

**THE NATIONAL CAPITAL TERRITORY OF DELHI (INCREDIBLE INDIA)
BED AND BREAKFAST ESTABLISHMENTS (REGISTRATION &
REGULATION) BILL, 2007**

A

BILL

to provide for the registration and regulation of the Bed and Breakfast Establishment Scheme in the National Capital Territory of Delhi and matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Fifty-eighth year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent, commencement and application.- (1) This Act may be called The National Capital Territory of Delhi (Incredible India) Bed and Breakfast Establishments (Registration and Regulation) Act, 2007.

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

(3) It shall come into force at once.

(4) It shall not apply to other types of transient accommodation such as hotels, motels, guest-houses, boarding, lodging houses, etc.

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

(a) “appellate authority” means the Principal Secretary or Secretary of the Tourism Department of Government or any other officer appointed by the Government;

(b) “applicant” means the owner of the establishment who applies for registration under section 3;

(c) “authorised agency” means an agency notified by the prescribed authority for rendering promotional, facilitation and marketing support to it or for rendering assistance to the classification committee in the matter of inspection, evaluation and certification of standard of food and other services and amenities available at the establishment.

- (d) “bed and breakfast” means providing lodging and food services to the guest in the establishment;
- (e) “certificate of registration” means a certificate issued under sub-section (9) of section 3 showing the registration of an establishment;
- (f) “classification committee” means a committee constituted by the prescribed authority for inspection and evaluation of the services at the establishment and classification thereof;
- (g) “directory” means a directory of registered establishments;
- (h) “establishment” means a residential premises registered under section 3 of this Act where guests are provided bed and breakfast on payment;
- (i) “family” means the owner of the establishment and includes his spouse, parents , children and other close relations physically residing in the establishment;
- (j) “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 239 AA of the Constitution;
- (k) “guest” means a person residing temporarily in the establishment;
- (l) “local authority” means a municipality and includes any other body that provides services like water, electricity, etc.;
- (m) “owner” means owner of the establishment and includes the person who for the time being is authorised by him to be in-charge of the management of the establishment;
- (n) “prescribed “ means prescribed by rules made under this Act;
- (o) “prescribed authority” means a person or authority appointed by the Government by notification in the Official Gazette to perform all or any of the functions of the ‘prescribed authority’ under this Act;
- (p) “register” means a register or computerised record in electronic form maintained by the owner containing the prescribed particulars of the guests;
- (q) “revising authority” means the Lieutenant Governor or an officer or authority appointed by him as such by notification in the official Gazette;
- (r) “room” means a bed-room with not more than two beds and provision for extra beds for children accompanying the guest;
- (s) “rule” means a rule made by the Government under this Act by notification in the official Gazette;

(t) “scheme” means the Incredible India Bed & Breakfast Establishment Scheme referred to in sub-section (2) of section 3;

(u) “touting” means enticing, misleading or coercing for shopping, accommodation, transportation, sight-seeing or pestering for any particular premises, person, establishment, dealer or manufacturer, with consideration of personal benefit.

CHAPTER II

REGISTRATION AND CLASSIFICATION OF BED AND BREAKFAST ESTABLISHMENTS

3. Registration.- (1) Any owner intending to let out his residential premises to the guest or guests, may apply for registration thereof as an establishment to the prescribed authority, in such form and manner alongwith the registration fees as may be prescribed.

(2) The establishments in the National Capital of Delhi registered by Central Government under The Incredible India Bed and Breakfast Establishments Scheme shall be deemed to have been approved and registered under this Act.

(3) The residential premises to be registered as establishment under this Act shall conform to the following conditions, namely: -

(a) that the residential premises is purely a residential unit and the owner has been physically residing therein alongwith his family;

(b) that the owner shall let out to the guests not more than two-thirds of the bed- rooms consisting of minimum one double-bed room and maximum five double- bedrooms;

(c) that each bedroom has an attached bath-room and Wet Commode and adequate arrangement for water and power supply, proper ventilation and lighting, suitable furniture and other facilities;

(d) that the premises is in a good state of repair and the required standard of hygiene, cleanliness and safety including fire safety is maintained;

(e) that the premises has adequate parking facility either within it or in its vicinity;

(f) that the premises has been recommended by the classification committee for its registration as an establishment under this Act.

(g) any other condition which may be prescribed.

(4) The prescribed authority shall transmit the application received under sub-section (1) to the classification committee Constituted by it in the manner prescribed, for its comments and report.

(5) The classification committee on inspection of the premises of an applicant shall point out the deficiencies, if any. Such deficiencies will have to be rectified by the applicant within the stipulated time, to the satisfaction of the committee. Failure to do so will result in rejection of the application.

(6) The classification committee shall after such enquiry or inspection as it may think proper take a view about the eligibility or otherwise of the premises for registration.

(7) The classification committee upon its evaluation of the standard of food and facilities and services available vis-à-vis the prescribed checklist, classify the establishments into categories prescribed.

(8) The classification committee shall submit a report to the prescribed authority on points mentioned sub-point (6) and (7).

(9) On receipt of the report of the classification committee, the prescribed authority shall, on being satisfied about the correctness of the report, register the premises of the owner in such manner as may be prescribed and issue a certificate of registration in the form prescribed. This certificate shall be valid for a period of three years unless earlier revoked.

(10) The entire process of grant of registration of a premises shall be completed within a period of three months from the date of receipt of application and the applicant shall be informed about the result.

(11) The prescribed authority shall maintain a directory of the establishments for the purpose of this Act, in the form of prescribed.

4. Evaluation and certification of food, etc.- Evaluation and certification of food and other services or amenities provided by an establishment under this Act shall be the function of the classification committee and it may in the discharge of this function or any other function assigned to it under this Act, utilise the services of an authorised agency for purposes of inspection of the establishments from time to time.

5. Disqualification for registration.- An establishment shall be disqualified for registration under this Act, -

(a) if its owner is convicted of an offence punishable with imprisonment exceeding one month;

(b) if its owner is an undercharged insolvent; and

(c) if name of the establishment stands removed from the directory under section 10 of this Act.

6. Obligations of the owner.- The owner of an establishment shall –

(i) maintain a register or computerised record in electronic form giving detailed particulars as prescribed, of the guests and keep the same readily available for inspection at all times. The register shall have to be renewed on year-to-year basis and preserved for such period as may be prescribed;

- (ii) send information of the guests staying in the establishment to the local authority concerned and the police every fortnight on the 15th and last day of every month;
- (iii) display the list of guests at the establishment;
- (iv) obtain verification of the employees in the establishment by the police;
- (v) maintain establishment in a good state of repair and cleanliness and fit for habitation of guests at all times and shall comply with any rules respecting standards of health, hygiene and safety including fire safety;
- (vi) display at a conspicuous place in the establishment the certificate of registration, type of food offered, the schedule of charges for the accommodation and food, names of employees and time of checking out;
- (vii) provide good quality food prepared in hygienic conditions;
- (viii) inform the guests in advance of the type of accommodation, facilities and food offered, the rates charged, time of opening and closing of the establishment, etc;
- (ix) provide the food and facilities to the guests as promised; and
- (x) inform the prescribed authority within a week of the changes, if any, in the facilities at the establishment as approved at the time of registration.

7. Restrictions on owners of establishments.- The owner of the establishment shall not –

- (i) maintain a front office and the entire house should appear like a normal residential house;
- (ii) carry out or allow any commercial activity of tours and travel, sight-seeing, transport, handicrafts or any other similar activity in or from the establishment;
- (iii) indulge or allow any such activity which adversely affects the privacy and rights of the neighbours and residents of the locality;
- (iv) make misrepresentation to any person in respect of the establishment; and
- (v) indulge in any kind of touting activity.

8. Obligations of the guest.- The guest shall, among his other obligations, comply with the following; namely: –

- (a) He shall disclose his correct particulars for making entries in the register maintained by the owner;
- (b) He shall be responsible for his good conduct and behavior and shall not indulge in any disorderly activity leading to breach of peace, civil and social atmosphere of the

locality or create any nuisance to adversely affect the rights of other guests and residents of the establishment;

(c) He shall not run a separate kitchen in the establishment;

(d) He shall be responsible for the repair of damage caused by him or by any person whom he permits on the establishment through any of their willful or negligent act, but not for damage caused by normal wear and tear,

(e) He shall cooperate fully with the owner of the establishment to maintain the premises neat and clean, to pay charges as due in time and to abide by other rules of the establishment; and

(f) He shall not allow any other person to stay in the establishment overnight.

9. Redressal of grievance of guest.- (1) Where the owner of an establishment makes false representation or misrepresentation to the guest in respect of the establishment or fails to provide the food and other facilities or amenities promised to him, the guest may make a written complaint to the prescribed authority alongwith such documents or material as he relies upon.

(2) A complaint under sub-section (1) may be filed by fax, email or post alongwith the permanent address of the complainant.

(3) The prescribed authority shall make an enquiry into the complaint and after providing a reasonable opportunity to the owner, either reject the complaint or if the allegations are substantiated, remove the name of the establishment from the directory under section 10 of this Act.

10. Removal of name from the directory.- (1) The prescribed authority may in the manner prescribed and by an order in writing, remove the name of an establishment from the directory and revoke its certificate of registration on any of the following grounds, namely:-

(i) if there is change in the ownership of an establishment;

(ii) if its owner is convicted of an offence punishable with imprisonment exceeding one month;

(iii) if its owner is an undischarged insolvent;

(iv) if the owner has contravened any of the provisions of this Act or any rule or order made there under; and

(v) if an establishment adversely affects the privacy and rights of the neighbouring residents.

(2) The action taken under sub-section (1) shall not preclude such owner from being prosecuted under any provision of this Act and any other law.

11. Notice of removal of name of establishment from directory.- Before removing the name of an establishment from the directory under section 10, the prescribed authority shall give notice to the owner in the manner and form prescribed, stating the ground on which it proposes to take action, giving him a reasonable opportunity of showing cause against it.

12. Publication of list of persons removed from register.- The prescribed authority shall from time to time publish by notification in the official Gazette the names and addresses of the establishments and the owners thereof, whose registration under this Act has been revoked.

13. Return of the certificate of the registration.- When a certificate of registration has been revoked under this Act, the person holding such certificate shall, within seven days from the date of issue of the order of revocation, return it to the prescribed authority.

14. Restoration of registration.- If the prescribed authority is satisfied that there are sufficient grounds for the restoration of the registration of an establishment whose certificate had been revoked, it may, after recording the reasons therefor, order such restoration and issue a fresh certificate of registration, on payment of prescribed fee and completion of other formalities and include its name in the directory.

CHAPTER III

PRIVILEGES OF ESTABLISHMENTS

15. Establishment not to require licence.- Notwithstanding anything contained in the Sarais Act, 1867 (22 of 1867), or the Delhi Municipal Corporation Act, 1957 (66 of 1957) or the New Delhi Municipal Council Act, 1994 (44 of 1994) or the Delhi Police Act, 1978 (34 of 1978) or any other Act relevant to the subject, for the time being in force, the owner of an establishment shall not be required to obtain a licence from any authority under the said Act, for the purpose of providing food or lodging services to the guests at his establishment.

16. Establishment not to be treated as commercial unit.- Notwithstanding the provisions of any other law for the time being in force, the establishment shall not be treated as commercial one and shall only be liable to pay -

(a) power and water tariff as applicable to domestic or residential use; and

(b) property tax as applicable to residential tenanted premises with respect to the portion let out to the guests, restricted to the period of occupancy thereof, fully or partly as the case may be.

(2) Notwithstanding anything in the Delhi Value Added Tax Act, 2004 (Delhi Act 3 of 2005), the owner of an establishment shall not be required to pay the value added tax levied under the said Act.

(3) Notwithstanding the provisions of the Delhi Tax on Luxuries Act, 1996 (Delhi Act 10 of 1996), the owner of the establishment shall not be required to pay the tax levied under the said Act.

CHAPTER IV

APPEAL AND REVISION

17. Appeal.- (1) If an owner is aggrieved with an order of the prescribed authority under this Act, he may make an appeal to the appellate authority. Every such appeal shall be preferred to the appellate authority within thirty days of the date of communication of the order:

Provided that the appellate authority may entertain an appeal after the expiry of said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(2) The appellant shall have a right to be represented by a legal practitioner and the prescribed authority may be represented by such officer or person as the Government may appoint.

(3) On receipt of any such appeal, the appellate authority shall after giving the appellant reasonable opportunity of being heard and after making such enquiry, as it deems proper, dispose of the appeal for reasons to be recorded in writing.

(4) The proceedings before the appellate authority shall be completed within four months.

18. Revision.- The revising authority may, either on its own motion or otherwise, within a period of ninety days from the date of the order of the appellate authority, call for the records of any case decided by the appellate authority, and pass such order thereon as it may deem proper. Such order shall be final and no further appeal shall lie therefrom:

Provided that the revising authority may entertain a revision after the expiry of the said period of ninety days, if it is satisfied that there is sufficient cause for not filing it within that period:

Provided further that no order under this section shall be made to the prejudice of a person unless he had a reasonable opportunity of being heard either personally or through a counsel or by a duly authorised agent.

CHAPTER V

OFFENCES AND PENALTIES

19. Penalty for not providing facilities to the guests as promised.- Any owner who does not provide services to the guests, as promised, shall be punishable with fine which may extend to five thousand rupees.

20. Penalty for false statement.- Any owner who willfully provides false information in the application of registration or furnishes false information or makes a false statement or undertaking or suppresses a material fact with the intention to mislead the prescribed authority, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees, or with both.

21. Certificate not to be assigned.- Any owner who lends, transfers or assigns the certificate of registration or fails to return it on its expiry or revocation, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to twenty thousand rupees, or with both.

22. Certificate and documents to be shown to the person on demand.- (1) Any owner registered under this Act shall at all times, on demand, produce and show his certificate of registration and any other document required under this Act to -

- (a) the prescribed authority or any officer duly authorised by him in this behalf; and
- (b) any bonafide guest.

(2) Any owner who refuses on demand to show his certificate of registration or documents, or allow it to be read by any of the persons authorised under sub-section (1), shall be punishable with fine which may extend to two thousand rupees.

23. Penalty for malpractice.- If any owner or any other person to whom this Act may be made applicable, commits a malpractice or contravenes any of the provisions of this Act, for which no specific penalty has been provided, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

24. Obstructing lawful authorities.- An owner who willfully obstructs or offers any resistance to or otherwise interferes in the discharge of the functions of the prescribed authority or any officer authorised by him in pursuance of this Act or the rules made thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to twenty thousand rupees, or with both.

25. Offences to be cognizable.- Notwithstanding any thing contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be a cognizable offence.

26. Court competent to try offences under this Act.- No court other than the court of Metropolitan Magistrate shall try an offence under this Act.

27. Jurisdiction of civil courts barred.- No civil court shall have jurisdiction in respect of any matter in relation to which the Government or any other person authorized by it or any officer or authority appointed or specified by or under this Act, is empowered to exercise any power, and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

CHAPTER VI

MISCELLANEOUS

28. Notice of changes.- (1) Whenever an establishment for which certificate of registration is held by a person, devolves by inheritance or otherwise upon any other person or undergoes a change in respect of any particular entered in the directory under this Act, such person shall, within sixty days of the date of

such devolution or change, give notice in writing of the change to the prescribed authority;

(2) The prescribed authority on receipt of such intimation under sub-section (1), if satisfied, shall make necessary changes in the certificate of registration and the directory maintained by it;

(3) Notwithstanding anything contained in sub-section (2), the prescribed authority may cancel the certificate of registration and remove from the directory, the name of the establishment in whose favour the certificate was issued if the succeeding person is not qualified to be registered under this Act.

29. Power to inspect.- The prescribed authority or any other person authorised by it in this behalf may inspect at all reasonable times, the premises of the establishments registered under this Act.

30. Power to delegate.- The Government may by notification in the official Gazette, direct that any power exercisable by it under this Act, may also be exercised by such officer as may be mentioned therein, subject to such conditions, if any, as may be set out therein.

31. Compounding of offences.- (1) The Government or any person authorised by it, by general or special order in this behalf, may either before or after the institution of the proceedings, compound such offences punishable by or under this Act, as prescribed.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

32. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against the Government or any person or officer authorised by it or any authority appointed or specified by or under this Act, for anything which is done or intended to be done in good faith, in pursuance of this Act or any rule made thereunder.

33. Power to make rules.- (1) The Government may by notification in the official Gazette make rules for carrying out the provisions of the Act.

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

- (a) the form and manner of application for registration;
- (b) the fees for registration;
- (c) any additional condition required to be fulfilled for registration;
- (d) the constitution of the classification committee;
- (e) the check-list of services and amenities at the establishment;
- (f) the categories of classification;
- (g) the form of certificate of registration;
- (h) the format of the directory of establishments;
- (i) the form of maintenance of registers and books by the owner of the establishments;
- (j) the period for which a register shall be preserved by the owner;
- (k) the manner in which the name of an establishment shall be removed from the directory and its certificate of registration revoked;
- (l) the form and manner of notice to establishment before removal of its name from the directory;
- (m) the offences which may be compounded and the manner of compounding; and
- (n) any other matter which is required to be, or may be, prescribed.

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

34. Removal of difficulties.- (i) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by the order published in the official Gazette, make such provisions not inconsistent with the provisions of this act, as may appear to be necessary for removing the difficulty.

Provided that no such order be made under this section after the expiry of one year from the date of commencement of this Act.

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

35. Repeal and Savings.

(1) National Capital Territory of Delhi (Incredible India) Bed & Breakfast Establishment(Registration and Regulation) (Delhi Ordinance No. 1 of 2007) is hereby repealed.

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