

Bill No. 256 of 2022

THE ENERGY CONSERVATION (AMENDMENT) BILL, 2022

By

SHRI GAURAV GOGOI, M.P.

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BILL

further to amend the Energy Conservation Act, 2001

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

1. (1) This Act may be called the Energy Conservation (Amendment) Act, 2022.

Short title and commencement.

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

52 of 2001.

2. In section 2 of the Energy Conservation Act, 2001 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(i) after clause (d), the following clauses shall be inserted, namely:—

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(da) “carbon credit certificate” means the certificate issued by the Central Government or any agency authorised by it under section 14AA;” and

(db) “carbon credit trading scheme” means the scheme for reduction of carbon emissions notified by the Central Government under clause (w) of section 14;”;

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

“(qa) “registered entity” means any entity, including designated consumers, registered for carbon credit trading scheme specified under clause (w) of section 14;” and 5

(iii) after clause (u), the following clause shall be inserted, namely:—

“(ua) “virtual digital asset” means virtual digital asset as defined in sub-section (47A) of section 2 of the Income-Tax Act, 1961.”.

Amendment of section 13. 3. In section 13 of the principal Act after clause (t), the following clause shall be inserted, namely:— 10

“(ta) empanel technical experts, particularly Indian Citizens, to promote energy efficiency and carbon credit trading activities undertaken to meet the objectives of the Act;”.

Amendment of section 14. 4. In section 14 of the principal Act,— 15

(i) after clause (e), the following clause shall be inserted:—

“(ea) direct Energy Intensive Industries to maintain minimum requirement of carbon credit certificates to buy carbon credit certificates, and specify the minimum requirement”;

(ii) after clause (v), the following clauses shall be inserted, namely:— 20

“(w) specify the carbon credit trading scheme;

(x) establish mechanism to monitor and prevent illegal activities, involving carbon credit certificate by converting it into virtual digital asset;

(y) establish mechanism to adjust the supply of carbon credit certificates to be auctioned in the market and maintain a reserve of carbon credit certificates for the said objective; and 25

(z) specify minimum share of consumption of non-fossil sources by designated consumers as energy or feedstock, provided different share of consumption may be specified for different types of non-fossil sources for different designated consumers;” 30

Insertion of new section 14AA. 5. After section 14A of the principal Act, the following section shall be inserted, namely:—

Carbon Credit Certificate. “14AA. (1) The Central Government, or any agency authorised by it shall maintain a Registry of carbon credit certificates.

(2) The Central Government or any agency authorised by it may issue carbon credit certificate to the registered entity which complies with the requirements of the carbon credit trading scheme and extinguish the carbon credit certificates from the registry upon redemption and update the records: 35

Provided that the Central Government shall limit the issuance of carbon credit certificates, year on year, thereby reducing its availability in the carbon market. 40

(3) The Central Government shall facilitate real time tracking of transaction of carbon credit certificates between registered entities, carbon emission projection and details of carbon credit certificates possessed by the registered entities and maintain the same on public domain.

(4) The Central Government shall also designate an agency under clause (d) of section (15) to ensure that the details possessed by the registered entities under sub-section (2) are not manipulated.

(5) The registered entity shall be entitled to purchase or sell the carbon credit certificate in accordance with carbon credit trading scheme specified under clause (w) of section 14.”.

6. For section 16 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 16.

“16. (1) There shall be constituted a Fund for the purposes of promotion of efficient use of energy and its conservation by the State Government to be called the State Energy Conservation Fund and there shall be credited thereto—

Establishment of Fund by State Government.

(a) all grants and loans that may be made by the State Government or the Central Government or any other organisation or individual for the purposes of this Act;

(b) all fees received by the State Government or the designated agency under this Act;

(c) all sums received by the State Government or the designated agency from such other sources as may be decided by the State Government.

(2) The Fund shall be utilised for meeting the expenses—

(a) of the designated agency in the discharge of its functions; and

(b) for the objects and purposes authorised by or under this Act.

(3) The Fund created under sub-section (1) shall be administered by such person or authority and in such manner as may be prescribed by the rules made by the State Government:

Provided that the State Government may appoint an Auditor to ensure that the Fund is utilised for the intended purpose.”.

7. In section 18 of the principal Act, before the existing Explanation, the following proviso shall be inserted, namely:—

Amendment of section 18.

“Provided that the Central Government shall not impose complete ban on the export of the carbon credit certificates to the foreign countries, that may affect India’s commitments or obligations to any international agreement.”.

8. In section 26, for sub-section (1A), the following sub-section shall be substituted, namely:—

Amendment of section 26.

“(1A) If any person fails to comply with the directions issued under clauses (n) and (z) of section 14, he shall be liable to a penalty which shall not exceed ten lakh rupees for each such failure:

Provided that he shall also be liable to an additional penalty which shall not be less than twice the price of every metric ton of oil equivalent or the price of every carbon credit certificate whichever is less prescribed under this Act, which is in excess of the prescribed norms.”.

STATEMENT OF OBJECTS AND REASONS

The establishment of the carbon market in India is a need of the hour. Making sure that the market falls in line with the global market trend is also equally important. A carbon market with a strong framework and checks and balances will last long withstanding economic shocks such as price rise and inflation. Because, industries/companies (registered entities) may pass on any increase in their costs to their consumers, thereby affecting the general public. While introducing the carbon trading concepts in India, the equal focus must be given to emission reduction of pollutants as given to the promotion of the use of non-fossil fuel sources.

Incorporating global best practices is another important aspect of introducing the carbon market to India. The Regional Greenhouse Gas Initiative is the first cap-and-invest regional initiative implemented in the United States. The RGGI caps and reduces power sector CO₂ emissions by issuing CO₂ allowances, projecting the RGGI cap in CO₂ allowances. The EU Emissions Trading System (ETS) works on the principle of ‘cap-and-trade’ too. The emission reduction is achieved by putting a limit/cap on the total amount of certain greenhouse gases emitted by the entities each year, which is reduced over time. This Bill seeks to incorporate necessary checks and balances in the Act, thus preventing delegation of too much power to the ruling dispensation which is dangerous for any democracy.

The Energy Conservation (Amendment) Bill, 2022, *inter alia*, seeks to—

- (a) empower the Central Government to prevent illegal activities involving carbon credit certification by converting it into virtual digital assets;
- (b) give preference to Indian companies to establish the carbon market and implement the rules regarding the same, in India;
- (c) maintain a buffer stock of carbon credit certificates in India, to manage any economic shock in future;
- (d) establish a registry of carbon credit certificates;
- (e) give more powers to State Governments to monitor the utilization of the State energy conservation fund for the intended purpose of the Act;
- (f) ensure the penalty for the violators of the law does not become lenient over the years.

The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
November 21, 2022.

GAURAV GOGOI

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for constitution of the State Energy Conservation Fund. It also provides for crediting of grant and loans to the fund by the Central Government. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. A recurring expenditure of about rupees ten crore is likely to be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of rupees five crore is also likely to be involved.

ANNEXURE

EXTRACTS FROM THE ENERGY CONSERVATION ACT, 2001

(ACT NO. 52 OF 2001)

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Establishment of Fund by State Government.

16. (1) The State Government shall constitute a Fund to be called the State Energy Conservation Fund for the purposes of promotion of efficient use of energy and its conservation within the State.

(2) To the Fund shall be credited all grants and loans that may be made by the State Government or, Central Government or any other organisation or individual for the purposes of this Act.

(3) The Fund shall be applied for meeting the expenses incurred for implementing the provisions of this Act.

(4) The Fund created under sub-section (1) shall be administered by such persons or any authority and in such manner as may be specified in the rules made by the State Government.

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Power of Central Government or State Government to issue directions.

18. The Central Government or the State Government may, in the exercise of its powers and performance of its functions under this Act and for efficient use of energy and its conservation, issue such directions in writing as it deems fit for the purposes of this Act to any person, officer, authority or any designated consumer and such person, officer or authority or any designated consumer shall be bound to comply with such directions.

Explanation.— For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(a) regulation of norms for process and energy consumption standards in any industry or building or building complex; or

(b) regulation of the energy consumption standards for equipment and appliances.

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Penalty.

26. (1) * * * * *

(1A) If any person fails to comply with the provisions of clause (n) of section 14, he shall be liable to a penalty which shall not exceed ten lakh rupees and, in the case of continuing failure, with an additional penalty which shall not be less than the price of every metric ton of oil equivalent of energy, prescribed under this Act, that is in excess of the prescribed norms.

(2) Any amount payable under this section, if not paid, may be recovered as if it were an arrear of land revenue.

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further to amend the Energy Conservation Act, 2001

(Shri Gaurav Gogoi, M.P.)