitted by Act 3 of 1951, s. 3 and the Sch.

5. The words “except the State of Jammu and Kashmir” which were subs. by Act 3 of 1951, s. 3 and the Schedule, for “except Part B State” omitted by Act 62 of 1956, s. 2 and the Sch.

6. Ins. by Act 45 of 2003, s. 26 (w.e.f. 11-9-2003).

7. The words “for the State of Delhi” omitted by Act 26 of 1952, s. 3.

8. Subs. by s. 3, *ibid.*, for “in that State”.

9. Subs., by the A.O. 1956, for “Part C State”.

10. Subs., *ibid.*, for “the State of Delhi”.

11. Subs., *ibid.*, for “that State”.

orders as aforesaid, be deemed to be an officer in charge of a police station discharging functions of such an officer within the limits of his station.

**3. Offences to be investigated by special police establishment.**—The Central Government may, by notification in the Official Gazette, specify the offences or classes of offences<sup>1\*\*\*</sup> which are to be investigated by the Delhi Special Police Establishment.

<sup>2</sup> **4. Superintendence and administration of Special Police Establishment.**— (1) The superintendence of the Delhi Special Police Establishment in so far as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988), shall vest in the Commission.

(2) Save as otherwise provided in sub-section (1), the superintendence of the said police establishment in all other matters shall vest in the Central Government.

(3) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government (hereinafter referred to as the Director) who shall exercise in respect of that police establishment such of the powers exercisable by an Inspector-General of Police in respect of the police force in a State as the Central Government may specify in this behalf.

**4A. Committee for appointment of Director.**—<sup>3</sup>[(1) The Central Government shall appoint the Director on the recommendation of the Committee consisting of—

(a) the Prime Minister — Chairperson;

<sup>4</sup>[(b) the Leader of Opposition recognised — Member;]

as such in the House of the People or where there is no such Leader of Opposition, then the Leader of the single largest Opposition Party in that House

(c) the Chief Justice of India or Judge of the Supreme — Member.]  
Court nominated by him

<sup>5</sup>[(2) No appointment of a Director shall be invalid merely by reason of any vacancy or absence of a Member in the Committee.]

(3) The Committee shall recommend a panel of officers—

(a) on the basis of seniority, integrity and experience in the investigation of anti-corruption cases; and

(b) chosen from amongst officers belonging to the Indian Police Service constituted under the All-India Services Act, 1951 (61 of 1951),

for being considered for appointment as the Director.

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1. The words “committed in connection with matters concerning Departments of the Central Government” omitted by Act 26 of 1952, s. 5.

2. Subs. by Act 45 of 2003, s. 26, for section 4 (w.e.f. 11-9-2003).

3. Subs. by Act 1 of 2014, s. 58 and the Schedule, for sub-section (1) (w.e.f. 16-1-2014).

4. Subs. by Act 28 of 2014, s. 2, for clause (b) (w.e.f. 29-11-2014).

5. Ins. by s. 2, *ibid.* (w.e.f. 29-11-2014).

**4B. Terms and conditions of service of Director.**—(1) The Director shall, notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office.

(2) The Director shall not be transferred except with the previous consent of the Committee referred to in sub-section (1) of section 4A.

<sup>1</sup>[**4BA. Director of Prosecution.** —(1) There shall be a Directorate of Prosecution headed by a Director who shall be an officer not below the rank of Joint Secretary to the Government of India, for conducting prosecution of cases under this Act.

(2) The Director of Prosecution shall function under the overall supervision and control of the Director.

(3) The Central Government shall appoint the Director of Prosecution on the recommendation of the Central Vigilance Commission.

(4) The Director of Prosecution shall notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office.]

**4C. Appointment for posts of Superintendent of Police and above, extension and curtailment of their tenure, etc.**—<sup>2</sup>[(1) The Central Government shall appoint officers to the posts of the level of Superintendent of Police and above except Director, and also recommend the extension or curtailment of the tenure of such officers in the Delhi Special Police Establishment, on the recommendation of a committee consisting of : —

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| (a) the Central Vigilance Commissioner  | —Chairperson; |
| (b) Vigilance Commissioners   | —Members;     |
| (c) Secretary to the Government of India in Charge of the Ministry of Home        | —Members;     |
| (d) Secretary to the Government of India in charge of the Department of Personnel | —Members:     |

Provided that the Committee shall consult the Director before submitting its recommendation to the Central Government.]

(2) On receipt of the recommendation under sub-section (1), the Central Government shall pass such orders as it thinks fit to give effect to the said recommendation.]

**5. Extension of powers and jurisdiction of special police establishment to other areas.**—(1) The Central Government may by order extend to any area (including Railway areas) <sup>3</sup>[in <sup>4</sup>a State, not being a Union territory]] the powers and jurisdiction of members of the Delhi Special Police Establishment for the investigation of any offences or classes of offences specified in a notification under section 3.

(2) When by an order under sub-section (1) the powers and jurisdiction of members of the said police establishment are extended to any such area, a member thereof may, subject to any orders which the Central Government may make in this behalf, discharge the functions of a police officer in that area and shall, while so discharging such functions, be deemed to be a member of the police force of that area and be vested with the powers, functions and privileges and be subject to the liabilities of a police officer belonging to that police force.

<sup>5</sup>[(3) Where any such order under sub-section (1) is made relation to any area, then, without prejudice to the provisions of sub-section (2), any member of the Delhi Special Police Establishment of or above the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise the powers of the officer in charge of a police station in that area and when so

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1. Ins. by Act 1 of 2014, s. 58 and the Schedule (w.e.f. 16-1-2014).

2. Subs. by s. 58 and the Schedule, *ibid.*, for sub-section (1) (w.e.f. 16-1-2014).

3. Subs. by Act 26 of 1952, s. 5, for “in India outside the State of Delhi”.

4. Subs. by the A.O. 1956, for “a Part A State or a Part B State”.

5. Ins. by Act 40 of 1964, s. 5.

exercising such powers, shall be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station.]

<sup>1</sup>[**6. Consent of State Government to exercise of powers and jurisdiction.**—Nothing contained in section 5 shall be deemed to enable any member of the Delhi Special Police Establishment to exercise powers and jurisdiction in any area in <sup>2</sup>[a State, not being a Union territory or railway area], without the consent of the Government of that State.]

\* <sup>3</sup>[**6A. Approval of Central Government to conduct, inquiry or investigation.**— (1) The Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988) except with the previous approval of the Central Government where such allegation relates to—

(a) the employees of the Central Government of the level of Joint Secretary and above; and

(b) such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

(2) Notwithstanding anything contained in sub-section (1), no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than legal remuneration referred to in clause (c) of the *Explanation* to section 7 of the Prevention of Corruption Act, 1988 (49 of 1988)].

7. [*Repeal of Ordinance 22 of 1946.*] *Rep. by the Repealing and Amending Act, 1950 (35 of 1950), s. 2 and Sch. I.*

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1. Subs. by Act 26 of 1952, s. 6 for section 6.

2. Subs. by the A.O. 1956, for “a Part A State or a Part B State, not being a railway area”.

3. Ins. by Act 45 of 2003, s. 26 (w.e.f. 11-9-2003).

\*Section 6A has been struck down by the Supreme Court’s Order dated 6th May, 2014, in the Dr. Subramanian Swamy vs Director, Central Bureau of Investigation & Anr.