

Bill No. 47 of 2020

THE ENVIRONMENT PROTECTION (MANAGEMENT
AND CONTROL OF NON-BIODEGRADABLE WASTE)
BILL, 2020

By

DR. SUKANTA MAJUMDAR, M.P.

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to prevent throwing or depositing non-biodegradable waste material into the rivers, canals, drains, roads and public places so as to protect the environment from being polluted by such wastes and for matters connected therewith or incidental thereto.

WHEREAS decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment;

AND WHEREAS it is considered necessary to implement the decisions aforesaid to protect the environment from the ill effects of non-biodegradable wastes;

AND WHEREAS article 48A of the Constitution enjoins upon the State to endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

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

1. (1) This Act may be called the Environment Protection (Management and Control of Non-biodegradable waste) Act, 2020.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) 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) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government; 5

(b) "bio-degradable waste" means the garbage or waste material capable of being destroyed by the action of living beings or micro organism;

(c) "house gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving or carrying a drain or affording access to the latrine, urinal, cesspool or other receptacle for filth or other polluted matter, by persons employed in the clearing thereof or in the removal of such matters therefrom; 10

(d) "market" includes any place where people assemble or which is exposed for sale of meat, fish, fruits, vegetables, food, or any other articles for human use or consumption with or without the consent of the owner of such place or any other person or authority empowered to regulate such activities; 15

(e) "non-biodegradable waste" means the garbage or waste material which is not bio-degradable and includes polythelene, nylon and other plastic goods such as Polyvinyl Chloride, Polypropylene and Polystyrene;

(f) "occupier" includes— 20

(i) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;

(ii) an owner in occupation of or otherwise using his land or building;

(iii) any person in occupation of a land or building without payment of any rent or other consideration; and 25

(iv) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(g) "owner" includes a person who for the time being is receiving or is entitled to receive, the rent of any land or building, whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver for any other or who should so receive the rent or be entitled to receive it if the land or building or part thereof were let to a tenant; 30

(h) "place" means any land or building or part of a building and includes garden, ground and out houses, if any, pertaining to a building or part of a building; 35

(i) "place open to public view" includes any private place or building, monument, fence or balcony visible to a person being in, or passing along, any public place;

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

(k) "public place" means any place which is open to use and enjoyment of the public whether it is actually used or enjoyed by the public or not and includes a road, street, market, house gully or way, whether a thoroughfare or not, and landing place to which public are granted access or have a right to resort or over which they have a right to pass. 40

3. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall, in order to protect the environment, ensure that no person, by himself or through another, shall knowingly or otherwise throw or cause to be thrown in any drain, ventilation shaft, pipe and fittings, connected with the private or public drainage works, any non-biodegradable waste or any bio-degradable waste in a non-biodegradable bag or container likely to—
- (a) injure the drainage and sewage system;
- (b) interfere with the free flow or affect the treatment and disposal of drain and sewage contents; or
- (c) be dangerous or cause a nuisance or be prejudicial to public health or environment.
- (2) No person shall, knowingly or otherwise, place or permit to be placed, except in accordance with such procedure and after complying with such safeguards as may be prescribed, any bio-degradable or non-biodegradable waste in any public place or in a place open to public view, unless,—
- (a) the waste is placed in a waste receptacle; or
- (b) the waste is deposited in a location designated by a local self government institution having jurisdiction on an area for the disposal of the waste.
4. It shall be the duty of the local self government institution to—
- (a) provide at proper and convenient places public receptacles, depots or places for temporary deposit or collection of non-biodegradable waste;
- (b) provide separate dustbins for temporary deposit of non-biodegradable waste other than those kept and maintained for deposit of bio-degradable waste;
- (c) provide for the removal of contents of receptacles, depots and the accumulation at all places provided by it under clause (a); and
- (d) arrange for recycling of the non-biodegradable waste collected under this Act.
5. It shall be the duty of every owner and occupier—
- (a) to collect or cause to be collected from their respective land and buildings, the non-biodegradable waste and to deposit, or cause to be deposited, in public receptacles, depots or places provided for temporary deposit or collection of the non-biodegradable waste by the local self government institution in the area; and
- (b) to ensure disposal of non-biodegradable waste in separate receptacles or dustbins in the manner prescribed by the local self government institution and to keep such receptacles or dustbins in good condition.
6. The appropriate Government may, by notice in writing, require the owner or occupier of any land or building, which has become a place of unauthorized stacking or deposit of non-biodegradable waste and is likely to cause a nuisance, to remove or cause to be removed the deposited waste so stacked or; and if, in its opinion, such stacking or deposit of non-biodegradable waste is likely to injure the drainage and sewage system or is likely to be dangerous to life, health and environment, it shall forthwith take such steps at the cost of owner or occupier as it may think necessary.
7. (1) Manufacturing of soft drink bottles, shampoo and detergent bottles used with Polyethylene Terephthalate, milk bottles, house hold cleaners, supermarket bags used with high density polyethylene, bread bags used with low density polyethylene, bread bag tags, jars and wrapping films used with polyethylene resins and mixed plastic used for making feathers, toys, or such other items is hereby prohibited.

Prohibition to throw non-biodegradable waste in public drains and sewage.

Provision for placement of receptacles and places.

Duty of owners and occupiers to collect and deposit non-biodegradable waste, etc.

Removal of non-bio-degradable waste.

Prohibition of manufacture of plastic products for packaging of certain items.

(2) No person shall use plastic or its derivatives for manufacturing any article for use by infants.

Penalties.

8. (1) Whoever commits any act in contravention of any of the provisions of this Act or rules made under this Act shall be punished with fine which may extend to five thousand rupees.

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(2) Whoever having been convicted of an offence under this Act is again convicted of any offence under this Act shall be punished with fine, which may extend to ten thousand rupees.

(3) Whoever in any manner aids or abets the commission of any offence under this Act shall be punished with fine which may extend to five thousand rupees.

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(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be cognizable and bailable.

2 of 1974.

Offences by Companies.

9. (1) If the person committing an offence punishable under this Act is a Company, every person who, at the time of the commission of the offence, was in charge of, and 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:

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

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(2) Notwithstanding anything contained in 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 gross negligence on the part of any Director, Manager, Secretary or other officer, such Director, Manager, Secretary or officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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Explanation.—For the purposes of this section—

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm means a partner in the firm.

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Offences to be tried summarily.

10. All offences under this Act shall be tried in a summary way by a Judicial Magistrate of the First Class and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 shall, as far as may be, apply to such trials.

2 of 1974.

Compounding of offences.

11. Any offence punishable under this Act may, before the institution of the prosecution, be compounded by the local self government institution concerned or by such officer as may be authorized by the appropriate Government in this behalf, on payment, for credit to the local self government institution concerned, of such sums not exceeding the amount of fine fixed for that offence.

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Central Government to provide funds.

12. The Central Government shall provide requisite funds after due appropriation made by Parliament by law, in this behalf, from time to time for the purposes of this Act.

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Savings.

13. The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force.

Power to make rules.

14. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(2) Every rule made 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

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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 the 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
5 be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Environment pollution and its ill-effects have attracted the attention the world over and ways and means to control the pollution are being thought of and implemented. In this regard, removal of waste material and garbage has become a major problem in cities and towns. Solid waste disposal is the duty of local self government institutions. Major portion of the solid waste is of bio-degradable nature, *i.e.* it can be destroyed by the action of living beings and microorganisms. Such bio-degradable waste can be converted into compost or used as a source of energy or manure. Whereas, non-biodegradable waste is the bane of modern civilization. The advent of plastic made up of Polyvinyl Chloride (PVC), Polypropylene and Polystyrene and other substances create environmental disasters leading to health hazards. Such substances chokes gutters, drains and marine outfalls, creating nightmare for sewage engineering. It clogs the soil, preventing the free flow of water through it and depleting it of its fertility and water tables. The Bill seeks to control the use and disposal of such non-biodegradable substances.

Hence this Bill.

NEW DELHI;
January 20, 2020.

SUKANTA MAJUMDAR

FINANCIAL MEMORANDUM

Clause 12 of the Bill provides that the Central Government shall provide requisite funds after due appropriation made by Parliament by law, in this behalf, from time to time for the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees ten crore would be involved from the Consolidated Fund of India per annum.

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

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

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