

AS INTRODUCED IN LOK SABHA

Bill No. 55 of 2021

THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI (AMENDMENT) BILL, 2021

A

BILL

further to amend the Government of National Capital Territory of Delhi Act, 1991.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Government of National Capital Territory of Delhi (Amendment) Act, 2021. Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

1 of 1992.

2. In section 21 of the Government of National Capital Territory of Delhi Act, 1991 (hereinafter referred to as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely:— Amendment of section 21.

'(3) The expression "Government" referred to in any law to be made by the Legislative Assembly shall mean the Lieutenant Governor.'

Amendment
of section 24.

3. In section 24 of the principal Act, in the second proviso,—

(i) in clause (c), for the word and figures "section 43.", the words and figures "section 43; or" shall be substituted;

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(ii) after clause (c), the following clause shall be inserted, namely:—

"(d) incidentally covers any of the matters which falls outside the purview of the powers conferred on the Legislative Assembly."

Amendment
of section 33.

4. In section 33 of the principal Act, in sub-section (1),—

(a) after the words "conduct of its business", the words "which shall not be inconsistent with the Rules of Procedure and Conduct of Business in House of People" shall be inserted;

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(b) in the proviso, for the words "Provided that", the following shall be substituted, namely:—

"Provided that the Legislative Assembly shall not make any rule to enable itself or its Committees to consider the matters of day-to-day administration of the Capital or conduct inquiries in relation to the administrative decisions, and any of the rule made in contravention of this proviso, before the commencement of the Government of National Capital Territory of Delhi (Amendment) Act, 2021, shall be void;

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Provided further that".

Amendment
of section 44.

5. In section 44 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:—

"Provided that before taking any executive action in pursuance of the decision of the Council of Ministers or a Minister, to exercise powers of Government, State Government, Appropriate Government, Lieutenant Governor, Administrator or Chief Commissioner, as the case may be, under any law in force in the Capital, the opinion of Lieutenant Governor in term of proviso to clause (4) of article 239AA of the Constitution shall be obtained on all such matters as may be specified, by a general or special order, by Lieutenant Governor."

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STATEMENT OF OBJECTS AND REASONS

The Government of National Capital Territory of Delhi Act, 1991 (1 of 1992) was enacted to supplement the provisions of the Constitution relating to the Legislative Assembly and a Council of Ministers for the National Capital Territory of Delhi and for matters connected therewith or incidental thereto. Section 44 of the Act deals with conduct of business and there is no structural mechanism provided in the Act for effective time bound implementation of said section. Further, there is no clarity as to what proposal or matters are required to be submitted to Lieutenant Governor before issuing order thereon.

2. The Constitution Bench of the Hon'ble Supreme Court, in its judgment dated the 04th July, 2018, and Division Bench of the Hon'ble Supreme Court, in its judgment dated the 14th February, 2019, has interpreted the provisions of article 239AA of the Constitution relating to the structure of governance in National Capital Territory of Delhi.

3. In order to give effect to the interpretation made by Hon'ble Supreme Court in the aforesaid judgments, a Bill, namely, the Government of National Capital Territory of Delhi (Amendment) Bill, 2021 seeks, *inter alia*, to clarify the expression "Government", which in the context of legislations to be passed by the Legislative Assembly of Delhi, shall mean the Lieutenant Governor of the National Capital Territory of Delhi, consistent with the status of Delhi as a Union territory to address the ambiguities in the interpretation of the legislative provisions. It further seeks to ensure that the Lieutenant Governor is necessarily granted an opportunity to exercise the power entrusted to him under proviso to clause (4) of article 239AA of the Constitution, in select category of cases and also to make rules in matters which incidentally encroach upon matters falling outside the preview of the Legislative Assembly. It also seeks to provide for rules made by the Legislative Assembly of Delhi to be consistent with the rules of the House of the People.

4. The said Bill will promote harmonious relations between the legislature and the executive, and further define the responsibilities of the elected Government and the Lieutenant Governor, in line with the constitutional scheme of governance of National Capital Territory of Delhi, as interpreted by the Hon'ble Supreme Court.

5. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
The 5th March, 2021.

AMIT SHAH.

ANNEXURE

EXTRACTS FROM THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI ACT, 1991

(1 OF 1992)

* * * * *

Assent to Bills.

24. When a Bill has been passed by the Legislative Assembly, it shall be presented to the Lieutenant Governor and the Lieutenant Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

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Provided further that the Lieutenant Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which,—

(a) in the opinion of the Lieutenant Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is, by the Constitution, designed to fill; or

(b) the President may, by order, direct to be reserved for his consideration; or

(c) relates to matters referred to in sub-section (5) of section 7 or section 19 or section 34 or sub-section (3) of section 43.

Explanation.—For the purposes of this section and section 25, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-section (1) of section 22 or any matter incidental to any of those matters and, in either case, there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

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Rules of procedure.

33. (1) The Legislative Assembly may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business:

Provided that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President, make rules—

(a) for securing the timely completion of financial business;

(b) for regulating the procedure of, and the conduct of business in, the Legislative Assembly in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the Capital;

(c) for prohibiting the discussion of, or the asking of questions on, any matter which affects the discharge of the functions of the Lieutenant Governor in so far as he is required by or under this Act or any law to act in his discretion.

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Conduct of business.

44. (1) * * * * *

(2) Save as otherwise provided in this Act, all executive action of the Lieutenant Governor whether taken on the advice of his Ministers or otherwise shall be expressed to be taken in the name of the Lieutenant Governor.

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LOK SABHA

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BILL

further to amend the Government of National Capital Territory of Delhi Act, 1991.

(Shri Amit Shah, Minister of Home Affairs)