

Bill No. XXIV of 2011

THE ENDOSULFAN PESTICIDE (PROHIBITION)
BILL, 2011

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BILL

to prohibit the use of endosulfan pesticide in agricultural activities with a view to preventing its harmful effects on human beings, environment and to provide relief to persons affected by the harmful effects of endosulfan and for matters connected therewith and incidental thereto.

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

1. (1) This Act may be called the Endosulfan Pesticide (Prohibition) Act, 2011. Short title,
extent and
commence-
ment.
- (2) It extends to the whole of India.
- 5 (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 for different provisions of this Act.
2. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force. Application of
other laws not
barred.
- 10 3. In this Bill, unless the context otherwise requires:— Definitions.
- (a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government.
- (b) “BPL family” means the Below Poverty Line family as determined by the Government of India.
- 15 (c) “Endosulfan” means the pesticide in use includes all its and alternative pesticides having the same composition by a different name.

(d) "Pesticide Inspector" means an Inspector appointed under section 7.

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

(f) "Tribunal" means the tribunal constituted to adjudicate on matters referred to it on endosulfan pesticide under section 6.

Prohibition
on use of
Endosulfan.

4. On and from such day as the Central Government may appoint in this behalf,— 5

(i) the use of endosulfan pesticide and its alternatives in agricultural and related activities; and

(ii) the import of endosulfan and its alternatives from other countries.

shall be prohibited.

Relief
measures for
persons
affected by
Endosulfan
pesticide.

5. (1) Any person suffering from the adverse effects of endosulfan and his family, shall be considered as a BPL family by the appropriate Government and shall be eligible to all the compensation and benefits provided for the BPL families. 10

(2) The appropriate Government shall provide financial assistance of rupees four thousand per month to the family of any person affected by ill effects of endosulfan pesticide and the family shall continue to receive financial assistance of rupees two thousand per month for a period of another five years after the death of the affected person. 15

(3) All persons suffering due to the ill-effects of endosulfan shall be provided free treatment and special health care in district level Government hospitals or Government hospital or Government clinic nearest to their area of residence.

(4) The appropriate Government shall provide financial assistance of rupees two thousand per month to the persons who assist and take care of the persons affected by endosulfan pesticide. 20

(5) The Tribunal shall have the power to review the matters referred to it and shall decide on the compensation and relief for the aggrieved persons and also the punishment for violation of the provisions under this Act. 25

(6) The Tribunal shall also advise the Central Government and State Governments on development of safer alternatives to existing endosulfan pesticide as per latest global research and development.

Composition,
functions and
powers of the
Tribunal.

6. (1) The appropriate Government shall by notification in the Official Gazette, constitute a Tribunal to deal with matters arising out of the provisions of this Act. 30

(2) The Tribunal shall consist of three members who shall decide on matters referred to it by the appropriate Government relating to endosulfan pesticide.

(3) One member of the tribunal shall be a retired judge of the High Court of the State and each of the two members shall be experts in public health and agricultural activities and practices respectively, and to be appointed by the Government of India, for a term of five years for each member of the Tribunal on such terms and conditions as may be prescribed. 35

(4) The Tribunal shall have such members of officers and staff on such terms and conditions as may be prescribed.

Appointment
of Pesticide
Inspector and
its powers.

7. (1) The Tribunal shall appoint a person as it deems fit, possessing such technical and other qualifications as may be prescribed, to be a pesticide Inspector for specified districts as may be specified in the notification: 40

Provided that no person who has any financial interests in the manufacture, import and sale of any pesticide shall be appointed as Pesticide Inspector.

(2) The Pesticide Inspector shall have the power—

(a) to enter, search and seize, inspect documents necessary to carry out the objectives of this Act, at all reasonable times and with such assistance, if any, as he 45

considers necessary, any premises in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed, and report to the required authorities and to the Tribunal; or for the purpose of satisfying himself that the provisions of this Act or the rules made thereunder are being complied with; and

(3) to stop with the permission of the Executive Magistrate, the distribution, sale or use of endosulfan or alternative pesticide which he has reason to believe is being distributed or sold or used in activities in contravention of the provisions of this Act and report it to the Tribunal.

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

Central Government to provide funds.

9. (1) Whoever violates any provisions of this Act or any rules made therein under shall be punishable with an imprisonment of not less than six months which may extend to two years or with the fine of not less than twenty-five thousand rupees which may extend to one lakh rupees or with both.

Penalty

(2) Whoever obstructs a Pesticide Inspector from exercising the powers and functions in discharging the duties provided under this Act shall be liable to pay a penalty of not less than rupees twenty-five thousand.

(3) Whoever manufactures, sells or exhibits for sale, the prohibited endosulfan pesticide under this Act, shall be liable to be punished with imprisonment of six months which may extend to two years or to pay a fine of not less than rupees twenty five thousand which may extend to two lakh rupees or with both.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Endosulfan is banned in more than sixty three countries worldwide for its hazardous effects on human beings and environment. India still continues to be the world's largest user of endosulfan and a major producer of it. The adverse impact of this pesticide on health and safety of human life cannot be overlooked. In Kerala, due to the use of this pesticide thousands of people have lost their lives. The Stockholm Convention on Persistent Organic Pollutants has recommended that Endosulfan be listed as a persistent organic pollutant. Keeping the interests of the farmers and environment, it is imperative to prohibit the practice of using this deadly pesticide and also to look for safer alternatives so that banning of this infectious pesticide does not harm the agricultural interests in any way.

Hence, this Bill.

P. RAJEEVE

FINANCIAL MEMORANDUM

Clause 6 of the Bill seeks to constitute a Tribunal by the appropriate Government to deal with matters related to Endosulfan Pesticide and its alternatives. Clause 7 provides for appointment of Pesticide Inspector to exercise the powers entrusted to him under this Bill. Clause 8 of the Bill makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill.

The Bill, if enacted, will involve recurring as well as non-recurring expenditure from the Consolidated Fund of India though it is difficult to estimate the expenditure at this juncture.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

RAJYA SABHA

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(Shri P. Rajeev, M.P.)