

STATE-WISE ANALYSIS OF RULES
FOR THE IMPLEMENTATION OF THE
STREET VENDORS
(PROTECTION OF LIVELIHOOD AND
REGULATION OF STREET VENDING)
ACT, 2014



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Youth for Unity and Voluntary Action (YUVA) is a non-profit development organisation committed to enabling vulnerable groups to access their rights and address human rights violations. YUVA supports the formation of people's collectives that engage in the discourse on development, thereby ensuring self-determined and sustained collective action in communities. This work is complemented with advocacy and policy recommendations on issues.

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EXECUTIVE SUMMARY

Street vendors constitute a substantial portion of the informal, unorganised sector that provides affordable goods and services. Their economic and social contributions are an integral part of the cityscape, yet their livelihood remains vulnerable.

India's Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 is historic and has culminated from a long struggle by groups country-wide. The Street Vendors Act offered hope regarding 'ease of doing business' for street vendors and in protecting their right to a dignified livelihood. However, five years since the Act was enacted the struggle for survival continues and protection from vulnerabilities remains a challenge. While the Act has been passed by the Central Government, the onus of implementation is on States and Union Territories (UTs). Each State and UT was mandated to form Rules and Schemes towards implementation of the Act within one year of its enactment.

However, as of 1 July 2019, out of 29 states the following two—Nagaland and Telangana—are yet to publish their State Rules. Of the seven UTs, the following four—Andaman and Nicobar Islands, Dadra and Nagar-Haveli, Daman and Diu and Puducherry—are yet to publish their Rules. A special discussion is required on the State of Jammu and Kashmir as the

Act is not applicable there. However, it can adapt a scheme which is appropriate to a State situation.

This report attempts to analyse the published Rules of 24 States/UTs (defined in the Act as 'appropriate Government') against the provisions mandated in the Street Vendors Act and the Model Rules. The process for drafting Model Rules started in 2015 by civil society organisations such as Alternative Law Forum (ALF), National Hawker Federation (NHF) and Human Rights Law Network (HRLN) and included meetings with street vendors, trade unions, people's movements, labour commissioners and non-government organisations (NGOs) in 10 states. The Model Rules were finalised and submitted to the Urban Secretary in the Ministry of Housing and Urban Affairs in 2016 after multiple rounds and deliberations and discussions with all stakeholders involved. The Model Rules are provided in the Annexures.

This report draws on the fact that the Street Vendors Act, an outcome of participatory deliberation and negotiation by street vendor federations, academics and civil society organisations, needs to be adequately implemented by States as per the core provisions mentioned in the Act. The analysis of the Act and its implementation status helps understand the possible impacts of State Rules on the overall implementation of the parent Act.

THE PARENT ACT AND STATE/UT SCOPE OF AMENDMENTS AND IMPLEMENTATION

As per the Parent Act, State/UT Governments are responsible for the following:

- To approve the plan (to promote vocation of street vending) and determine norms applicable to street vendors (Section 21.2),
- To promote measures to make available credit, insurance and other welfare schemes (Section 31), organise capacity building programmes for street vendors (Section 32.a),

- To promote research, education and training programmes for understanding the role of the informal sector (particularly street vendors) and raising awareness among the public with the help of the Town Vending Committee (TVC) (Section 32.b),
- To delegate powers (except the power to make Rules and Schemes) to local authorities or the TVC (Section 34),
- To make Rules within one year of passing of the Parent Act (Section 36.1),
- To frame a scheme as per second schedule of the Act within 6 months of passing of the Parent Act (Section 38.1)

As per the Parent Act, the scope of States/UTs to amend Rules extends to the following provisions:

- Notify age of vending as 14 years or as prescribed by them (Section 4.1),
- Clarify mechanism to appeal against TVC's decision regarding Certificate of Vending (issuing, suspension, cancellation etc. as per Section 11.1)
- Detail mechanisms for setting up Dispute Redressal Committee (DRC) and
 - Its members (professionals) and their qualifications/experience (Section 20.1)
 - Form and manner of making DRC as well as an application process to approach the DRC (Section 20.2)
- Manner and time period of verification and inquiry by DRC (Section 20.3)
- Manner of appeal against DRC decision to local authority (Section 20.4)
- Manner and time period of disposing off the appeal (Section 20.5)
- Detail mechanisms for the TVC, especially
 - Terms and manner of constitution in each local authority (Section 22.1)
 - Nomination of TVC members by the local authority (Section 22.2.b)
 - Manner of electing street vendors' representatives to the TVC (Section 22.2.d)
 - Allowance to TVC members (Section 22.3) and to persons temporarily associated with the TVC (Section 24.2)
 - TVC meeting frequency (Section 23.1)
 - Place of meeting within urban local body (ULB) jurisdiction, Rules of procedure for transaction of business of TVC meetings, manner and purpose of temporary association of persons with TVC (Section 24.1)
 - Office space and employees to be provided by the local authority to the TVC (Section 25)
 - Returns to be furnished by the TVC and time of returning to furnish (Section 30)
- Updated record of street vendors and Certificate of Vending format (Section 26.2)
- Manner of publishing the summary of the scheme (Section 38.2)

ACT IMPLEMENTATION STATUS ACROSS STATES/UTS

While States/UTs have the freedom to formulate Rules as per their regulations, issues and concerns about Rules formulated persist. The report details these concerns state- and UT-wise in subsequent sections. Broadly, the nature of concerns include the following:

The Minimum Age of Vending: As per Section 4.1 of the parent Act, the minimum age of vending is 14 years. However, States can technically prescribe different minimum age limits. In the Rules of ten states—Assam, Andhra Pradesh, Chhattisgarh, Goa,

Gujarat, Haryana, Punjab, Rajasthan, Sikkim and West Bengal—the minimum age of vending has been prescribed as 18 years. However, eleven States—Delhi, Himachal Pradesh, Kerala, Maharashtra, Manipur, Meghalaya, Odisha, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand and Union territories of Chandigarh and Lakshadweep have not mentioned any minimum age. The Child and Adolescent Labour (Prohibition and Regulation) Act of 1986 defines a 'child' as any person below the age of 14 years, and the Act prohibits the employment of a child in any employment, including as a domestic help (except

helping own family in non-hazardous occupations). This provision was taken into consideration as the civil society gave its input for the formation of the Parent Act.

State-Wise Dispute Redressal Mechanisms:

Section 20 of the Act provides for redressal of grievances or resolution of disputes of street vendors via 'one or more committees' constituted by a retired civil judge or judicial magistrate as Chairperson and two other professionals having relevant experience as prescribed by the appropriate authority.

The State Rules of Kerala and Tripura have provision for a Dispute Redressal Committee (DRC) only in the capital city. Uttar Pradesh has provision for a grievance redressal committee but the details about the composition of its members and manner of filing complaints is not clearly mentioned in the Rules. Tamil Nadu State Rules have a provision of INR 500 application fee to approach the DRC, an expensive sum for street vendors. In Meghalaya Rule 15(ii) states that, 'Provided that the appeal may also be summarily rejected on valid grounds in the first instance and to be spelt out in the form of speaking order'. This should be amended and a written decision should be given to the vendor as oral decision making may be open to misuse.

State Rules which do not mention the DRC are Assam, Andhra Pradesh, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Lakshadweep, Maharashtra, Manipur, Odisha, Punjab, Rajasthan, Sikkim, Uttarakhand and West Bengal.

Terms and Manner of Constituting the Town Vending Committee (TVC):

To ensure that the decision making power is not left to the sole discretion of any civic or police authority but is accomplished by a participatory process, Section 22 of the Act provides for the constitution of a Town Vending Committee (TVC) formed by representatives of street vendors, planners, police, local councillors, resident welfare associations, traders associations and municipal functionaries. Section 22.2.d of the Act says there should be at least 40 per cent representatives of street vendors in the TVC. However, some states like Meghalaya and Odisha do not provide for adequate representation of street vendors in the TVC.

Section 22.2.d of the Act also mentions that street vendors shall elect their representatives in such manner as prescribed. However, some states have a nomination process for selecting street vendors' representatives while some have a selection process; others mention the process of election with lottery system or by show of hands.

TVC Meeting Frequency and Quorum: As per Rules of some States and UTs, TVCs meet on a quarterly basis (in Bihar, Chhattisgarh, Delhi, Haryana, Maharashtra, Manipur, Meghalaya, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Chandigarh and Lakshadweep), whereas in some other states (such as Gujarat and Punjab) they meet on a half-yearly basis. TVCs in Kerala and Goa meet once every two months. The State Rules of Assam, Andhra Pradesh, Odisha, Uttarakhand and West Bengal do not mention the frequency of the TVC meeting.

The quorum for the meeting has been mentioned in some States as one-third or one-fourth the total strength of the TVC. The minutes of meetings are usually signed by the Chairperson of the TVC and not all the TVC members. Most States also lack any provision regarding the special meeting which can be called on the request of TVC members (say by one-third members).

Local Authority Support to the TVC: Section 25 of the Act says that the local authority shall provide for office space and for the required staff to the TVC. But some State Rules only mention about the office space, while some lack clarity regarding infrastructure and human resource requirements of the TVC. A few states (Bihar, Gujarat, Himachal Pradesh, Kerala and West Bengal) have also mentioned that the TVC should not create any additional burden on the local authority for its infrastructure and human resource requirements.

Other Issues: The existing State Rules are also silent on many other aspects mentioned in the parent Act such as the qualification of non-official members to the TVC, other functions of the TVC, returns to be furnished by the TVC, disqualification of the TVC member, detailed procedure for the appeal to the dispute redressal committee, and so on.

STATE-WISE FINDINGS

Each State Rule has been studied in detail through the report and a summary of each is presented as follows:

1. ASSAM

The Assam Rules were notified on 26 February 2016. The major loophole in the Rules concern the ambiguity about the manner of elections, which are through nomination by street vendor associations and not by a ballot system of voting. The Rules also miss out incorporating details about other subsidiary aspects such as some of the major functions of TVCs (access to credit, social security, following up on cases, awareness programmes, etc), the qualification of non-official members, removal of TVC members and filling of vacancies, quorum for TVC meetings, returns to be furnished by the TVC, and the preparation of vending plans.

2. ANDHRA PRADESH

The Andhra Pradesh Rules were notified on 31 March 2017. The major contention with the Rules are provisions which violate the purpose of 'protection' of street vendors. For example, Rule 3(5), which is also present in the Central Act (Section 28), states 'If any street vendor, who indulges in vending activities without a certificate of vending ... he shall be liable to a penalty for each such offence which shall extend up to rupees two thousand only'. As the process of issuing certificates is slow and inefficient, penal provisions like this may lead to undue exploitation of vendors.

The other issue with the Rules are about the mode of formation of the TVC by election/selection, although clause (d) of sub-section (2) of Section 22 of the parent Act suggests that the street vendors shall elect their representatives among themselves. The Rules do not provide clarity on qualifications of non-official members, removal of members of TVC and the DRC.

Rule 3(1)(s) has defined 'public purpose'. The Act makes it clear [Second Schedule, Clause (n)] that public purpose is to be defined in the Scheme, by State governments in consultation with the TVC. Therefore, insertion of the definition of public purpose would be ultra vires the Act, and beyond the rule-making powers of the State.

The Rules also have a provision for separate Certificates of Vending for resident and non-resident street vendors, which is an exclusionary provision.

3. BIHAR

The major contention with the State Rules is regarding the mode of selection of street vendors in the TVC, which is through selection and not election. This process is undemocratic and against the spirit of the Act. The TVC meets once every three months, with quorum one-third of TVC strength, which goes against the rational norm of two-third shown in other states, and the minutes of the meetings are only signed by the Chairperson, which should be ideally signed by all the members present in the meeting.

The Rules miss out in providing clarity on other issues such as qualification of some non-official members, removal of members of DRC and filling of vacancies. No explicit mention is made of the State undertaking welfare schemes.

4. CHANDIGARH

The Chandigarh Rules have been drafted comprehensively as it provides details on all aspects mentioned under Section 36 ('Power to make Rules') of the parent Act. There are a few suggestions made regarding the frequency of meetings and resources required by the TVC, and the time for filing complaints to the DRC which should be increased from 30 to 60 days.

Though social auditing and returns to be furnished finds a mention under the functions of the TVC, the Rules do not provide a detailed explanation about how this should be conducted. It is therefore suggested that the procedure for these activities be defined under the schedule. The Rules should also provide details about the removal of TVC members.

5. CHATTISGARH

Although the Chhattisgarh Government notified the Rules shortly after one year of the commencement of the parent Act, it is one of the most poorly drafted Rules among all States, providing details only on a few aspects and leaving out key areas that need to

be covered. The Rules are also vague and unclear and should be prepared again, preferably on the lines of the Model Rules provided in this report.

Major aspects are missing, such as the form and manner of making an application to the DRC, the period and manner of filing appeals with the local authority, the experience and qualifications of the DRC, the manner of verification and enquiry on receipt of grievance or dispute, the time within which and the manner in which steps for redressal of grievances and resolution of disputes may be taken, the time within which and the manner in which an appeal shall be filed and disposed off, the term and the manner of elections and conduct of the TVC, the manner of maintaining updated records of all street vendors, the returns to be furnished, the manner of publishing summary of the scheme, etc.

6. DELHI

The Delhi Rules are well-drafted and comprehensive. However, there are a few areas where amendments could be made such as the frequency of TVC meetings, the manner of documenting minutes of meetings and resources required for proper functioning of the TVC.

The Rules miss out providing clarity on other issues such as the lack of well-defined parameters in case of removal of TVC members, the provision for non-harassment of vendors and the duties of the local authority.

7. GOA

The Goa Rules were notified on 19 October 2016 in the official gazette. They provide a lucid and coherent explanation about each aspect, leaving very little or no space for ambiguity. The Rules should particularly be lauded for clearly describing the election procedure. Although the document is fairly comprehensive, there are areas of improvement.

The Rules miss out providing clarity on the frequency of TVC meetings, manner of documenting minutes and resources required for proper functioning of the TVC, qualifications of non-official members, and removal of members of the DRC. Further, the functions of the TVC does not include the need to

undertake social schemes. The functions of the local authority to provide civic amenities and other facilities like cold storage does not find any mention in the Rules either.

8. GUJARAT

The Gujarat Rules were notified on 18 October 2016 by the Gujarat Government Gazette. The Rules are comprehensive and well-defined and include two features rarely found in other Rules. This includes Section 12, which requires the local authority to circulate a status paper of the street vending scenario in the city, which should help present the nuances of the profession. Rule 14 details the constitution of the sub-committee to examine any specific issue that may crop up, from time to time, and offer suggestions/recommendations on the issues referred to it.

There are merits of the Gujarat Rules but some drawbacks too. The Rules begin with defining 'public purpose' which, according to the parent Act, is to be defined in the Scheme by State Governments in consultation with the TVC, and therefore is ultra vires the State's power. The other amendments needed are detailing the frequency of TVC meetings, the manner of documenting meeting minutes and resources required for proper functioning of TVCs. The Rules miss out in providing clarity on other issues, such as the removal of members of the DRC. Many promotional and social welfare/security functions of the TVC and duties of the local authority find no mention.

9. HARYANA

The Haryana Rules were notified by the Government on 31 January 2017. The Rules begin by defining 'public purpose', which according to the parent Act is to be defined in the Scheme by the State in consultation with the TVC.

Besides this, the Rules have many gaps that should be addressed. A major contention is that the application fee for the election is very high at INR 25,000—an unaffordable amount for most street vendors. The standard norm followed by other States in this case is INR 2,000. The other Rule against the interests of street vendors is the absence of a DRC to address difficulties faced by the street vendors. As there is no

DRC, the question of its members and appeal against the decision of the committee does not arise. The lack of commitment of the local authority is also evident by the fact that the Rules do not mention any provision to allocate resources (human and infrastructural) to the TVC for the smooth implementation of the Act. As the Rules miss important aspects and have not been defined with clarity, they should be amended in line with the Model Rules provided in this report.

10. HIMACHAL PRADESH

The Himachal Pradesh Rules were notified by the Government on 5 December 2016. One crucial aspect that the Rules have addressed is incorporating the concept of provisional TVCs (Rule 5). The role of this committee is to conduct surveys and facilitate the formation of a permanent TVC. This rule is a logical step towards the formation of the permanent TVC, which other states have missed. Hence, it should be incorporated in other states as well.

The Rules should also be lauded for Section 12, which requires the local authority to circulate a status paper of the street vending scenario in the city, which should help bring out the nuances of the profession. Rule 14 also mentions the provision for the constitution of a sub-committee to examine any specific issue that may crop up, from time to time, and offer suggestions/recommendations on the issues referred to it.

Although the Rules are defined with clarity and have certain distinct features, there are some gaps that should be addressed. To begin with, the definition of 'public purpose' needs to be omitted from the Rules as the Second Schedule, Clause (n) of the parent Act states that public purpose is to be defined in the Scheme, by the State Government in consultation with the Town Vending Committee. Therefore, the insertion of the definition of public purpose as Rule 2(e) would be ultra vires the Act, and beyond the rule-making powers of the State. The other issues needing clarity in the Rules include the frequency of TVC meetings, manner of documenting meeting minutes and resources required for proper functioning of TVCs.

11. KERALA

The Kerala Rules lack clarity. The manner of formation of the TVC is by selection and not through election, and DRC is only located in the capital city, making it inconvenient and unapproachable for street vendors who live in distant areas. The Rules are not comprehensive and do not have any attached schedules or templates of forms to be filled for filing nomination for election, application form for grievance redressal and dispute resolution, application form for appeal to the local authority, annual reports and other returns to be furnished by the TVC, etc. This makes the Rules inadequate.

The Rules miss out in providing clarity on other issues such as the removal of members of the TVC and the DRC, qualifications of non-official members, etc. Also missing are provisions for other social functions of the TVC like providing special schemes for the well-being of vendors (such as their social security).

12. LAKSHADWEEP

The Lakshadweep Rules were notified on 27 July 2015. Although the Rules are fairly comprehensive, there are areas of improvement that should be looked into such as the frequency of TVC meetings, the manner of documenting minutes of meetings and resources required for proper functioning of the TVC, and clarity on qualifications of non-official members. There is a lack of mention of duties of the local authority, such as providing cold storage, sanitation, etc.

13. MAHARASHTRA

The Maharashtra Rules were notified on 3 August 2016. The Rules are well drafted and comprehensive. A few additions and changes could be made such as the time period required to file complaints to the DRC, revision in the manner of documenting minutes as per the Model Rules recommendations, and the provision for calling requisition/special meeting should be added.

The Rules miss out providing clarity on other issues such as defining grounds for the removal of the TVC members, which are similar to the removal of a redressal committee member.

14. MANIPUR

The Manipur Rules were notified by the government on 2 May 2016. The Rules are self-explanatory and comprehensive. There are a few gaps that should be addressed, which are the frequency of TVC meetings, manner of documenting minutes, and resources required for proper functioning of the TVC. The duties of the local authority regarding civic amenities and other facilities again does not find mention, along with some other functions of the vending committee (such as awareness among vendors and following up on cases of dispute redressal).

15. MEGHALAYA

The Meghalaya Rules were notified on 19 December 2016. The major issue in the Rules is that it does not provide 40 per cent representation to street vendors in the TVC, and has failed to recognise the importance of elections. No redressal committee has been provided for in the Rules which is a necessary requirement for providing justice to the vendors and the role of urban local bodies in facilitating the welfare of street vendors is missing. The Rules are poorly drafted compared to other states and should be revised.

16. ODISHA

The Odisha Rules were notified on 7 July 2015. The major issue with the Rules is that the process of constituting the TVC is not by election but selection. Further, it does not provide for 40 per cent representation of street vendors in the TVC as mandated by the Act. The Rules also miss out in mentioning social audit of the activities of the TVC as laid under the Act. Rule 6(2)(e) determines the monthly rental (fee) payable by the street vendor. Ideally, the street vendor should not be charged monthly rental and should only have to pay for the Certificate of Vending as done elsewhere. The Rules seem poorly drafted compared to other States.

17. PUNJAB

The Punjab Rules were notified on 12 February 2015. The Rules are problematic due to issues with the election process, as it is by show of hands and not through the ballot process. The other concerns include the age of vending, absence of some functions of the TVC relating to welfare of street vendors and

the quorum in TVC meetings. There is no mention regarding the conditions for the removal of members of both the TVC and DRC. The other important missing aspects are the register of appeals, issuing of identity cards, mention of other social functions of the TVC for the benefit of vendors (like those provided in the Goa Rules) and the provision of civic amenities

18. RAJASTHAN

The Rajasthan Rules were notified on 15 February 2016. The Rules mention a distinct clause 6(8)(ii) which states that 'an urgent meeting may also be convened when half of the members representing the street vendors so request the chairperson of the TVC by putting a memorandum duly supported by not less than half of the non-official members'.

There are a few gaps in the Rules that need to be addressed, such as the minimum age of vending, lack of provision for empanelling an expert, manner of documenting minutes and resources required by the TVC. In the Rajasthan Rules, the removal of members of the TVC is not clearly written whereas removal of members of the DRC is not mentioned at all. Many functions of the TVC, such as making available credit, pension schemes, and welfare schemes do not find explicit mention.

19. SIKKIM

The Sikkim Rules were notified on 27 June 2017. Although the Rules cover major aspects, details such as the minimum age of vending, the frequency of TVC meetings, details for disqualification of TVC members, and certain functions of the TVC such as welfare and informing vendors about rights should be incorporated in the current Rules. Rule 23 provides a provision for employees to be allocated to the TVC for discharge of its functions, but does not provide the details of the staff.

20. TAMIL NADU

The Tamil Nadu Rules were notified on 2 November 2015. The Rules are relatively meticulous compared to most states, but certain Rules need to be clearly stated such as the timeframe within which the hearing of the DRC should happen. The other issue is regarding the exorbitant fees for filing applications to the DRC. Other issues not specified clearly include

the frequency of TVC meetings, quorum of these meetings and provision for calling requisition/special meeting.

The Rules lack certain provisions such as the removal of TVC members, crucial TVC functions such as social security schemes, awareness regarding legal rights, quorum for TVC meetings, and manner for filling vacancies.

21. TRIPURA

The Tripura Rules were notified on 17 June 2016.

The Rules are quite comprehensive and cover most aspects, such as the procedure of formation of the TVC and DRC and their functions. The Rules also mention that the TVC will undertake welfare plans and credit and pension schemes—rarely mentioned in other States' Rules. However, there are a few gaps, such as the manner of documenting minutes of these meetings and resources required for conducting duties of the TVC. Another gap is that the headquarter grievance redressal and resolution committee shall be in Agartala, which will make the committee inaccessible for the street vendors.

22. UTTAR PRADESH

The Uttar Pradesh Rules were notified on 10 May 2017. The Rules lack clarity in a lot of places, including the election process and the formation and functions of the DRC. The Rules lack provisions on important TVC functions (street vendor welfare schemes and access to credit, informing vendors about their rights, etc), details about proceedings of TVC meetings, qualifications of non-official members, and removal of TVC members. The process of election of street vendors to the TVC is not clearly laid out. In addition, arbitrary powers have been given to officials under the Rules. For example, Rule 20(1) (e) states that a street vendor may be evicted by the municipality if the municipality or any officer empowered by it in this behalf thinks proper and justified. This Rule could be misused with any reasoning to justify vendor evictions, and should be deleted as it is against the interest of street vendors.

23. UTTARAKHAND

The Uttarakhand Rules were notified on 25 May 2016. The Rules are exhaustive, yet a few important aspects

have been missed. The Rules do not provide any details about the manner of elections of street vendors for the TVC, and there are no provisions for a DRC, or for an expert to help the committee make better decisions in different matters, or regarding the removal of members of the TVC. Promotional measures, credit, and welfare are missing from the Rules as well. Rule 22(2)(xii) 'Cooking of any nature whatsoever shall be forbidden'. This essentially phases out a lot of common food items sold by vendors which require to be cooked and this rule is unwarranted.

24. WEST BENGAL

The West Bengal Rules have been drafted poorly, missing out some important concerns and with some provisions against the interests of street vendors. There are also instances of the Rules having exceeded powers given to States. For instance, the parent Act makes it clear [Second Schedule, Clause (n)] that public purpose is to be defined in the Scheme, by State governments in consultation with the TVC. Therefore, insertion of the definition of public purpose would be ultra vires the Act, and beyond the rule-making powers of the State.

The Rules do not clearly mention publishing the minutes of the TVC meetings in the public domain, and lack certain provisions such as details on the removal of TVC members, functions of TVC such as credit, social security, awareness regarding the role of vendors and their rights awareness.

Rule 9(b) states that after survey, for preparation of a detailed list of existing vendors, the TVC in consultation with the local authority concerned, shall fix a cut-off date after which any intending street vendor shall have to obtain license prior to starting a new business. Given delays in granting license, vendors may lose out on livelihood opportunities due to this provision.

Rule 9(e)(i) states that two-thirds of the footpath shall be earmarked to allow smooth pedestrian flow. Rule 14(6) states that every vendor shall ensure that no traffic blockage shall occur during the vending time, causing inconvenience to the general public. For this purpose, vending on the black top of the road is strictly prohibited. These provisions are against the

purpose of 'protection' of street vendors as mentioned in the Act and are exclusively found in West Bengal Rules only. The West Bengal Rules were challenged in the West Bengal High Court due to its anti-street vendors provisions. The Court took cognisance of the matter and gave a stay order on the current Rules.

RECOMMENDATIONS

To ensure just State Rules, it is recommended that the Model Rules made by civil society organisations (Alternative Law Forum, National Hawker Federation and Human Rights Law Network) could be combined with the Rules of Chandigarh, Delhi, Goa, Gujarat, Himachal Pradesh, Maharashtra, Manipur, Tamil Nadu and Tripura as the Rules of these states have been drafted comprehensively.

It is strongly recommended to review all the State Rules on parameters of the Model Rules emerging out of a detailed consultative process. This could be done through high quality deliberation via multi-stakeholder consultation with State Governments. This is to ensure that the letter and spirit of the Act is reflected in State Rules as well as in local actions.

Final outcomes of the state level consultative process should lead to Model National Rules notification by the Ministry of Housing and Urban Affairs, Government of India. The Ministry should also link the Deendayal Antyodaya Yojana–National Urban Livelihoods Mission (DAY–NULM) funds disbursement with the compliance to Model Rules as notified by the Ministry.

CHAPTER 1 INTRODUCTION

According to the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, a 'street vendor' means 'a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, sidewalk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place and includes hawker, peddler, squatter and all other synonymous terms which may be local or region specific'.

Today, street vendors are present in every urban neighbourhood and have become an indispensable part of India's economy. With a variety of goods to offer such as vegetables, fruits, garments, electronic items, food, etc. street vendors play a significant role, both in rendering service to the public (by providing

goods and services at lower prices) as well as generating employment and income. The International Labour Organisation (ILO) has recognised street vending as an activity which represents cultural capital and serves as an 'effective poverty alleviation solution'. (Kirk, Zixin, & Malikaew, 2006).

While the exact national estimates of street vendors are not available, some studies peg the street vendors to constitute approximately 2 per cent of the population of a metropolis (Naik, n.d.). The total number of street vendors in the country is estimated at around one crore and this figure is growing every day (WEIGO, n.d.). In today's times, when employment generation is at an all-time low compared to the last 45 years, it is imperative to recognise the significant contribution of street vendors in generating employment (Patel, 2019).

FIGHTING FOR THE RIGHTS OF STREET VENDORS

The struggle for street vendors to be recognised legally built up over more than five decades, adding pressure on the Government to introduce a legislation for their protection. The first attempt in this direction was made in 2004 with the formulation of the 'Street Vendors Policy' which aimed to grant street vendors legal status and allowed them to carry out their business in designated areas known as hawker zones (Government of India, 2004). However, the Policy failed to take note of executive difficulties that the Government faced in implementing the guidelines enshrined. The Policy was later revised as the 'National Policy of Street Vendors' in 2009, which was somewhat similar to its predecessor (Government of India, 2009). This was followed by the introduction of the Model Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill in 2009, but this was critiqued for having ignored many pressing issues (Srivastava, et al., 2012). Civil society groups argued that the Bill was weak, given its lack

of transparency in the administrative and oversight mechanisms, and lack of provisions to ensure that current vendors will be legalised under any new system (Braun and Ma, 2011).

However, after the landmark judgement of the Supreme Court, in *Gainda Ram & Ors. vs. Municipal Corporation of Delhi & Ors.* in 2010, the issue gained momentum again as the judgement highlighted the need for a comprehensive Bill and directed the Government to pass this Bill by June 2011. A revised Bill was then drafted with the help of the National Advisory Council and was introduced in the Lok Sabha in September 2012. The Bill was passed in the Lok Sabha on 6 September 2013 and eventually by the Rajya Sabha on 19 February 2014. The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 was rejoiced as a victory of a long struggle for street vendors as it aims at protecting the livelihood rights and social security of

street vendors and regulation of urban street vending in the country (Naik, n.d.). However, this victory on

paper could not materialise into changing ground realities due to flaws in the implementation of the Act.

IMPLEMENTATION CHALLENGES

Despite the Act conferring rights to street vendors against extraction of bribes, rampant evictions and confiscation of goods, in reality street vendors across the country still face harassment at the hands of the local authorities and the police. Although there are many reasons behind this grim reality, like the historical class bias and the lack of awareness among street vendors about their rights, one of the major reasons is insufficient political and bureaucratic will to implement the Act.

This reality is evident by the deliberate failure of States and Union Territories (UTs) to regulate street vending terms as mandated in the Act. For example, the Act under Section 36 specified that the appropriate (State and UT) Governments make Rules within one year from the date of commencement of the Act. However, none of the States/UTs were able to draft the Rules within the statutory time frame of one year starting from 14 March 2014 (Narang and Goyal, 2017).

Similarly, Section 38 of the Act provides for a time frame of six months for framing Schemes from the date of passing the Act (14 March 2014), which is to be done in consultation with local authorities and Town Vending Committees (TVCs). Even after three years from the date of passing of the Act, not a single State/Union Territory was able to frame a Scheme in any of its urban local bodies (ULBs), showing a lack of seriousness and commitment in implementing the law (Narang & Goyal, 2017).

ILLEGAL EVICTIONS CONTINUE

Sections 3(1), (2) and (3) of the Act state that the TVC shall conduct a survey of all existing street vendors and ensure they are accommodated in the vending zones. Till the time the survey has been completed and the Certificate of Vending is issued to all street vendors, no street vendor shall be evicted. Contrary to the provisions stated in the Act, street vendors across the country face rampant evictions which not only take away their livelihood

opportunities, but deeply affect their self-respect and dignity. In some areas with high footfall, street vendors are evicted almost every day (Rattan, 2014). In such circumstances, the street vendors find themselves at the mercy of the authorities, and there is often a high scale of corruption which is unavoidable for survival. Often, resistance by street vendors is met with more pressure from those in positions in power, not just against a vendor in question but the entire group, to further deter them from trying to claim their rights.

FAULTY SURVEY PROCESSES

Section 38 of the Act states that each State/UT has to frame a Scheme which will define the manner of conducting surveys, and each and every street vendor should be included in the survey. In reality, wherever these surveys have been conducted, they usually end up missing some vendors. According to activist Anita Das of the National Hawkers Federation, during the first survey in Ranchi only 5,901 street vendors were surveyed. In most States/UTs where surveys have been conducted, the process has been faulty and exclusionary.

LOCAL AUTHORITIES BYPASS PROVISIONS OF THE ACT

Section 4(1) of the Act clearly states that after the survey, a Certificate of Vending will be given to all the street vendors enumerated in the survey. Based on this, a list of street vendors will be prepared who will elect their representatives to the TVC. Thereafter, the task of distributing identity cards to the street vendors will be undertaken by the TVC [Section 6(3)]. However, currently the local bodies are completely neglecting the provisions of the Act and acting according to their own will.

In some cities, the municipal corporation has bypassed the step of issuing the Certificate of Vending and is directly giving identity cards to the vendors. In such circumstances, the importance of the legislature is undermined and street vendors are left at the mercy of the local authorities.

LACK OF GRIEVANCE/DISPUTE REDRESSAL COMMITTEE

Section 20 of the Act also mandates establishment of a grievance redressal committee which will consist of a civil judge or a judicial magistrate and two other persons who have relevant experience in the subject. This committee is essential for addressing problems of the street vendors in case they are dissatisfied by the decisions of TVC. Till now, none of the States/UTs have formed this committee.

INEFFECTIVE TOWN VENDING COMMITTEES

The TVC is the soul of the Act but it is found that none of the States/UTs are making efforts to strengthen it or make it participatory. A significant gap in implementation is that in majority of the cities, TVCs are formed through selection and not

by election. Even in the TVC meetings the current problems faced by the vendors are not discussed and the decisions of the TVC are dominated by the local government officials. Often, the decisions regarding vending and non-vending zones are being taken by the officers alone without consulting the TVC. It was also reported that in many cities, TVC meetings are not being held and the authorities are not giving any reason for this delay. According to a newspaper report, Seetha Dasan of Kerala Street Vendors Forum said there is absolutely no progress in the implementation of the Act in the state capital. 'It's been seven or eight months since the corporation called for a vendors committee meeting. The initial plan was to meet every month to discuss the progress of the implementation of the Act. Around 400 vendors were given IDs,' (Mohan, 2019).

NEED FOR RECOGNITION

Street vendors not only alleviate employment challenges but also offer a means of sustenance for many segments of society, especially the economically weaker section and low income groups who cannot afford to buy more expensive goods in retail shops. By providing goods and services at an affordable rate,

street vendors serve the people. The Government should recognise their value to society and therefore ensure the implementation of the Act in its true spirit as it has the ability to foster and provide opportunities for entrepreneurial skills and sustain the economy to a great extent.

CHAPTER 2

OBJECTIVES AND METHODOLOGY

One of the pillars for the implementation of the Street Vendors Act 2014 is how well the State Rules are drafted. Rules should be drafted in the spirit of the Act, which protects the right to livelihood and facilitates street vendors' participation in city planning and decisions concerning their livelihood.

This report analyses the Rules of 24 States and Union Territories (UTs) by comparing it with the provisions laid in the parent Act and Model Rules formulated by civil society. The analysis of Rules helps identify gaps and suggest amendments to the current State/UT Rules to ensure that provisions do not violate the intent of the Act. The report urges the Central and respective State/UT Governments to take necessary steps to uphold the interests of millions of street vendors who depend on vending for their very survival.

To help achieve the objectives of the Act, the National Hawker Federation, Human Rights Law Network and Alternative Law Forum drafted Model Central Rules for the protection of livelihoods of street vendors and to regulate street vending. The Model Rules provide details on all the aspects listed under Section 36 of the Act, which gives power to States/UTs to formulate Rules to implement the Act. These Rules intend to offer a guiding light to the State/UT Governments to draft their respective Rules in consonance with the features of the parent Act. The Model Rules are detailed in Annexure 1.

For the purpose of this study, Rules formed by 24 States/UTs for the implementation of The Street Vendors Act 2014 were analysed. Within each State Rule, 17 sections were considered for analysis (listed in Table 1). Each section of the State Rules were then studied on two parameters:

1. The provisions stated in the parent Act
2. Wherever the Act gives power to the State Government to form their own Rules for carrying out the provisions of the Act

The Model Rules (in Annexure 1) were used as a reference point for a comparative analysis.

The report presents the analysis of each State separately, highlighting the sections found in contradiction to the parent Act or the Model Rules, and the good practices demonstrated. Data regarding State Rules was collected by filling RTI applications.

Section	Recommended Rules
2. a.	Age for street vending
2. b	Form, period, and manner of filing appeal with the local authority
2. c	The persons and the experience such person shall have
2. d	Form and manner of making application
2. e	Manner of verification and enquiry on receipt of grievance or dispute. The time within which and the manner in which steps for redressal of grievances and resolution of disputes
2. f/g	Form and time within which and the manner in which an appeal shall be disposed
2. h	Term and manner of constituting the TVC
2. i	Number of other members of TVC
2. j	Manner of elections among street vendors
2. k	Allowances to chairperson and members
2. l	Time and place for meeting and functions to be discharged by the TVC
2. m	Manner and purpose for which a person may be associated
2. n	Allowances to be paid to an associated person
2. o	Other employees of TVC
2. p	Manner of maintaining up to date record of all street vendors
2. q	Returns to be furnished
2. r	Manner of publishing summary of scheme

Table 1 | Contents of the Rules analysed for the study

CHAPTER 3

STATE-WISE ANALYSIS OF RULES

1. ASSAM

The Assam Rules were notified on 26 February 2016. The major loophole in the Rules is the ambiguity about the manner of elections via nomination by street vendor associations and not by a ballot system of voting. The Rules also miss out in incorporating details about other subsidiary aspects, mentioned in the last section of the State analysis. The concerns regarding the State Rules are as follows:

UNDEMOCRATIC TVC FORMATION PROCESS

The Assam Rules were notified after the expiry of the statutory time frame of one year. Although the Rules mention 40 per cent representation of street vendors in the Town Vending Committee (TVC), the manner of the TVC formation is ambiguous. The process of election does not mention enlisting the street vendors through a survey and thereafter holding elections for the TVC formation by the urban local body (ULB). The current Rule suggests that the ULB has passed the responsibility onto the street vendors associations to hold the election.

Additionally, the Rules do not mention the procedure of elections to be followed by street vendors associations clearly either. This makes it vague and redundant. Rule 5 (a)-(d) states, 'Each local authority shall call for election of street vendors by the street vendor associations; (b) Every notice (by the local authority) shall state the number of street vendors to be elected and the street vendor associations designated to hold the elections; (c) The designated street vendor association shall forward the list of elected vendors to the local authority; (d) The local authority shall appoint the elected vendors as members of the TVC'.

Therefore, it is recommended that this Rule be replaced by 'Manner of elections among street

vendors' as defined in Section 2(j) of the Model Rules. The election of street vendors to the TVC should be through a democratic process of elections only after conducting a survey of all the street vendors.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

The Rules state that a meeting of the TVC should be held once a month and gives power to the Chairperson to call this meeting, but it does not provide any provision of calling a special meeting on the request of one-third members of the TVC. Hence Rule 6(a) should be amended to include, 'if there is a consensus of one-third members of the TVC to call a meeting, such meeting should be called by the Chairperson within 72 hours'. All states except Delhi, Maharashtra, Meghalaya, Tamil Nadu, and Uttarakhand have the provision for calling a special meeting if there are matters that require urgent attention and decision making.

Further, Rule 4(c) states that 'all orders and decisions of TVC shall be authenticated by an officer authorised by the chairperson and that these decisions shall be notified in the notice board of the office of the TVC'. To promote transparency in its business, it is recommended that the decisions of the TVC should be signed by all the members present at the meeting and the same should also be uploaded on the website of the local authority.

Regarding resources for conducting its business, the Rules only make provision for an office space. Since the functions of the TVC are permanent in nature and would require these resources as long as it exists, this Rule should be amended by properly defining the needs (human and infrastructural) of the TVC and the resources to be provided by the ULB for its proper functioning. This may include a clerk, secretary, a

nodal officer of suitable experience, group-D staff and required infrastructure as recommended in the Model Rules.

MINIMUM AGE OF VENDING

Regarding the age of vending, the parent Act [Section 3(1)] states that every street vendor who has completed the age of fourteen years shall be issued a Certificate of Vending or such age may be prescribed by the appropriate Government. Assam Rules allow Certificate of Vending to be given to street vendors who have completed eighteen years of age.

LIMITED APPEAL TIME AGAINST TVC/DRC DECISIONS

If the aggrieved party is dissatisfied by the decision of the TVC or the DRC, the current Rule (Section 9) provides a time period of 30 days to the aggrieved

party to file an appeal against the decision. It is suggested that the street vendor be given adequate time, at least 60 days to file the complaint.

OTHER ASPECTS MISSING

The Rules miss out in not providing clarity on other aspects necessary for the implementation of the Act, such as the qualification of non-official members, removal of members of the TVC, filling of vacancies of the TVC, returns to be furnished by the TVC, quorum of meetings of the TVC and the preparation of vending plans. Most of the major functions of the TVC are missing like social security, following up on cases, awareness programmes to be conducted by them, etc. These aspects should also be included within the ambit of the Rules. The Model Rules may be referred to, to include these missing aspects in the current Rules.

2. ANDHRA PRADESH

The Andhra Pradesh Rules were notified on 31 March 2017. The major contention with the Rules are provisions which are discriminatory and against the interests of street vendors. The other issue is that the mode of formation of the Town Vending Committee (TVC) is by election/selection, although clause (d) of sub-section (2) of Section 22 of the parent Act suggests that the street vendors shall elect their representatives among themselves.

PROVISIONS AGAINST THE INTEREST OF STREET VENDORS

There are certain provisions in the Rules which violate the purpose of 'protection' of street vendors. For example, Rule 3(5) which is also present in the Central Act (Section 28) states 'If any street vendor, who indulges in vending activities without a certificate of vending ... he shall be liable to a penalty for each such offence which shall extend up to rupees two thousand only.' Given that the process of issuing certificates is slow and inefficient, penal provisions like this may lead to undue exploitation of vendors. Therefore rule 3(5) should be omitted.

Rule 3(2) states, 'Residential street vendors are to be considered for all schemes under financial, skill and social inclusion.' This rule is against the principle of equality of the Constitution. The people of the nation

should not be discriminated based on domicile status. It is therefore suggested that all street vendors be treated equally and identity cards should be issued to all the vendors irrespective of their state of origin.

DEFINITION OF 'PUBLIC PURPOSE' NOT A PREROGATIVE OF THE STATE GOVERNMENT

Rule 3(1)(s) has defined 'public purpose'. The Act makes it clear [Second Schedule, Clause (n)] that public purpose is to be defined in the Scheme, by State Governments in consultation with the TVC. Therefore, insertion of the definition of public purpose would be ultra vires the Act, and beyond the rule-making powers. Hence it should be omitted from the Rules.

MINIMUM AGE OF VENDING

The parent Act [Section 3(1)] states that every street vendor who has completed the age of fourteen years shall be issued a Certificate of Vending or such age may be prescribed by the appropriate Government. The Andhra Pradesh Rules allow Certificate of Vending to be given to the street vendors who have completed eighteen years of age.

UNDEMOCRATIC TVC FORMATION PROCESS

Rule 4(1)(ii) states that the non-official TVC members shall be elected/selected as per the procedure. The

formation of the TVC should be through election only and not by either process. Such ambiguity in the Rules should be removed. It is recommended that this Rule be replaced by 'Manner of elections among street vendors' as defined in Section 2(j) of the Model Rules. The election of street vendors to the TVC should be through a democratic process of elections only after conducting a survey of all the street vendors.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Although Rule 4(13) provides for the local authority to provide adequate staff as requested by the TVC to conduct its business, it also mentions that no permanent burden should be created by the TVC on account of the establishment cost. Since the functions of the TVC are permanent in nature and would require these resources as long as it exists, this rule should be amended by defining the needs (human and infrastructural) of the TVC and the resources to be provided by the urban local body (ULB) for its proper functioning. This may include a clerk, secretary, a nodal officer of suitable experience, group-D staff and required infrastructure as recommended in the Model Rules. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

Rule 4(6)(a)(vi) states that, 'Minutes of the meeting will be signed by the chairperson and would be put up in the subsequent meeting of the Town Vending Committee'. To promote transparency in its business, it is recommended that the decisions of the TVC should be signed by all the members present at the meeting and the same should also be uploaded on the website of the local authority.

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute redressal committee (DRC) within 30 days from the day of occurrence of any incident causing the grievance [Rule 5(2)(ii)]. It is suggested that the street vendor be given adequate time, at least 60 days to file the complaint.

OTHER ASPECTS MISSING

The Rules miss out providing clarity on other issues such as qualifications of non-official members, removal of members of the TVC and DRC. Therefore, it is recommended that such details as listed in the Model Rules be included to make the Rules more lucid.

3. BIHAR

The major contention with the Rules is the mode of selection of street vendors in the Town Vending Committee (TVC), instead of an election system. This process is undemocratic and against the spirit of the Act.

UNDEMOCRATIC TVC FORMATION PROCESS

Rule 4 states that the appointment of street vendors in the TVC will be by selection and not by election. This process takes away the agency from street vendors. Therefore, the Rule should be amended immediately and the street vendor's representatives should be elected by the street vendors [as recommended in Section 2 (h), (i) and (j) of the Model Rules] to ensure that the formation of the TVC is just and has rightful representation of the street vendors.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 6(4) states that 'meeting of the committee will be held at least once every three months'. To ensure the smooth functioning of the TVC this Rule should be amended to at least one meeting of the TVC each month as this will help address the problems faced by the street vendors in a timely manner and expedite decision making.

Rule 6(9) defines the quorum for the TVC meeting to be at least one-third of the total members of the TVC. To maintain democratic nature of the process and ensure official members are not making decisions on their own, the quorum for the meeting should be at least two-thirds of the total TVC members. This is the standard norm followed by other states (Chandigarh, Goa, Gujarat, Himachal Pradesh, Karnataka, Kerala,

Lakshadweep, Manipur, Maharashtra, Sikkim and Tripura) as well.

Although Rule 9 states that the local authority will provide permanent office and adequate staff as requested by the TVC, it also mentions that no permanent burden should be created by the TVC. Since the functions of the TVC are permanent in nature and it would require these resources as long as it exists, this rule should be amended by properly defining the needs (human and infrastructural) of the TVC and the resources to be provided by the urban local body (ULB) for its proper functioning. This may include a clerk, secretary, nodal officer of suitable experience, group-D staff and required infrastructure.

4. CHANDIGARH

The Chandigarh Rules have been drafted comprehensively as it provides details on all aspects as mentioned under Section 36 (Power to make Rules) of the parent Act. There are a few changes that are proposed for better implementation of the Act.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 19(1) states that 'a TVC shall ordinarily hold at least one meeting within a period of three months or at any such intervals as the Chairperson of the Town Vending Committee may decide for the transaction of its business'. To ensure the smooth functioning of the TVC, this Rule should be amended to monthly TVC meetings as this will help address the problems faced by street vendors in a timely manner and expedite decision making.

Rule (23) states that on the request of the TVC, the local authority may provide employees to the TVC to discharge its responsibilities efficiently. However, it is imperative that the resources (human and infrastructural) required for proper functioning of the TVC be clearly laid out. The resources ideally required may include a clerk, secretary, nodal officer of suitable experience, group-D staff and required stationery and computers/telephone and any such infrastructure

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute redressal committee (DRC) within 30 days from the day of occurrence of any incident causing the grievance (Section 11). It is suggested that the street vendor be given adequate time, at least 60 days to file the complaint.

OTHER ASPECTS MISSING

The Rules miss out in providing clarity on other issues such as the qualification of some non-official members, removal of members/filling vacancies of the DRC. There is no explicit mention of undertaking welfare schemes. These aspects should be included as well.

required to manage an office and should be clearly defined in the Rules.

Rule (19) mentions that the minutes of the meeting will be signed by the Chairperson and would be circulated and published on the website. To promote transparency in its business and avoid the existence of ghost members, it is proposed that the decisions of the TVC be signed by all the members present at meeting and not just the Chairperson.

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute redressal committee (DRC) within 30 days from the day of occurrence of any incident causing grievance. It is suggested that the street vendor be given adequate time, at least 60 days to file the complaint.

OTHER ASPECTS MISSING

Though social auditing and returns to be furnished finds a mention under the functions of the TVC section, the Rules do not provide a detailed explanation about how this should be conducted. It is, therefore, suggested that the procedure for these activities be defined under the schedule. The Rules should also provide details in case of removal of TVC members.

5. CHHATTISGARH

Although the Chhattisgarh Government notified the Rules shortly after the passing of one year since the commencement of the Act, it is one of the most poorly drafted Rules among all States. The Rules provide details only on a few aspects, leaving out key areas that need to be covered. Besides being inadequate, the Rules are vague and unclear and should be revised on the lines of the Model Rules provided in this report.

MINIMUM AGE OF VENDING

Regarding the age of vending, the parent Act [Section 3(1)] states that every street vendor who has completed the age of fourteen years shall be issued a Certificate of Vending or such age may be prescribed by the appropriate Government. The Chhattisgarh Rules state that the minimum age for street vending shall be eighteen years.

UNDEMOCRATIC TVC FORMATION PROCESS

Rule 5(2)(e) states, 'The Vendors' guild shall nominate ten vendors, half of whom shall be women as members. Provided that, if there is no Vendors' Guild, the Municipal Officer shall nominate ten vendors, half of whom should be women, to serve as members.

This process is undemocratic and takes away the agency from street vendors. The Rule should be amended immediately and the street vendor's representatives should be elected by the street vendors [as recommended in Section 2 (h), (i) and (j) of the Model Rules] to ensure that the formation of the TVC is just and has rightful representation of the street vendors.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 5(5) suggests that the time between two meetings of the TVC should not be more than three months. To ensure the smooth functioning of the TVC, this Rule should be amended to monthly TVC meetings as this will help address the problems faced by street vendors in a timely manner and would also expedite decision making.

Rule 6 mentions the provision of a rent-free office space for TVC. This Rule should be amended to

include other resources (human and infrastructural) required for discharge of duties of the TVC such as a clerk, secretary, nodal officer of suitable experience, group-D staff and required stationery and computers/ telephone and any such infrastructure required to manage an office.

CURRENT FORM OF RULES REFLECTS AN INCOMPLETE DOCUMENT

The Chhattisgarh Rules do not seem to represent a serious intent to change the status quo. The current Rules fail to provide clarity on key aspects required for the Act to have full effect. The aspects that need to be incorporated in the current Rules are:

- a. The form and the manner of making an application
- b. The form, period and manner of filing appeal with the local authority
- c. The persons and the experience such persons shall have for the dispute redressal committee
- d. The manner of verification and enquiry on receipt of grievance or dispute,
- e. The time within which and the manner in which steps for redressal of grievances and resolution of disputes may be taken
- f. The form, the time within which and the manner in which an appeal shall be filed and disposed off
- g. The term of, and the manner of constituting the Town Vending Committee
- h. The manner of elections among street vendors
- i. The allowances to Chairperson and members
- j. Functions to be discharged by the Town Vending Committee
- k. The manner and the purpose for which a person may be associated
- l. The allowances to be paid to an associated person
- m. The other employees of Town Vending Committee
- n. The manner of maintaining up to date record of all street vendors
- o. The returns to be furnished
- p. The manner of publishing summary of scheme

6. DELHI

The Delhi Rules were notified on 11 January 2018. The Rules are well drafted and comprehensive. However there are a few changes that should be made which are discussed below.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

To promote transparency in its business, the decisions of the TVC should be signed by all the members present and the minutes of the meeting should also be uploaded on the website of the local authority. Section 19 of the Rules should be amended to include the aforementioned provisions.

Further, the Rules state a meeting of the TVC is to be called once in three months which is not desirable for the smooth functioning of the TVC. Therefore, Rule 19(1) should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited.

It is also necessary that the Rules have provision for a requisition (special) meeting that can be called by 40 per cent members of the TVC. Such a provision exists in all states except Delhi, Meghalaya, Maharashtra, Tamil Nadu and Uttarakhand. This is to ensure that other members (other than the Chairperson) can call

a meeting too in case any important issue requires urgent attention.

Rule 20(i) defines the quorum for the TVC meeting to be one-third of the total members of the TVC. To maintain the democratic nature of the process and ensure official members are not making decisions arbitrarily, the quorum for the meeting should be at least two-thirds of the total members of the TVC. This is the standard norm followed by other States/UTs such as Chandigarh, Goa, Gujarat, Himachal Pradesh, Karnataka, Kerala, Lakshadweep, Manipur, Maharashtra, Sikkim and Tripura.

Rule 23 does not properly define the requirements of the TVC. This Rule should be amended to provide additional facilities such as dedicated staff—a clerk, secretary, nodal officer of suitable experience—and other resources required for smooth functioning of its business. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

OTHER ASPECTS MISSING

The Rules miss out in providing clarity on other issues such as the lack of well-defined parameters to remove TVC vendors and provision for non-harassment of vendors.

7. GOA

The Goa Rules were notified on 19 October 2016 in the official gazette. The Rules provide a lucid and coherent explanation about each aspect, leaving very little or no space for ambiguity. The Rules should particularly be lauded for clearly describing the election procedure. Although the document is fairly comprehensive, there are areas of improvement which should be taken up by the State.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 5(2) states that 'an ordinary meeting of the Town Vending Committee (TVC) shall be held at least every two months'. This rule should be amended to at least one meeting per month so that the problems faced

by the street vendors can be addressed in a timely manner and decision making can be expedited.

Rule 5(10) mentions that 'the minutes of the meeting shall be signed by the Chairperson and shall be put up in the subsequent meeting of TVC for confirmation.' To promote transparency in its business and avoid the existence of ghost members, it is proposed that the decisions of the TVC should be signed by all the members present at the meeting and not just the Chairperson.

Regarding resources required by the TVC to conduct its business, Rule (13) makes provision for a secretary, clerk and office peon. But other physical resources

such as an office, a meeting hall, computers/telephone and any such infrastructure required to manage an office are missing from the Rules. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process. Therefore, these resources should be incorporated as well.

MINIMUM AGE OF VENDING

Regarding the age of vending, the parent Act [Section 3(1)] states that every street vendor who has completed the age of fourteen years shall be issued a Certificate of Vending or such age as may be prescribed by the appropriate Government. The Goa Rule (23) states that the minimum age for street vending shall be eighteen years.

8. GUJARAT

The Gujarat Rules were notified on 18 October 2016 by the Gujarat Government Gazette. The Rules are comprehensive and well defined and include two features which are rarely found in other Acts. This includes Section 12, which requires the local authority to circulate a status paper of the street vending scenario in the city to help bring out its nuances. The other Rule is regarding the constitution of a sub-committee (Rule 14) to examine any specific issue that may crop up, from time to time, and to give suggestions/recommendations on the issues referred to it.

There are merits with the Rules framed, but there are some drawbacks too. The Rules begin by defining 'public purpose' which according to the parent Act is to be defined in the Scheme, by State governments in consultation with Town Vending Committees (TVCs), and is beyond the rule-making powers of the State.

MINIMUM AGE OF VENDING

Regarding the age of vending, the parent Act [Section 3(1)] states that every street vendor who has completed the age of fourteen years shall be issued a Certificate of Vending or such age may be prescribed by the appropriate Government. Gujarat Rule 3 states

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute redressal committee (DRC) within 30 days from the day of occurrence of any incident causing the grievance. It is suggested that the street vendor be given adequate time, at least 60 days to file the complaint.

OTHER ASPECTS MISSING

The Rule misses out in providing clarity on other issues such as the qualifications of non-official members, and removal of members of the DRC. Further, the Rule does not provide explicitly, in the functions of the TVC, the need to undertake social schemes. It does not contain provisions to make available civic amenities and other facilities like cold storage, etc

that the minimum age for street vending shall be eighteen years.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 10(10) states that, 'The meeting of the Town Vending Committee shall be held at least once in every six months' which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited

The Rule 10(8) mentions that 'the minutes of the meeting shall be signed by the Chairperson and shall be taken up in the subsequent meeting of TVC for confirmation.' To promote transparency in its business and avoid the existence of ghost members, it is proposed that the decisions of the TVC should be signed by all the members present at the meeting and not just the Chairperson.

Although Rule 17(1) provides for the local authority to provide adequate staff as requested by the TVC, it also mentions that no permanent burden should be

created by the TVC on account of the establishment cost. This Rule should be amended by properly defining needs of the TVC for its proper working. The functions of the TVC are permanent in nature and it would require these resources as long as it exists. This particular Rule should be amended to provide additional facilities such as dedicated staff—a clerk, secretary, nodal officer of suitable experience—and other resources required for smooth functioning of its business. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute redressal committee (DRC) within 30 days from the day of occurrence of any incident causing grievance. It is suggested that the street vendor be given adequate time, at least 60 days to file the complaint.

OTHER ASPECTS MISSING

The Rules miss out in providing clarity on other issues such as the removal of members of the DRC. Many promotional and social welfare/security functions of the TVC and duties of local authority find no mention. These issues are important and should be incorporated in the Rules as well.

9. HARYANA

The Haryana Rules were notified on 31 January 2017. The Rules begin by defining 'public purpose', which according to the parent Act is to be defined in the Scheme by the State in consultation with the Town Vending Committee (TVC), and is therefore beyond the rule-making powers of the State.

Besides this, the Rules have many gaps that need to be addressed.

MINIMUM AGE OF VENDING

Regarding the age of vending the parent Act [Section 3(1)] states that every street vendor who has completed the age of fourteen years shall be issued a Certificate of Vending or such age may be prescribed by the appropriate Government. Haryana Rule 3 states that the minimum age for street vending shall be eighteen years.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 11(1) states that 'a Town Vending Committee shall ordinarily hold at least one meeting within a period of three months' which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited

Further, the provision of calling a special meeting by the Chairperson on the request of one-third members of the TVC is also missing. This provision should be added to address important issues that require urgent attention. Another addition should be made regarding the quorum of the meetings of the TVC, which should be two-thirds of the total TVC members. It is important to maintain the democratic nature of this process and ensure that official members are not making decisions on their own.

The Rules do not mention the manner of recording and displaying the minutes of the meetings of the TVC in the public domain. To promote transparency in its business, it is recommended that the decisions of the TVC should be signed by all the members present at the meeting and the same should also be uploaded on the website of the local authority.

The Rules also lack the provision to provide resources to the TVC for the smooth implementation of the Act. This particular Rule should be included and would require defining human resources such as a secretary, clerk and office peon and physical resources such as an office, a meeting hall, computers/telephone and any such infrastructure required to manage an office.

EXORBITANT APPLICATION FEES

Schedule I (6) states that 'the candidates shall make security deposit of INR 25,000 in cash or demand draft or pay order along with the nomination papers. If a candidate fails to get less than one sixth of the votes polled, the security deposit shall be forfeited to the competent authority'. This Rule is impractical as this amount is too high to be paid by street vendors who have low incomes.

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute redressal committee (DRC) within 30 days from the day of occurrence of any incident causing grievance.

It is suggested that the street vendor be given adequate time, at least 60 days to file the complaint.

OTHER ASPECTS MISSING

The Rule miss out in providing clarity on other issues such as the DRC—its members, manner of filing applications, time-frame for filing and disposal of applications, removal of members of the committee. There is also no mention of the resources required to conduct the business of the TVC, the quorum of meetings, provision for calling special meetings, filling vacancies, qualification of non-official members, manner of maintaining records, etc. Duties of authorities such as making available cold storage, sanitation, etc are also missing. These aspects are important and should be included within the ambit of the Rules.

10. HIMACHAL PRADESH

The Himachal Pradesh Rules were notified by the government on 5 December 2016. One crucial aspect that the Rules have addressed is incorporating the concept of Provisional Town Vending Committees (TVC) (Rule 5). The role of this committee is to conduct the surveys and facilitate formation of the permanent TVC. This Rule is a logical step towards the formation of the permanent TVC which other states have missed. Hence, it should be incorporated in other states as well.

The Rules should be lauded for Section 12 which requires the local authority to circulate a status paper of the street vending scenario in the city, which could help bring out the nuances of the street vending scenario in the city.

Besides these, the Rules also have a provision for the constitution of a sub-committee (Rule 14) to examine any specific issue that may crop up, from time to time, and to offer suggestions/recommendations on the issues referred to it.

Although the Rules are defined with clarity and have certain distinct features, there are certain gaps that need to be addressed as well. To begin with, the definition of 'public purpose' needs to be omitted from the Rules as the Second Schedule, Clause (n) of the

parent Act states that public purpose is to be defined in the Scheme, by the State in consultation with the TVC. Therefore, insertion of the definition of public purpose as Rule 2(e) would be ultra vires the Act, and beyond the powers of the State.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 10(10) states that 'The meeting of the Town Vending Committee shall be held at least once in every two months.' which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited

Further, the provision of calling a special meeting by the Chairperson on the request of one-third TVC members is also missing. This provision should be added to address any important issue that requires urgent attention.

Rule 10(8) mentions that 'the minutes of the meeting shall be signed by the Chairperson and shall be placed in the subsequent meeting of TVC for confirmation.' To promote transparency in its business and avoid the existence of ghost members, it is proposed that the decisions of the TVC should be signed by all

the members present and the same should also be uploaded on the website of the local authority.

Although Rule 17 requires the local authority to provide adequate staff as requested by the TVC, it also mentions that no permanent burden should be created by the TVC on account of the establishment cost. Since the functions of the TVC are permanent in nature it would require these resources as long as it exists. Therefore, this Rule should be amended by properly defining the needs (human and infrastructural) of the TVC and the resources to be provided by the urban local body (ULB) for its proper functioning. This may include a clerk, secretary, nodal officer of suitable experience, group-D staff and required infrastructure.

11. KERALA

The Kerala Rules lack clarity. The manner of formation of the Town Vending Committee (TVC) is by selection and not through election and the Dispute Redressal Committee (DRC) is only present in the capital city. The Rules do not have any attached schedules or templates of forms to be filled for filing nomination for election, application form for grievance redressal and dispute resolution, application form for appeal to the local authority, annual reports and other returns to be furnished by TVC, etc. This makes the Rules inadequate. Required templates should be attached to the schedule.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 6(xi) states that 'The meeting of the Town Vending Committee shall be held at least once in every two months' which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited.

Although Rule 17 provides for the local authority to provide adequate staff as requested by the TVC, it also mentions that no permanent burden should be created by the TVC on account of the establishment cost. This Rule should be amended by properly defining needs of the TVC for its proper working. The

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute redressal committee (DRC) within 30 days from the day of occurrence of any incident causing grievance. It is suggested that the street vendor be given adequate time, at least 60 days to file the complaint.

OTHER ASPECTS MISSING

The Rules miss out in providing clarity on other issues such as qualifications of members and removal of members of the DRC. Functions of the TVC of a social nature such as security schemes and making available credit does not find a mention in the Rules.

functions of the TVC are permanent in nature and it would require these resources as long as it exists. This particular Rule should be amended to provide additional facilities such as dedicated staff—a clerk, secretary, nodal officer of suitable experience—and other resources required for smooth functioning of its business. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

INACCESSIBLE GRC

Rule 16 point 3 states that 'the place of sitting of GRC will be at Thiruvananthapuram'. This would be inconvenient and unapproachable for street vendors who live in distant areas. Therefore, the proposed change is that the State government should constitute one grievance redressal committee for every local authority, which will be located at the district headquarters.

LIMITED TIME TO APPROACH THE DRC

The Rule provides provision for filing an appeal against the decision of the DRC within 30 days. In case the street vendor fails to do so due to unavoidable reasons, the Rule does not provide any flexibility/provision for filing the application. It is suggested that the street vendor be given adequate time, at least 60 days to file the complaint.

UNDEMOCRATIC TVC FORMATION PROCESS

Rule 4(2)(iv) states that 'if there is registered association of street vendors in the city level, then the office bearer can nominate one member from each association. If there is more/less than ten registered associations, then the council can select from the panel of persons, nominated by the association, considering the membership strength of the association.' This process takes away the agency from street vendors. Therefore, the process of selection of street vendors should only be by elections and not selection.

LACK OF CLARITY ON OTHER ASPECTS

The Rules do not have any attached schedules or templates of forms to be filled for filing nomination

for election, application form for grievance redressal and dispute resolution, application form for appeal to the local authority, annual reports and other returns to be furnished by TVC, etc. This makes the Rules inadequate. These template should be attached in the Schedule.

OTHER ASPECTS MISSING

The Rules miss out in providing clarity on other issues such as the removal of members of the TVC and the DRC, qualifications of non-official members, etc. Also missing are provisions for other social functions of the TVC like providing special schemes for the well being of vendors like social security, etc. These aspects are important and should be included within the ambit of the State Rules.

12. LAKSHADWEEP

The Lakshadweep Rules were notified on 27 July 2015. The Rules are well-defined, but could be improved with the following minor changes.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 19(1) states that 'a TVC shall ordinarily hold at least one meeting within three months' which is not desirable for the smooth functioning of the Town Vending Committee (TVC). Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited.

Rule 20(3) mentions that 'the minutes of the meeting shall be signed by the Chairperson'. To promote transparency in its business and avoid the existence of ghost members, it is proposed that the decisions of the TVC should be signed by all the members present and the same should also be uploaded on the website of the local authority.

Regarding resources required by the TVC to conduct its business, Rule (23) provides provision for local authorities to provide employees as the local authority considers necessary for the discharge of its duties.

It is recommended that for the proper functioning of the TVC, these resources should be clearly defined and be requested by the TVC themselves. This would require defining human resources such as a secretary, clerk and office peon and physical resources such as an office, a meeting hall, computers/telephone and any such infrastructure required to manage an office which are missing from the Rules.

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute redressal committee (DRC) within 30 days from the day of occurrence of any incident causing the grievance. It is suggested that the street vendor be given adequate time, at least 60 days to file the complaint.

OTHER ASPECTS MISSING

The Rule miss out in providing clarity on other issues such as the qualifications of non-official members. There is a lack of mention of duties of the local authority such as providing cold storage, sanitation etc. These aspects should be incorporated in the Rules as well.

13. MAHARASHTRA

The Rules for Maharashtra are well drafted and comprehensive. A few changes are suggested as follows:

LIMITED TIME TO APPROACH THE DRC

Rule 6(5) states that the application to the grievance redressal committee shall be filed by the street vendor within 30 days from the date of occurrence of any incidence or order, causing the grievance or dispute'. The time period needs to be expanded to at least 60 days to provide enough time for a proper appeal.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

The Rule 22(3) mentions that 'the minutes of the meeting shall be signed by the Chairperson'. To promote transparency in its business and avoid the presence of ghost members, the decisions of the Town Vending Committee (TVC) should be signed by all the members present at the meeting and should also be uploaded on the website of the local authority.

Further Rule 21(1) states that a meeting is to be called once in three months which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited.

It is also necessary that the Rules have provision for a requisition/special meeting that can be called by one-third members of the TVC as found in many other State Rules. All states except Delhi, Maharashtra, Meghalaya, Tamil Nadu and Uttarakhand have this provision. This is to ensure that other members too can call a meeting to discuss urgent/important issues that come to their notice.

OTHER ASPECTS MISSING

The Rules miss out in providing clarity on other issues such as defining grounds for removal of TVC and DRC members. Some of the functions of the TVC, such as enhancing vendor awareness of rights is also missing. Details about these aspects should be included so that there is no room for ambiguity in the State Rules.

14. MANIPUR

The Manipur Rules were notified by the government on 2 May 2016. The Rules are self-explanatory and comprehensive. There are a few gaps that should be addressed as mentioned:

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 19(1) states that 'a TVC shall ordinarily hold at least one meeting within three months' which is not desirable for the smooth functioning of the Town Vending Committee (TVC). Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited.

Rule 20(3) mentions that 'the minutes of the meeting shall be signed by the Chairperson'. To promote transparency in its business and avoid the existence of ghost members, the decisions of the TVC should be

signed by all the members present at the meeting and should also be uploaded on the website of the local authority.

Regarding resources required by the TVC to conduct its business, Rule (23) provides provision for local authorities to provide employees as the local authority considers necessary for the discharge of its duties. It is recommended that for the proper functioning of the TVC, these resources should be clearly defined and be requested by the TVC themselves. This would require defining human resources such as a secretary, clerk and office peon and physical resources such as an office, a meeting hall, computers/telephone and any such infrastructure required to manage an office.

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute

redressal committee (DRC) within 30 days from the day of occurrence of any incident causing the grievance. It is suggested that the time period needs to be expanded to at least 60 days to provide enough time for a proper appeal.

15. MEGHALAYA

The Meghalaya Rules were notified on 19 December 2016. The major issue in the Rules is that it does not provide 40 per cent representation to street vendors in the Town Vending Committee (TVC) and has failed to recognise the importance of elections. The Rules are quite poorly drafted compared to other states. The other gaps in the Rules are discussed as follows:

NON-COMPLIANCE WITH TVC MEMBER REQUIREMENTS

The Rules do not mention about the parent Act stipulated requirement of 40 per cent representation of street vendors in the TVC and 10 per cent representation from non-profits and community based organisations. The current Rule 3(1) provides only 14 per cent representation to street vendors which is against the Act. This Rule should be amended immediately and vendors' representation should be increased to at least 40 per cent, with one-third members representing women vendors.

FLAWED SYSTEM OF APPEAL AGAINST THE TVC DECISION

Another flaw in the Rules is regarding the manner of filing appeal by the street vendors against the decision or order of the TVC. Rule 15(ii) states that 'Provided that the appeal may also be summarily rejected on valid grounds in the first instance and to be spelt out in the form of speaking order'. According to this Rule there is no provision for documenting the grounds for rejecting an appeal filed by the street vendors. This Rule should be amended and a provision for documenting reasons for rejecting the appeal needs to be incorporated as oral decision making is open to misuse.

OTHER ASPECTS MISSING

The duties of the local authority regarding civic amenities and other facilities does not find mention along with some other functions of the TVC, such as spreading rights awareness among vendors and following up on cases of dispute redressal. These aspects need to be incorporated in the Rules as well.

UNDEMOCRATIC TVC FORMATION PROCESS

Rule 4(1) states that 'The Chairperson of the Town Vending Committee shall nominate the members of the Vendors Association'. The formation of the TVC by selection and not through election is undemocratic and against the prescribed norms of the Act. It is recommended that this Rule be replaced by 'Manner of elections among street vendors' as defined in Section 2(j) of the Model Rules. The election of street vendors to the TVC should be through a democratic process of elections only after conducting a survey of all the street vendors.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 3(iii) states that 'The Town Vending Committee shall meet as frequently as the situation demands and if possible at least once in a month' which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited. This Rule needs to be clearly defined and should not be ambiguous by incorporating terms such as 'if possible'.

Rule 8(v) states that the quorum for the meeting is merely one-third TVC members which allows for official members to take decisions on their own in the absence of non-official members. To promote transparency in its business, the decisions of the TVC should be signed by all the members present at the meeting and should also be uploaded on the website of the local authority. This checks against ghost members.

There is no provision for a requisition/special meeting by consensus of one-third members. It is desirable that this provision be incorporated as there may be instances when some issues need to be discussed and addressed urgently.

Rule 14 only provides for an office space to the TVC. This Rule should be amended by defining needs of the TVC for its proper working. The functions of the TVC are permanent in nature and would require these resources as long as it exists. This particular Rule should be amended to provide additional facilities such as dedicated staff—a clerk, secretary, nodal officer of

suitable experience—and other resources required for smooth functioning of its business. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

ABSENCE OF DISPUTE REDRESSAL COMMITTEE

No redressal committee has been provided for in the Rules which is a necessary requirement for providing justice to the vendors. The redressal committee is the body made of a civil judge or magistrate and two other members which will be responsible for taking appeals from vendors against arbitrary decisions of the TVC.

16. ODISHA

The Odisha Rules were notified on 7 July 2015. The major issue in the Rules is that the process of constituting the Town Vending Committee (TVC) is not by election but by selection. Further, it does not provide 40 per cent representation to street vendors as mandated by the Act. The Rules also miss out on functions to be performed by the TVC (though the essential function of welfare finds mention). Other gaps found in the Rules are discussed below.

UNDEMOCRATIC TVC FORMATION PROCESS

Rule 3(i) states that not more than four members from the street vendors' association are to be nominated by the Chairman. The formation of the TVC by selection and not through election is undemocratic and against the prescribed norms of the Act. It is recommended that this Rule be replaced by 'Manner of elections among street vendors' as defined in Section 2(j) of the Model Rules. The election of street vendors to the TVC should be through a democratic process of elections only after conducting a survey of all the street vendors.

NON-COMPLIANCE WITH TVC MEMBER REQUIREMENTS

The Rules miss the parent Act stipulated requirements of 40 per cent representation of street vendors in the TVC and 10 per cent representation from non-profits and community based organisations. The current Rule 3(1)(i) provides only for the provision of 'not more than

four representatives to be nominated by Chairperson from amongst the members of street vendors associations' which is against the Act. This Rule should be amended immediately and vendor's representation should be increased to at least 40 per cent, provided that one-third members representing the street vendors shall be amongst women vendors.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 4(2) states the quorum for meeting of the TVC to be five members which is not even a simple majority. Instead, the quorum should be two-thirds of the members and meeting minutes should be signed by all the members present in the meeting. This is to check that arbitrary decisions are not taken by just the official staff and ghost members do not exist.

Rule 3(2) only provides for an office space to the TVC. This Rule should be amended by properly defining needs of the TVC for its proper working. The functions of the TVC are permanent in nature and it would require these resources as long as it exists. This particular Rule should be amended to provide additional facilities such as dedicated staff—a clerk, secretary, nodal officer of suitable experience—and other resources required for smooth functioning of its business. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

STREET VENDORS CHARGED MONTHLY RENTAL

Rule 6(2)(e) determines the monthly rental (fee) payable by the street vendor. The street vendor should not be charged monthly rental and only be charged for the Certificate of Vending as done elsewhere.

OTHER ASPECTS MISSING

The Rules lack certain provisions such as a systemic process to follow-up cases of dispute pending before the dispute redressal committee and the local authority. The functions of the TVC do not mention social audit of its activities as laid under the Act. These aspects should also be incorporated in the State Rules.

17. PUNJAB

The Punjab Rules were notified on 12 February 2015. The Rules are problematic due to issues with the election process as it is by show of hands and not through ballot elections. The other issues include the age of vending, absence of some functions of the TVC relating to welfare of street vendors and the quorum in TVC meetings. The other gaps and changes suggested are mentioned as follows:

MINIMUM AGE OF VENDING

Regarding the age of vending, the parent Act [Section 3(1)] states that every street vendor who has completed the age of fourteen years shall be issued a Certificate of Vending or such age may be prescribed by the appropriate Government. Punjab State Rule 3 mentions that the minimum age for street vending shall be eighteen years.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 7(7) states the quorum for meetings of the Town Vending Committee (TVC) shall be one-fourth of its total members. To maintain the democratic nature of the process and ensure that official members are not making decisions on their own, the quorum for the meeting should be at least two-thirds of the total members of TVC. This is the standard norm followed by other states such as Chandigarh, Goa, Gujarat, Himachal Pradesh, Kerala, Lakshadweep, Manipur, Maharashtra, Sikkim and Tripura as well.

Further, Rule 7(5) mentions that the meetings of the TVC be conducted once every six months, which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the

street vendors can be addressed in a timely manner and decision making can be expedited

In addition, to promote transparency in its business the decisions of the TVC should be signed by all the members present at the meeting and should also be uploaded on the website of the local authority. This checks against ghost members too.

The requirement of resources is not clearly defined in the Rules. Hence Rule 10 should be amended by properly defining needs of the TVC for its proper working. The functions of the TVC are permanent in nature and it would require these resources as long as it exists. This particular Rule should be amended to provide additional facilities such as dedicated staff—a clerk, secretary, nodal officer of suitable experience—and other resources required for smooth functioning of its business. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

UNDEMOCRATIC TVC FORMATION PROCESS

Rule 7(4) states that 'the street vendors shall elect out of themselves such number of representatives as are mentioned in clause (viii) of sub rule (3) as members of the Town Vending Committee by show of hands in the presence of Chairperson of the town vending committee or an officer deputed by him'. It provides that street vendors will choose their representatives from among themselves by show of hands and the process for systematic election has been done away with. This process must be revised and TVC formation be driven by an election process.

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute redressal committee (DRC) within 30 days from the day of occurrence of any incident causing the grievance. It is suggested that the time period needs to be expanded to at least 60 days to provide enough time for a proper appeal.

OTHER ASPECTS MISSING

There is also a lack of mention regarding the conditions for the removal of members of both the TVC and DRC. The other important things missing are the register of appeals, issuing of identity cards, mention of other social functions of the TVC for the benefit of vendors (like those provided in the Goa Rules) and providing civic amenities. These aspects should be included in the Rules as well.

18. RAJASTHAN

The Rajasthan Rules were notified on 15 February 2016. The Rules mention a distinct clause 6(8)(ii) which states that 'an urgent meeting may also be convened when half of the members representing the street vendors so request the Chairperson of the TVC by putting a memorandum duly supported by not less than half of the non-official members'. There are a few gaps in the Rules that should be addressed, as explained:

MINIMUM AGE OF VENDING

Regarding the age of vending, the parent Act [Section 3(1)] states that every street vendor who has completed the age of fourteen years shall be issued a Certificate of Vending or such age may be prescribed by the appropriate Government. The Rajasthan Rule states that the minimum age for street vending shall be eighteen years.

NO PROVISION FOR EMPANELLING EXPERT PERSON FOR TVC

There is no provision for the incorporation of an expert person to work with the Town Vending Committee (TVC). Rule 24(1) of the parent Act states that 'The Town Vending Committee may associate with itself in such manner and for such purposes, as may be prescribed, any person whose assistance or advice it may desire, in carrying out any of the provisions of this Act.' This norm has been followed by all other states except Rajasthan and Uttarakhand. The Rule aims to help the TVC execute duties in a better way. Therefore, the provision of empanelling an expert person should be included in the Rules.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 6(8) states that 'The meeting of the Town Vending Committee shall be held quarterly i.e. at least a meeting in every three months' which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited.

Further, the manner of transaction of business of the TVC should be clearly laid out. For example, to promote transparency in its business and prevent the existence of ghost members, the decisions of the TVC should be signed by all the members present at the meeting and be uploaded on the website of the local authority. This provision is currently missing from the Rules.

Rule 6(1) only provides for an office space to the TVC and does not clearly define the staff that may be required for the TVC. This particular Rule should be amended to provide additional facilities such as dedicated staff—a clerk, secretary, nodal officer of suitable experience—and other resources required for smooth functioning of its business. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute redressal committee (DRC) within 30 days from the

day of occurrence of any incident causing grievance. It is suggested that the time period needs to be expanded to at least 60 days to provide enough time for a proper appeal.

OTHER ASPECTS MISSING

In the Rajasthan Rules, the removal of members of the TVC is not properly written whereas removal of members of the DRC is not mentioned at all. Many functions of the TVC like making available credit, pension schemes, and welfare schemes don't find explicit mention. These aspects should be included in the Rules as well.

19. SIKKIM

The Sikkim Rules were notified on 27 June 2017. Although the Rules cover major aspects, the State should amend the age of vending, the frequency of meetings of the Town Vending Committee (TVC) and certain functions of the TVC such as welfare, and informing street vendors about their rights.

MINIMUM AGE OF VENDING

Regarding the age of vending, the parent Act [Section 3(1)] states that every street vendor who has completed the age of fourteen years shall be issued a Certificate of Vending or such age may be prescribed by the appropriate Government. The Sikkim Rule states that the minimum age for street vending shall be eighteen years.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 19(1) provides a provision for a meeting within a period of three months which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited.

Additionally, to ensure transparency and participation in the meetings of the TVC, the minutes of the meeting should be signed by all members present in the meeting and not only the Chairperson. Therefore Rule 20(3) should be amended.

The requirement of resources by the TVC is not clearly defined in the Rules. Hence Rule 23 should be amended by defining needs of the TVC for its proper working. The functions of the TVC are permanent in nature and it would require these resources as long as it exists. This particular Rule should be amended to provide additional facilities such as dedicated staff—a clerk, secretary, nodal officer of suitable experience—and other resources required for smooth functioning of its business. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

LIMITED TIME TO APPROACH THE DRC

For redressal of grievances or resolution of disputes, a street vendor can file a complaint to the dispute redressal committee (DRC) within 30 days from the day of occurrence of any incident causing the grievance. It is suggested that the time period needs to be expanded to at least 60 days to provide enough time for a proper appeal.

OTHER ASPECTS MISSING

Functions such as welfare, and informing street vendors about their rights should be incorporated under the functions of the TVC. The other aspect found missing from the Rules was the details of qualifications of TVC members.

20. TAMIL NADU

The Tamil Nadu Rules are relatively meticulous compared to most states. Here are the following recommendations to further improve on the Rules:

NEED FOR TIMELY DISPUTE REDRESSAL

Rule 7(3) states that 'the Grievance Redressal and Dispute Resolution Committee shall fix a date for hearing of the application and shall issue notice of the hearing to the parties or shall cause a notice to be issued'. But no fixed time is given within which the hearing against the decision of the TVC will be done. It is hence necessary that the Grievance Redressal and Dispute Resolution Committee shall fix a date not exceeding 60 days for hearing of the application and shall issue notice of the hearing to the parties or shall cause a notice to be issued. This is important to ensure timely redressal of the grievances of street vendors.

EXORBITANT FEES FOR FILING APPLICATIONS

In the case of grievance, Rule 6(3) states that the application shall be submitted (by the street vendor) in triplicate and shall be accompanied by a fee of INR 500. Similarly, for filing the appeal, Rule 8(3) states that the appeal is to be submitted along with a fee of INR 500. This is an exorbitant amount compared to the income of the street vendors, discouraging them from filing complaints. Both these fee amounts should be reconsidered and scaled down to INR 100.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 18 states that 'the meeting of the TVC should be held once in three months' which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited.

There is no provision for a requisition/special meeting by the consensus of one-third TVC members. It is desirable that this provision be incorporated as

there may be instances when some issues need to be discussed and addressed urgently.

Another important issue missing from the Rule is regarding the quorum for the TVC meetings. Therefore, this addition should be made, which should be two-thirds of the total members of the TVC. It is important to maintain the democratic nature of the process and ensure that official members are not making decisions on their own.

Rule 19(2) states that the decisions by the TVC are to be taken by simple majority. This should be changed and should be with two-thirds of the members, half of which are non-official members and the minutes of the meeting should be signed by all the members present and then uploaded online. This is to check that arbitrary decisions are not taken by the official staff and ghost members do not exist.

Although Rule 24(1) provides a provision only for office space, this Rule should be amended to include other resources (human and infrastructural) required for discharge of duties of the TVC such as a clerk, secretary, nodal officer of suitable experience, group-D staff and required stationery and computers/telephone and any such infrastructure required to manage an office. The functions of the TVC are permanent in nature and would require these resources as long as it exists, therefore such resources should be clearly stated.

OTHER ASPECTS MISSING

The Rules lack certain provisions such as regarding removal of TVC members, many functions of the TVC are missing like disbursement of social security schemes, spreading awareness regarding legal rights of street vendors, quorum for TVC meetings, provision for calling a special meeting and manner for filling vacancies. These provisions should be incorporated in the State Rules as well.

21. TRIPURA

The Tripura Rules were notified on 17 June 2016. The Rules are quite well made covering most aspects and properly defining all the functions of the Town Vending Committee (TVC) as well as providing the manner and procedure for making other committees and their functions. The Rules also mention that the TVC will undertake welfare plans and credit and pension schemes which is rarely found in other State Rules. However one major gap is that the headquarter grievance redressal and resolution committee shall be in Agartala which will make the committee inaccessible for the street vendors.

Some of the improvements suggested for the Rules include:

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 11 states that 'a TVC shall ordinarily hold at least one meeting within a period of three months' which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited.

Rule 12(3) states that the minutes of the TVC meetings will be signed by the Chairperson and circulated amongst all members. To promote transparency in its business and check against the existence of ghost members, the decisions of the TVC should be signed by all the members present at the meeting and not just the Chairperson and the same should be uploaded on the website of the local authority.

Regarding resources required by the TVC to conduct its business, Rule (15) provides provision for local authorities to provide employees as the local authority

considers necessary for the discharge of its duties. It is recommended that for the proper functioning of the TVC, these resources should be clearly defined since the functions of the TVC are permanent in nature and it would require these resources as long as it exists. Therefore, this Rule should be amended by properly defining the needs (human and infrastructural) of the TVC and the resources to be provided by the urban local body for its proper functioning. This may include a clerk, secretary, a nodal officer of suitable experience, group-D staff and required infrastructure. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

INACCESSIBLE DISPUTE REDRESSAL COMMITTEE

Rule 16(3) provides that the headquarters for the grievance redressal and resolution committee shall be in Agartala. The redressal committee in Agartala is for half a million people. The next big town of Dharmanagar has a population of 46,000 people, which is 72 km away from Agartala. It would be inconvenient for street vendors who live in distant areas to file their complaints. Thus, redressal committees in other areas are required as well for timely resolution of complaints. Therefore, the proposed recommendation is that the State Government should constitute one grievance redressal committee for every local authority, which will be located at the district headquarters.

OTHER ASPECTS MISSING

The Rules lack certain provisions such as mentioning the qualification of members of the TVC and the role of the TVC in informing vendors of their rights. These aspects should be included in the State Rules as well.

22. UTTAR PRADESH

The Uttar Pradesh Rules were notified on 10 May 2017. The Rules lack clarity in a lot of places. Even the process of election of street vendors to the Town Vending Committee (TVC) is not clearly laid out. In addition, arbitrary powers have been given to officials under the Rules. Some of the issues regarding the Rules are summarised:

UNDEMOCRATIC TVC FORMATION PROCESS

There is a lot of ambiguity about the manner in which street vendors are to be elected to the TVC. Rule 5(e) mentions that 'the association of street vendors may elect its members out of the members applied thereof under clause (d) and recommend for membership of TVC'. Further Rule 5(h) states that 'if recommendations received are more than the required numbers, the municipality shall select the required members on the basis of lottery'.

Clause (d) of sub-section (2) of Section 22 of the parent Act states that 'the number of members representing the street vendors shall not be less than forty per cent who shall be elected by the street vendors themselves in such manner as may be prescribed'. The formation of the TVC by selection and not through election is undemocratic and against the prescribed norms of the Act. Therefore, the Rule should be amended immediately and the street vendor's representatives should be elected by the street vendors [as recommended in Section 2 (h), (i) and (j) of the Model Rules] to ensure that the formation of the TVC is just and has rightful representation of the street vendors.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

Rule 8 defines the quorum for the TVC meeting to be one-third of the total members of the TVC. To maintain the democratic nature of the process and ensure official members are not making decisions arbitrarily, the quorum for the meeting should be at least two-thirds of the total TVC members. No business should be transacted without this quorum. This is the standard norm followed by other states such as Chandigarh, Goa, Gujarat, Himachal

Pradesh, Karnataka, Kerala, Lakshadweep, Manipur, Maharashtra, Sikkim and Tripura as well.

Rule 7(1) mentions that 'the TVC should at least meet quarterly' which is not desirable for the smooth functioning of the TVC. Therefore, this Rule should be amended to at least one meeting per month so that the problems faced by the street vendors can be addressed in a timely manner and decision making can be expedited.

Although Rule 10 mentions that the municipality shall provide the TVC proper office space with adequate furniture and sufficient number of employees, it should be amended to provide additional facilities such as dedicated staff—a clerk, secretary, nodal officer of suitable experience—and other resources required for smooth functioning of its business. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

AMBIGUITY ABOUT THE DISPUTE REDRESSAL COMMITTEE

Although there is a provision for a dispute redressal committee, the details about the composition of its members and manner of filing complaints is not clearly mentioned in the Rules. This Rule should be amended by addressing the aforesaid gaps.

ARBITRARY EVICTIONS

Rule 20(1) (e) states that a street vendor may be evicted by the municipality if the municipality or any officer empowered by it in this behalf thinks it proper and justified. This Rule could be misused with the official giving any kind of reason to justify actions of evicting vendors. Therefore, this Rule should be deleted as it is against the interest of street vendors.

OTHER ASPECTS MISSING

The Rules lack many provisions such as important functions of TVC like welfare and credit, informing vendors about their rights, details about the proceedings of meetings of the TVC, qualifications of non-official members, and removal of members of the TVC. These aspects should be included in the State Rules as well.

23. UTTARAKHAND

The Rules are exhaustive yet quite a few important aspects have been missed. The Rules do not provide any details about the manner of elections of street vendors for the Town Vending Committee (TVC). Another major gap is that the Rules do not mention any provision for Dispute Redressal Committee (DRC).

ABSENCE OF DISPUTE REDRESSAL COMMITTEE

The Rules leave out the redressal committee fully. In case the vendors require appeal from the decisions of the TVC through a well-informed body, there is no mechanism to do so. As there is no DRC, other aspects such as the members of the DRC and appeal against the decision of the committee are not mentioned in the Rules as well. Therefore it is recommended that the provision for DRC be included in the current Rules according to Section 2(b) - 2(g) in the Model Rules.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

The provision for calling a requisition/special meeting by one-third members of the TVC is missing. This provision should be added to address any important issue that requires urgent attention.

Regarding resources required by the TVC to conduct its business, Rule 13 (2) provides provision for local authorities to provide proper office space and such employees as may be prescribed, but these resources should be clearly defined. Since the functions of the TVC are permanent in nature and it would require these resources as long as it exists, this Rule should be amended by properly defining the needs (human and infrastructural) of the TVC and the resources to be provided by the ULB for its proper functioning. This

may include a clerk, secretary, nodal officer of suitable experience, group-D staff and required infrastructure. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

NO PROVISION FOR EMPANELLING EXPERT PERSON FOR TVC

The Rules do not make provision for an expert person to be incorporated to help the TVC make better decisions and execute its duties in a better way. This norm has been followed by other states as well. Therefore, the provision of empanelling an expert person should be included in the Rules.

SALE OF FOOD ITEMS FORBIDDEN

According to 22(2)(xii) cooking of any nature whatsoever shall be forbidden. This essentially phases out a lot of common food items sold by vendors which need to be cooked and this Rule is unwarranted. This Rule is in contradiction to the definition of street vendor mentioned in section 2 (l) of the parent Act which states that 'street vendor means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, sidewalk, footpath, pavement...'

OTHER ASPECTS MISSING

The Rule lacks certain provisions such as removal of members of the DRC and TVC. Promotional measures, credit, and welfare are missing from the Rules as well, and should be included.

24. WEST BENGAL

The West Bengal Rules have been drafted poorly, lacking mention of certain pertinent issues that need to be covered and with provisions against the interests of the street vendors. The issues are elucidated below. The Rules have also, in instances, exceeded the powers given to States.

MINIMUM AGE OF VENDING

Regarding the age of vending, the parent Act [Section 3(1)] states that every street vendor who has completed the age of fourteen years shall be issued a Certificate of Vending or such age may be prescribed by the appropriate Government. The West Bengal Rule states that the minimum age for street vending shall be eighteen years.

UNDEMOCRATIC TVC FORMATION PROCESS

Rule 2 (b) states that the appointment of street vendors in the Town Vending Committee (TVC) will be by selection and not by election. This process takes away the agency from the street vendors. Therefore, the Rule should be amended immediately and the street vendor's representatives should be elected by the street vendors [as recommended in Section 2 (h), (i) and (j) of the Model Rules] to ensure that the formation of the TVC is just and has rightful representation of the street vendors.

Clause (d) of sub-section (2) of Section 22 of the parent Act states that 'the number of members representing the street vendors shall not be less than forty per cent who shall be elected by the street vendors themselves in such manner as may be prescribed'. Therefore, the formation of the TVC by selection and not through election is undemocratic and against the prescribed norms of the Act, and should be amended.

AMENDMENTS/CLARITY NEEDED ON TVC BUSINESS TRANSACTIONS

The Rules do not specify the frequency of conducting TVC meetings. Ideally, at least one meeting of the TVC should be held every month. Therefore, Rule 7(1) should be amended to provide this clarity. Even the manner of sharing TVC meeting minutes in the public domain is not clearly mentioned. To promote transparency in its business and prevent the existence of ghost members, the decisions of the TVC should be signed by all the members present at the meeting and should also be uploaded on the website of the local authority. Rule 7(4) should be amended in the aforesaid manner.

Rule 12 only provides for an office space to the TVC and says no permanent burden should be created. Since the functions of the TVC are permanent in nature and it would require these resources as long as it exists, this Rule should be amended by properly defining the needs (human and infrastructural) of the TVC and the resources to be provided by the ULB for its proper functioning. This may include a clerk, secretary, nodal officer of suitable experience, group-D staff and required infrastructure. It is imperative to define fully well what is needed by the TVC to properly function so that material requirements don't impede the work process.

CUT-OFF DATES FOR VENDING

Rule 9(b) states that after survey, for the preparation of detailed lists of existing vendors, the TVC in consultation with the local authority concerned shall fix a cut-off date after which any intending street vendor shall have to obtain license prior to starting a new business. This provision should be omitted as the machinery for providing the license is likely to be slow, based on the track record till date, and in the meantime the street vendors will be unable to work towards earning their livelihood.

ABSENCE OF THE DISPUTE REDRESSAL COMMITTEE

One major loophole in the Rules is the absence of the dispute redressal committee (DRC). A proper redressal committee needs to be provided, as is done in other states, to look after the interests of the vendors. DRC, being a proper judicial body, is suited to look after grievances of vendors.

DEFINING PUBLIC PURPOSE

The Act makes it clear [Second Schedule, Clause (n)] that public purpose is to be defined in the Scheme, by State Governments in consultation with TVC. Therefore, insertion of the definition of public purpose would be ultra vires the Act, and beyond the rule-making powers. Hence it should be omitted from the Rules.

RESTRICTIONS ON VENDORS

Rule 14(6) states that every vendor shall ensure that no traffic blockage occurs during vending time causing inconvenience to the general public. For this purpose, vending on the black top of the road is strictly prohibited. No vending on black top is a blanket statement and will completely exclude many mobile vendors.

OTHER ASPECTS MISSING

The Rules lack certain provisions such as regarding removal of TVC members and functions of TVC such as credit, social security, spreading awareness among vendors on rights awareness, etc.

Note: The West Bengal Rules were challenged in the West Bengal High Court due to its anti street vendor provisions. The Court took cognisance of the matter and has given a stay order on the current Rules. The aspects mentioned should be considered for inclusion/ amendment in the State Rules.

CHAPTER 4

CONCLUSION AND RECOMMENDATIONS

To conclude, there are a number of issues common to most of the Rules which should be collectively amended. Broadly speaking, there should be provision for non-harassment of street vendors, included in the Rules themselves as a policy point. Details regarding the qualification of non-official Town Vending Committee (TVC) members should be added in the State Rules too. It is important as those with no qualification or those with conflict of interests or mandate may end up causing issues in the quality of work undertaken by the TVC. In case of appointment of non-profit representatives, the non-profit shall be a registered trust/society which has submitted audited statement of accounts for at least three years, proving its credibility. The lead bank representative should be from a public service unit who has experience of lending for street vendors.

The principles of functioning of the redressal committee should be mentioned in the Rules, to offer guidelines for all the cases, instead of being discretionary in nature. The Chairman may be just a judicial magistrate and this may cause some issues for the rights of vendors as he would not be similar to a judge. Further, their authority for undertaking certain actions could end up lacking, which means they'll have significantly more difficulty in getting the evidence and disposing off the case.

The provisions are pointed hereafter

- For the purpose of deciding the disputes before the Committee, the Committee shall be guided by the principles of safeguarding the right to livelihood of the street vendors, the principle of no-harassment by the police and other authorities and the other principles in the Rules. The application may be made in writing on plain paper
- Before the disposal of the complaint, the Committee shall provide an opportunity of personal hearing to the complainant street vendor and permit her/him to adduce any evidence in regard to his complaint
- For the purpose of proceedings under this Act, the Dispute Redressal Committee shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:
 - i. summoning and enforcing attendance of any person and examining her/him on oath
 - ii. requiring the discovery and production of any document or any other material which can be produced as evidence
 - iii. requisitioning any public record or copy thereof from any court or office
 - iv. issuing commissions for the examination of witnesses or documents

RECOMMENDATIONS

To create Model State Rules, it is recommended that the Rules made by civil society organisations (Alternative Law Forum, National Hawker Federation and Human Rights Law Network) be combined with the Rules of Chandigarh, Delhi, Goa, Gujarat, Himachal Pradesh, Maharashtra, Manipur, Tamil Nadu and Tripura as the Rules of these states have been drafted comprehensively.

It is strongly recommended to review all the state Rules on parameters of the Model Rules, emerging out of a consultative process. This could be done through high quality deliberation through multi stakeholder consultation with state governments. This is to ensure that the letter and spirit of the Act is reflected in State Rules as well as in local actions.

Final outcomes of state level consultative process should lead to Model National Rules notification by the Ministry of Housing and Urban Affairs, Government of India. The Ministry of Housing and Urban Affairs should link the Deendayal Antyodaya Yojana (DAY) funds disbursement with compliance of Model Rules notified by the Ministry.

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ANNEXURE 1

DRAFT MODEL CENTRAL RULES FOR THE PROTECTION OF LIVELIHOODS OF STREET VENDORS AND REGULATING STREET VENDING

As suggested by National Hawker Federation, Human Rights Law Network and Alternative Law Forum

SEC	RULE	COMMENT
2.a	Age for Street Vending	<ul style="list-style-type: none"> The age for street vending shall be 14 years
2.b	Form, period, and manner of filing appeal (only for COV) with the local authority	<ul style="list-style-type: none"> This appeal cannot go to the local authority since the Commissioner, who heads the Town Vending Committee (TVC) also heads the local authority. Therefore this appeal must go to the Dispute Redressal Committee (DRC) in the following manner – A written appeal must be submitted within 60 days of the decision in question (suspension, cancellation) to the DRC, along with copies of relevant orders if any. The DRC shall then process the complaint as prescribed.
2. c	The persons and the experience such person shall have	<ul style="list-style-type: none"> One of the members has to be a woman One person must be a hawker/hawker union member or a social activist working with informal sector workers for at least 10 years Another representative may be a retired municipal employee or a retired labour dept employee
2. d	Form and manner of making application	<ul style="list-style-type: none"> The application may be made by writing on white paper Any relevant documents must be attached with the letter The application shall be signed by the applicant and presented by him in person or through his authorized representative to the Grievance Redressal and Dispute Resolution Committee or such other person as may be authorised by the Committee in this behalf The application shall be filed in three sets and shall be accompanied by a fee of Rs 20 only The application shall be accompanied by a copy of the order or notice, if any, against which the application is made and other relevant documents
2. e	Manner of verification and enquiry on receipt of grievance or dispute. The time within which and the manner in which steps for redressal of grievances and resolution of disputes	<ul style="list-style-type: none"> For the purposes of deciding the disputes that come before the Committee, the Committee shall be guided by the principles of safeguarding the right to livelihood of the street vendors, the principle of no-harassment by the police and other authorities and the other principles in the rules. The application may be made in writing in plain paper Before the disposal of the complaint, the committee shall provide an opportunity of personal hearing to the complainant street vendor and permit her/him to adduce any evidence in regard to his complaint For the purpose of proceedings under this Act, the Grievance Redressal Committee shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely - <ul style="list-style-type: none"> summoning and enforcing attendance of any person and examining her/him on oath requiring the discovery and production of any document or any other material which can be produced as evidence requisitioning any public record or copy thereof from any court or office issuing commissions for the examination of witnesses or documents The committee shall pass orders within 45 days of receiving the complaint.

2. f/g	Form and time within which and the manner in which an appeal shall be disposed	<ul style="list-style-type: none"> Section 20(4) of the Act says that a decision of the DRC can be appealed to the local authority – this raises two concerns - the fact that this essentially means that the DRC cannot hear complaints against the local authority and additionally since the state government has constituted the DRC, appeals against the DRC cannot go to the ULB. The states shall therefore create a state level Appellate DRC to hear appeals against any of the orders of the DRC.
2. h	Term and manner of constituting the TVC	<ul style="list-style-type: none"> A temporary TVC may be constituted until the initial survey of street vendors as mandated in Section 3 of the act is completed. Post the survey, elections of street vendors have to be conducted. If any vendors are left out of the survey and have filed an appeal to be included in the survey, such vendors shall apply to be included in the electoral rolls Street Vendors shall constitute 50% of TVC Later elections shall have all certificate holding street vendors as the Electoral College. Elections will be on a non-party basis. The ULB shall fund the elections. If the number of candidates is equal to the number of positions vacant, then there shall be a unanimous election Preference shall be given to women, minorities, SC/ST and disabled, and transgender vendors Reservation of street vendors based on caste shall be in accordance with their population (in various categories) Term of TVC shall be three years Member Secretary will be decided by the chairperson
2. i	Number of other members of TVC	<ul style="list-style-type: none"> The selection of nominated members of the TVC shall be done in a fair and transparent manner and none of those nominated should have been convicted in any case involving moral turpitude A representative of the Central Trade Union or a representative of the Labour Department shall be included in the TVC; A representative of the collector's office must be included in the TVC The Residents Welfare Association shall also include associations of Slum Residents. CBOs shall also Domestic Worker collectives, Municipal Cleaning Workers Unions and other collectives of the urban deprived communities
2. j	Manner of elections among street vendors	<p>The Local Authority shall by a notification express its intention to conduct elections for the members of a Town vending committee representing the street vendors of the area under the jurisdiction of the concerned Local Authority. The notification shall be issued before the term of the TVC ends, with sufficient time to complete the electoral process before the term of the TVC ends, so that the new TVC may be constituted immediately after the end of the term of an existing TVC. The concerned Local Authority shall appoint a returning officer for conducting the election of members of the Town vending committee(s) representing the street vendors of the area under the jurisdiction of the concerned Local Authority</p> <p>Procedure for the conduct of elections of members of a town vending Committee representing the street vendors in the area of the Jurisdiction thereof</p> <ol style="list-style-type: none"> The Local Authority concerned shall supervise, direct and control the conduct of elections of the members of a TVC representing the street vendors in the area of its jurisdiction As soon as the notification expressing the intention of the local authority to conduct elections for members of a TVC representing the street vendors has been issued under sub-rule (1) of rule 13 and a returning officer has been appointed for conducting the elections under sub-rule (2) of that rule, the local authority shall by a resolution determine the date, time and place for conduct of elections The notice of the resolution/decision of the local authority shall be circulated among the street vendors engaged in the vocation of street vending in the area of jurisdiction of the TVC, by any of the following modes, namely :- <ol style="list-style-type: none"> by public notice to be published in two prominent daily newspapers in Hindi, English or such other language as the Local Authority thinks fit by local delivery

		<p>(c) by post under certificate of posting</p> <p>(d) by speed post or courier services, duly registered with competent authority as well as on the notice board of the returning officer. The notice shall contain information regarding -</p> <p>(i) the number of members to be elected including seats reserved for representatives of Scheduled Castes, Other Backward classes, women, persons with disabilities, minorities or any other specified categories</p> <p>(ii) the date on which, the place at which and the hours between which nomination papers shall be filed, such date being not less than seven clear days before the date fixed for election or if that day happens to be public holiday, the next succeeding day which is not a public holiday (the term "public holiday" means any day which is a public holiday under section 25 of the Negotiable Instruments Act, 1881 [Central Act XXVI of 1881] or any day which has been notified by the Government to be a public holiday for offices under the Government)</p> <p>(iii) the date and the hour for scrutiny of the nomination papers</p> <p>(iv) the date, place, hours of polling</p> <p>4. The local authority shall prepare a list of street vendors engaged in the vocation of street vending in the area of jurisdiction of the TVC as it stood on thirty days before the date fixed for inviting the nominations, and publish copies of the said list by affixing them upon the notice board at the office of the TVC, not less than ten days prior to the date fixed for inviting nominations. The list shall specify the registration number/certificate of vending and the name of the street vendor, the name of the father or husband, as the case may be, and the address of the street vendor. It shall be the duty of the TVC or the local authority, as the case may be, to bring up-to-date register of street vendors and such other register as the returning officer may require and hand over such records, register or registers to the returning officer thirty days prior to the date fixed for the purpose of election. A copy of the list shall be supplied by the TVC or the local authority, or returning officer, as the case may be, to any street vendor on payment of such fee as specified by the local authority</p> <p>5. The nominations of the candidates for election shall be supplied by the returning officer to any street vendor, free of cost</p> <p>6. The candidate shall make a security deposit of Rs 2,000 in cash or bank draft or pay order along with the nomination papers. If a candidate fails to get less than one-sixth of the votes polled, the security deposit shall be forfeited to the local authority</p> <p>7. Every nomination paper shall be presented in person by the candidate himself or by his proposer or seconder to the returning officer. The returning officer shall enter on the nomination paper its serial number and certify the date and hour at which the nomination is received by him and shall immediately give a written acknowledgement for the receipt of the nomination paper which shall bear the seal of the TVC /returning officer. Any nomination paper which is not received on or before the date and time fixed for its receipt shall be rejected</p> <p>8.</p> <p>(i) On the day following the date fixed for the receipt of nomination papers, the returning officer shall take up the scrutiny of the nomination papers</p> <p>(ii) The returning officer shall examine the nomination papers and decide objections, which may be made by any person in respect of any nomination and may, either on such objection, or on his own motion and after such summary inquiry, if any, as the returning officer thinks necessary, reject any nomination: Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or the name of his proposer or seconder, or any other particulars relating to the candidate or his proposer or seconder, as entered in the list of street vendors referred to in clause 4 if the identity of the candidate, the proposer or seconder, as the case may be, is established beyond reasonable doubt</p> <p>(iii) the returning officer shall give all reasonable facilities to the contesting candidates or the proposer or seconder as the case may be, to examine all the nomination papers and to satisfy themselves that the inclusion of the name of the contesting candidate is valid</p>
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		<p>(iv) the returning officer shall endorse on each nomination paper his decision accepting or rejecting the same as the case may be, and if the nomination paper is rejected, he shall record in writing a brief statement of his reasons for such rejection</p> <p>(v) the returning officer shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riots or affray or by causes beyond his control</p> <p>9. The list of valid nominations as decided by the returning officer with names in English alphabetical order and addresses of the candidates as given in the nomination papers will be displayed/published on the same day on which the scrutiny of the nomination papers is completed.</p> <p>10. Any candidate may withdraw his candidature by notice in writing signed by him and submitted in person, at any time after the presentation of his nomination paper but before 5 pm on the day following the day on which the valid nominations are published to the returning officer of the TVC notice of withdrawal of candidates once given shall be irrevocable</p> <p>11. If the number of candidates who nomination papers have been declared valid, does not exceed the number of candidates to be elected, the returning officer shall announce the names of all such candidates and declare them to have been duly elected to the TVC after the closing hour of the day of withdrawal of candidatures fixed under clause 10 above. If the number of candidates whose nominations are valid exceeds the number to be elected, the returning officer shall arrange for conducting a poll on the date fixed for the purpose. The returning officer may appoint one or more polling officers as may be necessary for conducting the poll</p> <p>12. The local authority shall provide the returning office with ballot boxes, ballot papers copy of list of street vendors/voters and such other articles as may be necessary for the conduct of elections. The ballot box shall be so constructed that ballot papers can be inserted therein but cannot be taken out there from without the boxes being unlocked. A candidate contesting the election may, by a letter to the returning officer appoint an agent to represent him both where polling is held to identify the voters and to watch the recording of votes. Such letter shall contain the consent in writing of the agent</p> <p>13. Canvassing for votes by any person at the place where elections are to be conducted shall be prohibited</p> <p>14. Immediately before the commencement of the poll, the returning officer shall show the empty ballot box to such persons as may be present at the time and shall then lock it up and fix his seal. The candidate or his agent may also affix his own seal, if he so desires</p> <p>15. Every street vendor/voter who desires to exercise his right to vote shall be supplied with a ballot paper containing the names of contesting candidates arranged in the English Alphabetical order either printed, type written or cyclostyled, according to convenience, on the ballot paper. The ballot paper shall also bear the seal of the TVC and also the initials of the returning officer, and further contain a column, for the voter to inscribe a mark [x] against the names of persons to whom he wants to vote</p> <p>16. Each polling station and where there is more than one polling booth at a station, each such booth shall contain a separate compartment in which the street vendors/voters can record their votes in secrecy</p> <p>17. No ballot paper shall be issued to a street vendor/voter unless the polling officer is satisfied that the street vendor/voter concerned is the same person as noted in the list furnished to him. On receipt of such ballot paper the street vendor/voter shall proceed to the polling compartment set apart for the purpose and indicate the person or persons in whose favour he exercises his vote by inscribing a mark [x] against the names of the candidate or candidates, as the case may be, and put the ballot paper in the ballot box kept for the purpose with utmost secrecy. If owing to blindness or other physical infirmity or illiteracy, the street vendor/voter is unable to inscribe the mark on the ballot paper, the polling officer and where no such polling officer is appointed, the returning officer shall ascertain from him the candidate or candidates in whose favour he desired to vote, inscribe the mark [x] on his behalf and put the ballot paper in the ballot box</p> <p>18. If at any stage of the polling, the proceedings are interrupted or obstructed by any riot or affray or if at such elections, it is not possible to take the poll for any sufficient cause, the returning officer shall have the power to stop the polling, recording his reasons for such action in the minute book of the TVC</p>
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		<p>19. No street vendor/voter shall be admitted after the hours fixed for the poll but a voter, who enters the premises where ballot papers are being issued before the close of the polling hour shall be issued the ballot paper and allowed to vote</p> <p>20. The counting of votes shall take place immediately after close of the poll. If this is not possible, the ballot box shall be sealed with the seal of the returning officer and the contesting candidates or their agents, if they so desire, and deposit with the local authority for safe custody, the returning officer shall then announce the next day of counting. The votes shall be counted by or under the supervision of the returning officer. Each candidate and his authorized agent shall have a right to be present at the time of counting. But absence of any candidate or his agent at the time of counting shall not vitiate counting and announcement of results by returning officer. The number of votes secured by each candidate and the result of the elections shall be announced by the returning officer as soon as the counting is over</p> <p>21. The result of the elections shall also be recorded in the minute book of the TVC and attested by returning officer and shall also be notified immediately on the notice board of the TVC</p> <p>22. In case of equality of votes, the returning officer shall declare the election result by tossing coin</p> <p>23. The ballot paper shall be rejected by the returning officer if -</p> <ul style="list-style-type: none"> (i) it bears any mark by which the street vendor's vote can be identified (ii) it does not bear the seal of the TVC or the initials of the returning officer (iii) the mark indicating the vote thereon is placed in such a manner as to make it doubtful to which candidate the vote has been cast (iv) is so damaged or mutilated that its identity as a genuine ballot paper cannot be established <p>24. After the result of election has been announced, the result of the election and a report thereon shall be communicated to the local authority as well as to the government by the returning officer within three days after the declaration of result</p> <p>25. After the declaration of the result of the election, the returning officer shall handover the ballot paper and records relating to the elections of the members of the TVC to the local authority in a sealed cover. These shall safely be preserved by the local authority for the period of six months from the date of elections or till such time a dispute regarding elections, if any, filed is disposed of, whichever is later and shall thereafter be destroyed by the local authority and a copy of the handing over and taking over record of elections shall be sent to the government as well as local authority by the returning officer along with his report</p>
2. k	Allowances to chairperson and members	<ul style="list-style-type: none"> • On par with that received by the members of the local authority or as decided by the local authority
2. l	Time and place for meeting and functions to be discharged by the TVC	<p>Meeting of TVC</p> <ul style="list-style-type: none"> • Should meet at least once a month • The first meeting shall be at the headquarters of the local authority and the TVC can later decide the subsequent meeting venues • Member Secretary will issue the notice before seven days of scheduled meeting; agenda of items may be circulated to the members and put up on official designated website. Each agenda item should be accompanied by a detailed note bringing out the issues involved with clear recommendation by the administration. The agenda papers including the notes should be in the local language • Quorum – minimum two-third member of total strength of the TVC • Decision may be based on consensus where possible else will be based on the majority of present members • No meeting will be carried on in the absence of the quorum and meeting will be adjourned • Minutes of the meeting will be signed by the chairperson and would be put up in the subsequent meeting of the TVC for confirmation • Minutes of the meeting should be placed on the local body website or TVC may decide to have its own website. It must also be affixed on the notice boards of the TVC

		<ul style="list-style-type: none"> Rules or leave of absence and disqualification of the members shall be decided by the TVC. When a member remains absent for three consecutive meetings, Chairperson shall issue a show cause notice to the member asking him/her to explain the reasons for his/her absence within 2 weeks. If the member submits satisfactory reasons for absence they will be continued with warning, but if they fail to give any satisfactory reason or doesn't reply to the show cause notice, then their membership will be terminated from the committee. Any member convicted in any criminal case, involving moral turpitude, shall lose the membership of the TVC. Any member found guilty of violating any provision of the Act shall lose the membership of the TVC from the date of pronouncement of a decision declaring him guilty by a competent authority. There is no bar to re-election. However, change of the seating member after two consecutive periods will be desirable. The chairperson can call for a meeting on a specific issue on the request of minimum 1/3rd of the total members of TVC. It has to be called within 72 hours after receiving the request for the same from the required number of members. The first meeting of the TVC will be fixed within 15 days of the publication of the gazette notification. The TVC can decide to form smaller committees consisting of its members to examine and come up with suggestions on any specific issue which might crop up in this context from time to time. Smaller committees must have at least 50 % street vendors comprising the committee. After the procedural methods are finalized by the TVC, and before it takes up the regular business, the local authority concerned should circulate the status paper of the street vending scenario in the city or town amongst the members of the TVC concerned containing the following details: <ul style="list-style-type: none"> Areas of street vending in the city/town indicated in the maps. The number of street vendors in the city/town on case a survey has already been conducted otherwise indication can be given about the approximate numbers. Information should be given about the high footfall areas, lean footfall areas and mid-range areas from the street vending angle. Areas of seasonal vending areas of niche market, areas of night bazaars, the likely high footfall places in the areas under development. Broad categories of articles sold. <p>Functions of TVC</p> <ul style="list-style-type: none"> Final decision about vending zones along with their holding capacity as recommended by the local authority. Issuing, withholding, suspending and cancelling of the vending certificate as per Section 7 and Section 10 of the Act, along with Clause (f) and (k) of the Scheme must be adhered to. Getting the social audit initiated on the implementation of the Act. For deciding the zoning, the TVC may have the base materials/data from the local authority. The TVC shall give its inputs to the preparation of the Plan as per Schedule 1 of the act and preparation of the Scheme as per Schedule 2 of the act. The state government shall notify the scheme and plan only after considering the inputs of the TVCs. On the recommendation of the local authority, but not bound only by the same, the TVC shall declare the natural markets and heritage markets with their exact location and specific period and location in case of seasonal market or festive market. While making recommendations and suggesting changes about the vending zones, the TVC will have to take into consideration the viability of vending. The TVC must follow up cases of dispute pending before the Dispute Redressal Committee and the local authority. TVC must also identify new sites and spaces for vending and hawking and encourage unemployed youth to take up street vending as a vocation.
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		TVC should have its permanent office in the space allotted by the local authority. Local authority will provide adequate staff as requested by the TVC. State Government may support the ULBs in providing for staff, infrastructure and financial support for the TVCs for the first 5 years.
2. m	Manner and purpose for which a person may be associated	<ul style="list-style-type: none"> Subject to the provisions of the Act, a TVC may associate any suitable person of repute having adequate knowledge and experience in the field to advice on matter of street vending Such persons nominated shall not belong to organisations which is foreign owned or subsidiaries of foreign companies This person shall be selected in a fair and transparent manner These persons can take part in making decisions, but not voting The person must preferably have experience in or worked with the informal sector or with urban deprived communities
2. n	Allowances to be paid to an associated person	<ul style="list-style-type: none"> The allowances to be paid to an associated person(s) shall be determined by the TVC
2. o	Other employees of TVC	<ul style="list-style-type: none"> The TVC should have its permanent office in the space that is to be allotted in appropriate offices of the local authority, or any other premises close to the headquarters Local authority will provide adequate staff and resources as required by the TVC. The State Government must for the first five years after the passage of rules it shall support the local authority in the implementation of the Act
2. p	Manner of maintaining up to date record of all street vendors	<ul style="list-style-type: none"> Paper records of the TVC should be maintained by its secretariat in the place allotted by the local body and the soft copy should also be suitably maintained. All decisions taken by the TVC should be placed on designated website and put up at the TVC office for public viewing. The records relating to the allotment of the space to the street vendors should be kept for 10 years. Other records may be preserved for a period of 5 years, unless those are needed for any legal proceedings The street/road plan with the existing site of the street vending should be a permanent record with the TVC
2. q	Returns to be furnished	<ul style="list-style-type: none"> Annual report shall be prepared within three months after the completion of the financial year and should be uploaded on the designated website. Every TVC shall prepare and furnish to the government and local authority the following periodical returns for each year, namely – <ol style="list-style-type: none"> Survey <ol style="list-style-type: none"> The number of street vendors surveyed during the year Name of area and wards where survey work has been completed along with date of completion of survey Name of area and wards where survey work is in progress along with the date of start of survey and the date of likely completion The number of registered street vendors ward-wise as on the last day of the year Receipt and disposal of application for issue of certificate of vending <ol style="list-style-type: none"> The number of applicants (ward-wise) received for issue of certificate of vending during the year The number of applicants (ward-wise) disposed of during the year of which – <ol style="list-style-type: none"> The number of applications accepted The number of applications denied The number of applications pending on the last day of the year Cases of suspension of certificate of vending <ol style="list-style-type: none"> The number of cases in which action for suspension of certificate of vending initiated during the year

		<ul style="list-style-type: none"> b. The number of cases of suspension disposed of during the year of which <ul style="list-style-type: none"> i. The number of certificates of vending were suspended ii. The number of cases closed and the certificate of vending continued iii. The number of cases pending as on the last day of the year 4. Applications for revocation of suspension of certificate of vending <ul style="list-style-type: none"> a. The number of applications for the revocation of suspension of certificate of vending received during the year b. The number of applications received at (a) above disposed of during the year of which <ul style="list-style-type: none"> i. The number of applications where suspension revoked and the certificate of vending revalidated ii. The number of cases closed and suspension continued c. The number of applications for revocation of suspension pending as on the last date of the year 5. Cases of cancellation of certificate of vending <ul style="list-style-type: none"> a. The number of cases in which action for cancellation of certificate of vending initiated during the year b. The number of cases of cancellation of certificate of vending disposed of during the year of which <ul style="list-style-type: none"> i. The number of certificates of vending cancelled ii. The number of cases closed and certificate continued c. The number of cases pending on the last day of the year 6. The number of meeting of the TVC held during the year 7. Ward-wise list of vending zones identified along with the details such as ward, area/ colony, road, map of the vending zone, and the holding capacity 8. Ward-wise number of registered street vendors that have been accommodated in the notified vending zones 9. Other activities <ul style="list-style-type: none"> a. The social audit of its activities conducted during the year b. Promotional measures taken for making available credit, insurance and other welfare schemes of social security of the street vendors during the year c. Steps taken during the year to raise awareness among the public about the role of street vendors in the economy d. Steps taken to create new vending spaces e. Steps taken to encourage street vending as a means of livelihood
2. r	Manner of publishing summary of scheme	<ul style="list-style-type: none"> • The TVC has to ensure to publish the summary of those schemes in the three local newspapers – in the official language of the state and in English. The same Information can also be uploaded on official website of the TVC and the ULB after the state government publishes the notification specifying the schemes. • Publication of the schemes has to be made within seven days from the date of its notification by the state government • Pictorial, audio and Braille descriptions of the scheme should also be published and made available to street vendors upon request

ANNEXURE 2

THE STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) ACT, 2014

रजिस्ट्री सं० डी० एल०—(एन)04/0007/2003—14

REGISTERED NO. DL—(N)04/0007/2003—14



असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 8] नई दिल्ली, बुधवार, मार्च 5, 2014/ फाल्गुन 14, 1935 (शक)
No. 8] NEW DELHI, WEDNESDAY, MARCH 5, 2014/PHALGUNA 14, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th March, 2014/Phalguna 14, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 4th March, 2014, and is hereby published for general information:—

THE STREET VENDORS (PROTECTION OF LIVELIHOOD AND REGULATION OF STREET VENDING) ACT, 2014

(No. 7 OF 2014)

[4th March, 2014.]

An Act to protect the rights of urban street vendors and to regulate street vending activities and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Short title,
extent,
commencement
and
provisions.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

(4) The provisions of this Act shall not apply to any land, premises and trains owned and controlled by the Railways under the Railway Act, 1989.

24 of 1989.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in respect of matters relating to,—

(i) a Union territory without Legislature, the Central Government;

(ii) the Union territories with Legislature, the Government of the National Capital Territory of Delhi or, as the case may be, the Government of Union territory of Puducherry;

(iii) a State, the State Government;

(b) “holding capacity” means the maximum number of street vendors who can be accommodated in any vending zone and has been determined as such by the local authority on the recommendations of the Town Vending Committee;

(c) “local authority” means a Municipal Corporation or a Municipal Council or a Nagar Panchayat, by whatever name called, or the Cantonment Board, or as the case may be, a civil area committee appointed under section 47 of the Cantonment Act, 2006 or such other body entitled to function as a local authority in any city or town to provide civic services and regulate street vending and includes the “planning authority” which regulates the land use in that city or town;

41 of 2006.

(d) “mobile vendors” means street vendors who carry out vending activities in designated area by moving from one place to another place vending their goods and services;

(e) “natural market” means a market where sellers and buyers have traditionally congregated for the sale and purchase of products or services and has been determined as such by the local authority on the recommendations of the Town Vending Committee;

(f) “notification” means a notification published in the Official Gazette and the term “notify” shall be construed accordingly;

(g) “planning authority” means an Urban Development Authority or any other authority in any city or town designated by the appropriate Government as responsible for regulating the land use by defining the precise extent of areas for any particular activity in the master plan or development plan or zonal plan or layout plan or any other spatial plan which is legally enforceable under the applicable Town and Country Planning Act or the Urban Development Act or the Municipal Act, as the case may be;

(h) “prescribed” means prescribed by rules made under this Act by the appropriate Government;

(i) “Schedule” means the Schedule annexed to this Act;

(j) “scheme” means a scheme framed by the appropriate Government under section 38;

(k) “stationary vendors” means street vendors who carry out vending activities on regular basis at a specific location;

(l) “street vendor” means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place and

includes hawker, peddler, squatter and all other synonymous terms which may be local or region specific; and the words “street vending” with their grammatical variations and cognate expressions, shall be construed accordingly;

(m) “Town Vending Committee” means the body constituted by the appropriate Government under section 22;

(n) “vending zone” means an area or a place or a location designated as such by the local authority, on the recommendations of the Town Vending Committee, for the specific use by street vendors for street vending and includes footpath, side walk, pavement, embankment, portions of a street, waiting area for public or any such place considered suitable for vending activities and providing services to the general public.

(2) Any reference in this Act to any enactment or any provision thereof, shall, in relation to an area in which such enactment or such provision is not in force be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER II

REGULATION OF STREET VENDING

3. (1) The Town Vending Committee shall, within such period and in such manner as may be specified in the scheme, conduct a survey of all existing street vendors, within the area under its jurisdiction, and subsequent survey shall be carried out at least once in every five years.

Survey of street vendors and protection from eviction or relocation.

(2) The Town Vending Committee shall ensure that all existing street vendors, identified in the survey, are accommodated in the vending zones subject to a norm conforming to two and half per cent. of the population of the ward or zone or town or city, as the case may be, in accordance with the plan for street vending and the holding capacity of the vending zones.

(3) No street vendor shall be evicted or, as the case may be, relocated till the survey specified under sub-section (1) has been completed and the certificate of vending is issued to all street vendors.

4. (1) Every street vendor, identified under the survey carried out under sub-section (1) of section 3, who has completed the age of fourteen years or such age as may be prescribed by the appropriate Government, shall be issued a certificate of vending by the Town Vending Committee, subject to such terms and conditions and within the period specified in the scheme including the restrictions specified in the plan for street vending:

Issue of certificate of vending.

Provided that a person, whether or not included under the survey under sub-section (1) of section 3, who has been issued a certificate of vending before the commencement of this Act, whether known as licence or any other form of permission (whether as a stationary vendor or a mobile vendor or under any other category) shall be deemed to be a street vendor for that category for the period for which he has been issued such certificate of vending.

(2) Where, in the intervening period between two surveys, any person seeks to vend, the Town Vending Committee may grant a certificate of vending to such person, subject to the scheme, the plan for street vending and the holding capacity of the vending zones.

(3) Where the number of street vendors identified under sub-section (1) or the number of persons seeking to vend under sub-section (2) are more than the holding capacity of the vending zone and exceeds the number of persons to be accommodated in that vending zone, the Town Vending Committee shall carry out a draw of lots for issuing the certificate of vending for that vending zone and the remaining persons shall be accommodated in any adjoining vending zone to avoid relocation.

Conditions for
issue of
certificate of
vending.

5. (1) Every street vendor shall give an undertaking to the Town Vending Committee prior to the issue of a certificate of vending under section 4, that—

(a) he shall carry on the business of street vending himself or through any of his family member;

(b) he has no other means of livelihood:

(c) he shall not transfer in any manner whatsoever, including rent, the certificate of vending or the place specified therein to any other person.

(2) Where a street vendor to whom a certificate of vending is issued dies or suffers from any permanent disability or is ill, one of his family member in following order of priority, may vend in his place, till the validity of the certificate of vending—

(a) spouse of the street vendor;

(b) dependent child of the street vendor:

Provided that where a dispute arises as to who is entitled to vend in the place of the vendor, the matter shall be decided by the committee under section 20.

Categories of
certificate of
vending and
issue of
identity cards.

6. (1) The certificate of vending shall be issued under any of the following categories, namely:—

(a) a stationary vendor;

(b) a mobile vendor; or

(c) any other category as may be specified in the scheme.

(2) The certificate of vending issued for the categories specified in sub-section (1) shall be in such form, and issued in such manner, as may be specified in the scheme and specify the vending zone where the street vendor shall carry on his vending activities, the days and timings for carrying on such vending activities and the conditions and restrictions subject to which he shall carry on such vending activities.

(3) Every street vendor who has been issued certificate of vending under sub-section (1) shall be issued identity cards in such form and manner as may be specified in the scheme.

Criteria for
issuing
certificate of
vending.

7. The criteria to be followed by the Town Vending Committee for issuing certificate of vending to a street vendor shall be as specified in the scheme, which may, apart from other things, provide for preference to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, women, persons with disabilities, minorities or such other categories as may be specified in the scheme.

Vending fees.

8. Every street vendor who has been issued certificate of vending shall pay such vending fees as may be specified in the scheme.

Validity and
renewal of
certificate of
vending.

9. (1) Every certificate of vending shall be valid for such period as may be specified in the scheme.

(2) Every certificate of vending shall be renewable for such period, in such manner, and on payment of such fees, as may be specified in the scheme.

Cancellation
or suspension
of certificate
of vending.

10. Where a street vendor who has been issued a certificate of vending under this Act commits breach of any of the conditions thereof or any other terms and conditions specified for the purpose of regulating street vending under this Act or any rules or schemes made thereunder, or where the Town Vending Committee is satisfied that such certificate of vending has been secured by the street vendor through misrepresentation or fraud, the Town Vending Committee may, without prejudice to any other fine which may have been incurred by the street vendor under this Act, cancel the certificate of vending or suspend the same in such manner as may be specified in the scheme and for such period as it deems fit:

Provided that no such cancellation or suspension shall be made by the Town Vending Committee unless an opportunity of hearing has been given to the street vendor.

- 11.** (1) Any person who is aggrieved by any decision of the Town Vending Committee with respect to issue of certificate of vending under section 6 or cancellation or suspension of certificate of vending under section 10 may prefer an appeal to the local authority in such form, within such period, and in such manner, as may be prescribed.
- (2) No appeal shall be disposed of by the local authority unless the appellant has been given an opportunity of hearing.

Appeal from decision of Town Vending Committee.

CHAPTER III

RIGHTS AND OBLIGATIONS OF STREET VENDORS

- 12.** (1) Every street vendor shall have the right to carry on the business of street vending activities in accordance with the terms and conditions mentioned in the certificate of vending.
- (2) Notwithstanding anything contained in sub-section (1), where any area or space, as the case may be, has been earmarked as no-vending zone, no street vendor shall carry out any vending activities in that zone.
- 13.** Every street vendor, who possesses a certificate of vending, shall, in case of his relocation under section 18, be entitled for new site or area, as the case may be, for carrying out his vending activities as may be determined by the local authority, in consultation with the Town Vending Committee.
- 14.** Where a street vendor occupies space on a time sharing basis, he shall remove his goods and wares every day at the end of the time-sharing period allowed to him.
- 15.** Every street vendor shall maintain cleanliness and public hygiene in the vending zones and the adjoining areas.
- 16.** Every street vendor shall maintain civic amenities and public property in the vending zone in good condition and not damage or destroy or cause any damage or destruction to the same.
- 17.** Every street vendor shall pay such periodic maintenance charges for the civic amenities and facilities provided in the vending zones as may be determined by the local authority.

Rights of street vendor.

Right of street vendor for a new site or area on relocation.

Duty of street vendors.

Maintenance of cleanliness and public hygiene.

Maintenance of civic amenities in vending zone in good condition.

Payment of maintenance charges.

CHAPTER IV

RELOCATION AND EVICTION OF STREET VENDORS

- 18.** (1) The local authority may, on the recommendations of the Town Vending Committee, declare a zone or part of it to be a no-vending zone for any public purpose and relocate the street vendors vending in that area, in such manner as may be specified in the scheme.
- (2) The local authority shall evict such street vendor whose certificate of vending has been cancelled under section 10 or who does not have a certificate of vending and vends without such certificate, in such manner as may be specified in the scheme.
- (3) No street vendor shall be relocated or evicted by the local authority from the place specified in the certificate of vending unless he has been given thirty days' notice for the same in such manner as may be specified in the scheme.
- (4) A street vendor shall be relocated or evicted by the local authority physically in such manner as may be specified in the scheme only after he had failed to vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice.

Relocation or eviction of street vendors.

(5) Every street vendor who fails to relocate or vacate the place specified in the certificate of vending, after the expiry of the period specified in the notice, shall be liable to pay for every day of such default, a penalty which may extend up to two hundred and fifty rupees, as may be determined by the local authority, but shall not be more than the value of goods seized.

Seizure and reclaiming of goods.

19. (1) If the street vendor fails to vacate the place specified in the certificate of vending, after the lapse of the period specified in the notice given under sub-section (3) of section 18, the local authority, in addition to evicting the street vendor under section 18, may, if it deems necessary, seize the goods of such street vendor in such manner as may be specified in the scheme:

Provided that where any such seizure is carried out, a list of goods seized shall be prepared, as specified in the scheme, and a copy thereof, duly signed by the person authorised to seize the goods, shall be issued to the street vendor.

(2) The street vendor whose goods have been seized under sub-section (1) may, reclaim his goods in such manner, and after paying such fees, as may be specified in the scheme:

Provided that in case of non-perishable goods, the local authority shall release the goods within two working days of the claim being made by the street vendor, and in case of perishable goods the local authority shall release the goods on the same day of the claim being made by the street vendor.

CHAPTER V

DISPUTE REDRESSAL MECHANISM

Redressal of grievances or resolution of disputes of street vendors.

20. (1) The appropriate Government may constitute one or more committees consisting of a Chairperson who has been a civil judge or a judicial magistrate and two other professionals having such experience as may be prescribed for the purpose of deciding the applications received under sub-section (2):

Provided that no employee of the appropriate Government or the local authority shall be appointed as members of the committee.

(2) Every street vendor who has a grievance or dispute may make an application in writing to the committee constituted under sub-section (1) in such form and manner as may be prescribed.

(3) On receipt of grievance or dispute under sub-section (2), the committee referred to in sub-section (1) shall, after verification and enquiry in such manner, as may be prescribed, take steps for redressal of such grievance or resolution of such dispute, within such time and in such manner as may be prescribed.

(4) Any person who is aggrieved by the decision of the committee may prefer an appeal to the local authority in such form, within such time and in such manner as may be prescribed.

(5) The local authority shall dispose of the appeal received under sub-section (4) within such time and in such manner as may be prescribed:

Provided that the local authority shall, before disposing of the appeal, give an opportunity of being heard to the aggrieved person.

CHAPTER VI

PLAN FOR STREET VENDING

Plan for street vending.

21. (1) Every local authority shall, in consultation with the planning authority and on the recommendations of the Town Vending Committee, once in every five years, prepare a plan to promote the vocation of street vendors covering the matters contained in the First Schedule.

(2) The plan for street vending prepared by the local authority shall be submitted to the appropriate Government for approval and that Government shall, before notifying the plan, determine the norms applicable to the street vendors.

CHAPTER VII

TOWN VENDING COMMITTEE

22. (1) The appropriate Government may, by rules made in this behalf, provide for the term and the manner of constituting a Town Vending Committee in each local authority:

Town Vending Committee.

Provided that the appropriate Government may, if considers necessary, provide for constitution of more than one Town Vending Committee, or a Town Vending Committee for each zone or ward, in each local authority.

(2) Each Town Vending Committee shall consist of:—

(a) Municipal Commissioner or Chief Executive Officer, as the case may be, who shall be the Chairperson; and

(b) such number of other members as may be prescribed, to be nominated by the appropriate Government, representing the local authority, medical officer of the local authority, the planning authority, traffic police, police, association of street vendors, market associations, traders associations, non-governmental organisations, community based organisations, resident welfare associations, banks and such other interests as it deems proper;

(c) the number of members nominated to represent the non-governmental organisations and the community based organisations shall not be less than ten per cent.;

(d) the number of members representing the street vendors shall not be less than forty per cent. who shall be elected by the street vendors themselves in such manner as may be prescribed:

Provided that one-third of members representing the street vendors shall be from amongst women vendors:

Provided further that due representation shall be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities and persons with disabilities from amongst the members representing street vendors.

(3) The Chairperson and the members nominated under sub-section (2) shall receive such allowances as may be prescribed by the appropriate Government.

23. (1) The Town Vending Committee shall meet at such times and places within the jurisdiction of the local authority and shall observe such rules of procedure in regard to the transaction of business at its meetings, and discharge such functions, as may be prescribed.

Meetings of Town Vending Committee.

(2) Every decision of the Town Vending Committee shall be notified along with the reasons for taking such decision.

24. (1) The Town Vending Committee may associate with itself in such manner and for such purposes, as may be prescribed, any person whose assistance or advice it may desire, in carrying out any of the provisions of this Act.

Temporary association of persons with Town Vending Committee for particular purposes.

(2) A person associated under sub-section (1) shall be paid such allowances as may be prescribed.

25. The local authority shall provide the Town Vending Committee with appropriate office space and such employees as may be prescribed.

Office space and other employees for Town Vending Committee.

Publication of street vendor's charter and data-base and carrying out of social audit.

26. (1) Every Town Vending Committee shall publish the street vendor's charter specifying therein the time within which the certificate of vending shall be issued to a street vendor and the time within which such certificate of vending shall be renewed and other activities to be performed within the time limit specified therein.

(2) Every Town Vending Committee shall maintain up to date records of registered street vendors and street vendors to whom certificate of vending has been issued containing name of such street vendor, stall allotted to him, nature of business carried out by him, category of street vending and such other particulars which may be relevant to the street vendors, in such manner as may be prescribed.

(3) Every Town Vending Committee shall carry out social audit of its activities under the Act or the rules or the schemes made thereunder in such form and manner as may be specified in the scheme.

CHAPTER VIII

PREVENTION OF HARASSMENT OF STREET VENDORS

Prevention of harassment by police and other authorities.

27. Notwithstanding anything contained in any other law for the time being in force, no street vendor who carries on the street vending activities in accordance with the terms and conditions of his certificate of vending shall be prevented from exercising such rights by any person or police or any other authority exercising powers under any other law for the time being in force.

CHAPTER IX

PENAL PROVISIONS

Penalty for contraventions.

28. If any street vendor—

(a) indulges in vending activities without a certificate of vending;

(b) contravenes the terms of certificate of vending; or

(c) contravenes any other terms and conditions specified for the purpose of regulating street vending under this Act or any rules or schemes made thereunder,

he shall be liable to a penalty for each such offence which may extend up to rupees two thousand as may be determined by the local authority.

CHAPTER X

MISCELLANEOUS

Provisions of this Act, not to be construed as conferring ownership rights, etc.

29. (1) Nothing contained in this Act shall be construed as conferring upon a street vendor any temporary, permanent or perpetual right of carrying out vending activities in the vending zones allotted to him or in respect of any place on which he carries on such vending activity.

(2) Nothing contained in sub-section (1) shall apply to any stationery vendor, if a temporary leasehold or ownership right has been conferred on him by a lease deed or otherwise, in respect of a place at specific location where he carries on such vending activity in accordance with the provisions of any law for the time being in force for carrying out such vending activity.

Returns.

30. Every Town Vending Committee shall furnish, from time to time, to the appropriate Government and the local authority such returns as may be prescribed.

Promotional measures.

31. The appropriate Government may, in consultation with the Town Vending Committee, local authority, planning authority and street vendors associations or unions, undertake promotional measures of making available credit, insurance and other welfare schemes of social security for the street vendors.

<p>32. The appropriate Government may, to the extent of availability of financial and other resources,—</p>	<p>Research, training and awareness.</p>
<p>(a) organise capacity building programmes to enable the street vendors to exercise the rights contemplated under this Act;</p> <p>(b) undertake research, education and training programmes to advance knowledge and understanding of the role of the informal sector in the economy, in general and the street vendors, in particular and to raise awareness among the public through Town Vending Committee.</p>	
<p>33. The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.</p>	<p>Act to have overriding effect.</p>
<p>34. The appropriate Government may, by general or special order in writing, delegate such of its powers and functions under this Act (excluding the power to frame scheme under section 38 and power to make rules under section 36), as it may deem necessary, to the local authority or the Town Vending Committee or any other officer, subject to such conditions, if any, as may be specified in that order.</p>	<p>Powers to delegate.</p>
<p>35. (1) On the recommendations made by the appropriate Government or otherwise, if the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the Schedules and thereupon the First Schedule or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.</p>	<p>Power to amend Schedules.</p>
<p>(2) A copy of every notification issued under sub-section (1), shall be laid before each House of Parliament as soon as may be after it is issued.</p>	
<p>36. (1) The appropriate Government shall, within one year from the date of commencement of this Act, by notification, make rules for carrying out the provisions of this Act.</p>	<p>Power to make rules.</p>
<p>(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:—</p>	
<p>(a) the age for street vending under sub-section (1) of section 4;</p>	
<p>(b) the form, period and manner of filing appeal with the local authority under sub-section (1) of section 11;</p>	
<p>(c) the persons and the experience such person shall have under sub-section (1) of section 20;</p>	
<p>(d) the form and the manner of making application under sub-section (2) of section 20;</p>	
<p>(e) the manner of verification and enquiry on receipt of grievance or dispute, the time within which and the manner in which steps for redressal of grievances and resolution of disputes may be taken under sub-section (3) of section 20;</p>	
<p>(f) the form, the time within which and the manner in which an appeal may be filed under sub-section (4) of section 20;</p>	
<p>(g) the time within which and the manner in which an appeal shall be disposed of under sub-section (5) of section 20;</p>	
<p>(h) the term of, and the manner of constituting, the Town Vending Committee under sub-section (1) of section 22;</p>	
<p>(i) the number of other members of the Town Vending Committee under clause (b) of sub-section (2) of section 22;</p>	
<p>(j) the manner of elections among street vendors under clause (d) of sub-section (2) of section 22;</p>	
<p>(k) the allowances to Chairperson and members under sub-section (3) of section 22;</p>	

(l) the time and place for meeting, procedure for transaction of business at meetings and functions to be discharged by the Town Vending Committee under section 23;

(m) the manner and the purpose for which a person may be associated under sub-section (1) of section 24;

(n) the allowances to be paid to an associated person under sub-section (2) of section 24;

(o) the other employees of Town Vending Committee under section 25;

(p) the manner of maintaining up to date record of all street vendors under sub-section (2) of section 26;

(q) the returns to be furnished under section 30;

(r) the manner of publishing summary of scheme under sub-section (2) of section 38.

(3) Every rule and scheme made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, 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, both Houses agree in making any modification in the rule or scheme or both Houses agree that the rule or scheme should not be made, the rule or scheme 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 or scheme.

(4) Every rule or scheme made by the State Government under this Act shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House.

Power to
make bye-
laws.

37. Subject to the provisions of this Act or any rule or scheme made thereunder, the local authority may make bye-laws to provide for all or any of the following matters, namely:—

(a) the regulation and manner of vending in restriction-free-vending zones, restricted-vending zones and designated vending zones;

(b) determination of monthly maintenance charges for the civic amenities and facilities in the vending zones under section 17;

(c) determination of penalty under sub-section (5) of section 18 and section 28;

(d) the regulation of the collection of taxes and fees in the vending zones;

(e) the regulation of traffic in the vending zones;

(f) the regulation of the quality of products and services provided to the public in vending zones and maintenance of public health, hygiene and safety standards;

(g) the regulation of civic services in the vending zones; and

(h) the regulation of such other matters in the vending zones as may be necessary.

Scheme for
street vendors.

38. (1) For the purposes of this Act, the appropriate Government shall frame a scheme, within six months from the date of commencement of this Act, after due consultations with the local authority and the Town Vending Committee, by notification, which may specify all or any of the matters provided in the Second Schedule.

(2) A summary of the scheme notified by the appropriate Government under sub-section (1) shall be published by the local authority in at least two local news papers in such manner as may be prescribed.

39. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central 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:

Power to
remove
difficulties.

Provided that no order shall be made under this section after expiry of three years from 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 each House of Parliament.

THE FIRST SCHEDULE

(See section 21)

PLAN FOR STREET VENDING

(1) The plan for street vending shall,—

(a) ensure that all existing street vendors identified in the survey, subject to a norm conforming to two and half per cent. of the population of the ward, zone, town or city, as the case may be, are accommodated in the plan for street vending;

(b) ensure the right of commuters to move freely and use the roads without any impediment;

(c) ensure that the provision of space or area for street vending is reasonable and consistent with existing natural markets;

(d) take into account the civic facilities for appropriate use of identified spaces or areas as vending zones;

(e) promote convenient, efficient and cost effective distribution of goods and provision of services;

(f) such other matters as may be specified in the scheme to give effect to the plan for street vending.

(2) The plan for street vending shall contain all of the following matters, namely:—

(a) determination of spatial planning norms for street vending;

(b) earmarking of space or area for vending zones;

(c) determination of vending zones as restriction-free-vending zones, restricted-vending zones and no-vending zones;

(d) making of spatial plans conducive and adequate for the prevalent number of street vendors in that city or town and also for the future growth, by adopting such norms as may be necessary;

(e) consequential changes needed in the existing master plan, development plan, zonal plan, layout plan and any other plan for accommodating street vendors in the designated vending zones.

(3) Declaration of no-vending zone shall be carried out by the plan for street vending, subject to the following principles, namely:—

(a) any existing market, or a natural market as identified under the survey shall not be declared as a no-vending zone;

(b) declaration of no-vending zone shall be done in a manner which displaces the minimum percentage of street vendors;

(c) overcrowding of any place shall not be a basis for declaring any area as a no-vending zone provided that restrictions may be placed on issuing certificate of vending in such areas to persons not identified as street vendors in the survey;

(d) sanitary concerns shall not be the basis for declaring any area as a no-vending zone unless such concerns can be solely attributed to street vendors and cannot be resolved through appropriate civic action by the local authority;

(e) till such time as the survey has not been carried out and the plan for street vending has not been formulated, no zone shall be declared as a no-vending zone.

THE SECOND SCHEDULE

(See section 38)

Matters to be provided in the Scheme for Street Vendors framed by the appropriate Government:—

- (a) the manner of conducting survey;
- (b) the period within which certificate of vending shall be issued to the street vendors identified under the survey;
- (c) the terms and conditions subject to which certificate of vending may be issued to a street vendor including to those persons who wish to carry on street vending during the intervening period of two surveys;
- (d) the form and the manner in which the certificate of vending may be issued to a street vendor;
- (e) the form and manner of issuing identity cards to street vendors;
- (f) the criteria for issuing certificate of vending to street vendors;
- (g) the vending fees to be paid on the basis of category of street vending, which may be different for different cities;
- (h) the manner of collecting, through banks, counters of local authority and counters of Town Vending Committee, vending fees, maintenance charges and penalties for registration, use of parking space for mobile stalls and availing of civic services;
- (i) the period of validity of certificate of vending;
- (j) the period for which and the manner in which a certificate of vending may be renewed and the fees for such renewal;
- (k) the manner in which the certificate of vending may be suspended or cancelled;
- (l) the categories of street vendors other than stationery vendors and mobile vendors;
- (m) the other categories of persons for preference for issue of certificate of vending;
- (n) the public purpose for which a street vendor may be relocated and the manner of relocating street vendor;
- (o) the manner of evicting a street vendor;
- (p) the manner of giving notice for eviction of a street vendor;
- (q) the manner of evicting a street vendor physically on failure to evict;
- (r) the manner of seizure of goods by the local authority, including preparation and issue of list of goods seized;
- (s) the manner of reclaiming seized goods by the street vendor and the fees for the same;
- (t) the form and the manner for carrying out social audit of the activities of Town Vending Committee;
- (u) the conditions under which private places may be designated as restriction-free-vending zones, restricted-vending zones and no-vending zones;

(v) the terms and conditions for street vending including norms to be observed for up keeping public health and hygiene;

(w) the designation of State Nodal Officer for co-ordination of all matters relating to street vending at the state level;

(x) the manner of maintenance of proper records and other documents by the Town Vending Committee, local authority, planning authority and State Nodal Officer in respect of street vendors;

(y) the manner of carrying out vending activities on time-sharing basis;

(z) the principles for determination of vending zones as restriction-free-vending zones, restricted-vending zones and no-vending zones;

(za) the principles for determining holding capacity of vending zones and the manner of undertaking comprehensive census and survey;

(zb) principles of relocation subject to the following:—

(i) relocation should be avoided as far as possible, unless there is clear and urgent need for the land in question;

(ii) affected vendors or their representatives shall be involved in planning and implementation of the rehabilitation project;

(iii) affected vendors shall be relocated so as to improve their livelihoods and standards of living or at least to restore them, in real terms to pre-evicted levels;

(iv) livelihood opportunities created by new infrastructure development projects shall accommodate the displaced vendors so that they can make use of the livelihood opportunities created by the new infrastructure;

(v) loss of assets shall be avoided and in case of any loss, it shall be compensated;

(vi) any transfer of title or other interest in land shall not affect the rights of street vendors on such land, and any relocation consequent upon such a transfer shall be done in accordance with the provisions of this Act;

(vii) state machinery shall take comprehensive measures to check and control the practice of forced evictions;

(viii) natural markets where street vendors have conducted business for over fifty years shall be declared as heritage markets, and the street vendors in such markets shall not be relocated;

(zc) any other matter which may be included in the scheme for carrying out the purposes of this Act.

P.K. MALHOTRA,
Secy. to the Govt. of India.

ABOUT YUVA

Youth for Unity and Voluntary Action (YUVA) is a non-profit development organisation committed to enabling vulnerable groups to access their rights and address human rights violations. YUVA supports the formation of people's collectives that engage in the discourse on development, thereby ensuring self-determined and sustained collective action in communities. This work is complemented with advocacy and policy recommendations on issues.

ABOUT NHF

The National Hawker Federation (NHF) is an association of street vendors spread across 30 states and union territories in India which works for the welfare and rights of street vendors and protection of their livelihoods by organising them at the grassroots level. This work is complemented with advocacy work and policy recommendations. They are associated with 1200 independent unions, organisations, and associations along with 11 Central Trade Unions and affiliated hawker unions.

YUVA (Youth for Unity and Voluntary Action)

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