

AS INTRODUCED IN LOK SABHA

Bill No. 68 of 2019

THE BIO-DEGRADABLE PACKAGING MATERIALS
(COMPULSORY USE IN PACKING
COMMODITIES) BILL, 2019

By

SHRI PARVESH SAHIB SINGH, M.P.

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BILL

to provide for the compulsory use of bio-degradable packaging material in the supply and distribution of certain commodities with the aim to curb the usage of plastic and such other non-degradable material in packaging, and in the interests of the environment.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Bio-degradable Packaging Materials (Compulsory Use in Packing Commodities) Act, 2019.

Short title and
commencement.

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

Definitions.

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

(a) "bio-degradable material" means any organic material that can be degraded by micro-organisms into simpler stable compounds and includes material made of paper or paperboard, bagasse, starch or cellulose or such other material or of such composition as may be notified by the Government from time to time in the Official Gazette, based on the recommendation of the Expert Committee as per the criteria laid down in section 3; 5

(b) "commodity" means—

(i) any essential commodity;

(ii) any article manufactured or produced by any scheduled industry; 10

(c) "essential commodity" shall have the same meaning as in the Essential Commodities Act, 1955; 10 of 1955.

(d) "Expert Committee" means the Expert Committee constituted under section 4;

(e) "prescribed" means prescribed by rules made under this Act; and

(f) "scheduled industry" shall have the same meaning as in the Industries (Development and Regulation) Act, 1951. 15 65 of 1951.

Power to specify bio-degradable packaging material.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the Central Government may, if it is satisfied, after considering the recommendations made to it by the Expert Committee, that it is necessary so to do, by order published in the Official Gazette direct, from time to time, and from such date, as may be specified in the order that— 20

(i) certain packaging material shall be qualified as bio-degradable and suitable for packaging; and

(ii) such commodity or class of commodities or such percentage thereof, shall, be packed for the purposes of its supply or distribution in such bio-degradable packaging material: 25

Provided that until such time as the Expert Committee is constituted under sub-section (1) section 4, the Central Government shall, before making any order under this sub-section, consider the matters specified in sub-section (2) of section 4, and any order so made shall cease to operate at the expiration of three months from the date on which the Expert Committee makes its recommendations. 30

(2) Every order made under sub-section (1) 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 order or both Houses agree that the order should not be made, the order 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 order. 35

Constitution of Expert Committee.

4. (1) **The Central Government may, with a view to determine the scope of bio-degradable packaging material in addition and determining the commodity or class of commodities or percentages thereof in respect of which bio-degradable packaging material shall be used in their packing, constitute an Expert Committee consisting of such persons as have, in the opinion of that Government, the necessary expertise to give advice in the matter.** 40

(2) **For the purposes of sub-section (1), the Central Government may take into consideration the experience of the experts in the academia, industry, commercial or social sector working particularly in the field of manufacturing of bio-degradable packaging material.** 45

(3) The Expert Committee shall, after considering the following matters, indicate its recommendations to the Central Government with regard to the scope of bio-degradable packaging material, namely:—

- 5 (a) the nature of the material, its durability and its ability to decompose effectively;
- (b) the cost of production of such material;
- (c) the probable reduction in the cost of solid waste management;
- (d) the impact of packaging costs;
- (e) the cost-benefit analysis of industrial *vis-a-vis* environmental costs;
- 10 (f) the quantity of commodities which, in its opinion, is likely to be required for packing in bio-degradable material;
- (g) the nature of the commodity;
- (h) the consumption pattern of the commodity; and
- (i) such other matters as the Expert Committee may think fit.

15 **(4) The salary and allowances payable to and other terms and conditions of service of the experts of the Expert Committee shall be such as may be prescribed.**

20 **5.** Where an order has been made under section 3 requiring any commodity, class of commodities or any percentage thereof to be packed in bio-degradable packaging material for their supply or distribution, such commodity, class of commodities or percentage thereof shall not, on and from the date specified in such order, be supplied or distributed unless the same is packed in accordance with that order:

Prohibition or packing in any material other than the bio-degradable packaging material.

25 Provided that nothing in this section shall apply to the supply or distribution of any commodity, class of commodities or percentage thereof for a period of three months from the aforesaid date if immediately before that date such commodity, class of commodities or percentage thereof, were being packed in any material other than bio-degradable packing material.

6. The Central Government may, by order, require any person, who is required to use bio-degradable material for packing under section 3, to furnish, for the purposes of this Act,—

Power to call for information and samples.

30 (a) such information in his possession, with respect to any commodity or class of commodities or percentage thereof which requires such packing, to any officer specified by it, in such form and within such period as may be specified by that Government in the order; and

35 (b) such samples of bio-degradable packaging material for inspection by such officer at such places and within such period as may be specified by it in the order.

7. Any officer authorised by the Central Government (hereinafter referred to as the authorised officer) may enter, at all reasonable times, any place, premises or vehicle where any commodity packed in bio-degradable packaging material is stored or kept for supply or distribution, and may require its production for inspection and ask for any information relating thereto.

Power to enter and inspect.

8. (1) The authorised officer may, if he has reason to believe that any commodity has been packed in contravention of section 5 and is secreted in any place, premises or vehicle, enter into and search such place, premises or vehicle for such commodity.

Power to search and seize.

45 (2) Where, as a result of any search made under sub-section (1), any commodity packed in contravention of section 5 has been found, the authorised officer may seize such

commodity and any other thing which, in his opinion, will be useful for, or relevant to, any proceeding under this Act:

Provided that where it is not practicable to seize any such commodity or thing, the authorised officer may serve on the person an order that he shall not remove, part with, or otherwise deal with, the commodity or thing except with the previous permission of the authorised officer. 5

(3) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this section. 2 of 1974.

Penalty for
contravention
of section 5.

9. (1) Whoever packs any commodity, class of commodities or any percentage thereof in any material in contravention of section 5 shall be punishable with fine which may extend to an amount equal to three times the cost of the bio-degradable packaging material which should have been used in accordance with the order made under section 3. 10

(2) Whoever, who has been previously penalised under this section, contravenes section 5 shall be punishable with fine which may extend to an amount equal to six times the cost of the bio-degradable packaging material which should have been used in accordance with the order made under section 3. 15

Penalty for
false
statement,
etc.

10. If any person, when required by any order made under section 5 to furnish any information or sample, fails to furnish such information or sample, or makes any statement or furnishes any information which is false in any material particular and which he knows, or has reasonable cause to believe, to be false or does not believe it to be true, he shall be punishable with fine which may extend to twenty thousand rupees. 20

Offences by
companies.

11. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge, of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. 25

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. 30

(2) Notwithstanding anything contained in this sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 35

Explanation.—For the purposes of this section, the words "company" and "director" will have the same meaning as under the Companies Act, 2013. 18 of 2013.

Offences to
be cognizable.

12. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable. 2 of 1974. 40

Power to
delegate.

13. The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act, other than the power to make orders under section 3 or under section 16 or to make rules under section 17, shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by— 45

(a) such officer or authority subordinate to the Central Government; or

(b) such State Government or such officer or authority subordinate to a State Government, as may be specified in the order.

- 14.** The Central Government may give such directions as it may consider necessary to a State Government as to the carrying into execution of the provisions of this Act. Central Government to give directions.
- 15.** No suit, prosecution or other legal proceeding shall lie against the Central Government, State Government or any officer or employee of the Central Government or of any State Government or any authorised officer for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder. Protection of action taken in good faith.
- 16.** (1) If the Central Government is of the opinion that it is necessary or expedient so to do in the public interest, it may, by order published in the Official Gazette, exempt any person or class of persons, supplying or distributing any commodity or class of commodities, from the operation of an order made under section 3. Power to exempt.
- (2) Every order made under sub-section (1) 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 order or both Houses agree that the order should not be made, the order 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 order.
- 17.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.
- (2) Every rule 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 both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India generates about sixteen thousand tonnes of plastic waste per day in the country, out of which, about nine thousand tonnes is recycled, while six thousand one hundred thirty seven tonnes remains uncollected and littered. Of the total waste, nearly forty three per cent. arises from packaging material, which is way over the world average of thirty five per cent. Growing economy with rise in per capita income has led to an increase in consumption of plastic for packaging of commodities in last few years. Consumption pattern and consumer behaviour has witnessed manifold increase in use of plastic bottles and plastic wrapping of products. The lack of awareness and absence of effective tools to collect the discarded plastic products including wrapping material has led to indiscriminate littering by plastic waste. However, with the promulgation of the Plastic Waste Management Rules 2016, there is now a formal and structured system in place in combating the issues of irregular management of plastics.

In a matter before the National Green Tribunal, the concern over usage of plastic in food and pharmaceutical packaging remains a bone of contention and wherein many a report by concerned stakeholders lay claims that such usage contributes to further harm, especially to consumers. Thus, to further the cause of a healthy environment, secure safety to consumers and to improve the system in combating plastic waste, it would be ideal that certain products be packaged using bio-degradable material. The need is to achieve that by creating a statutory mechanism by way of which the Government can mandate the compulsory usage of biodegradable material in packaging. It will push for a greater commitment towards making wise, environment-friendly choices in the manufacturing industry. Invariably, such a resolute show of interest by the Government will encourage and open up avenues for those who develop and manufacture bio-degradable packaging material.

Hence this Bill.

NEW DELHI;
June 6, 2019.

PARVESH SAHIB SINGH

FINANCIAL MEMORANDUM

Clause 4 of the Bill seeks to provide for the constitution of an Expert Committee by the Central Government. It also provides for appointment for experts to the Committee. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that sum of rupees two hundred crore may involve as recurring expenditure per annum.

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

MEMORANDUM OF DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matter of detail only, the delegation of legislative power is of a normal character.

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(Shri Parvesh Sahib Singh, M.P.)

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