



महाराष्ट्र शासन राजपत्र

असाधारण
प्राधिकृत प्रकाशन

गुरुवार, मार्च १६, २००६/फाल्गुन २५, शके १९२७

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Non-biodegradable Garbage (Control) Bill, 2006 (L. A. Bill No. XIV of 2006), introduced in the Maharashtra Legislative Assembly on the 16th March 2006, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. XIV OF 2006.

A BILL

to prevent throwing or depositing non-biodegradable garbage in public drains, roads, wetland, wasteland, water bodies, places open to public view ; to regulate the use of non-biodegradable material and for matters connected therewith or incidental thereto.

WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that—
circumstances existed which rendered it necessary for him to take immediate action to make a law to prevent throwing or depositing non-biodegradable garbage in public drains, roads, wetland, wasteland, water bodies, places open to public view ; to regulate the use of non-biodegradable material and for matters connected therewith or incidental thereto ; and, therefore, promulgated the Maharashtra Non-biodegradable Garbage (Control) Ordinance, 2006, on the 27th February 2006 ;

Mah.
Ord. IV
of 2006.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature ; it is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :—

Short title
and com-
mencement.

1. (1) This Act may be called the Maharashtra Non-biodegradable Garbage (Control) Act, 2006.

(2) It shall be deemed to have come into force on the 27th February 2006.

Definitions.

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

(a) “biodegradable garbage” means the garbage or waste material capable of being destroyed by the activity of living beings ;

(b) “competent authority” means any authority, officer or person appointed by the State Government, by notification in the *Official Gazette*, for enforcement of any of the provisions of this Act ;

(c) “garbage receptacle” means the common bin placed at public place or any other convenient place for collection of waste in a manner so as to prevent littering, attraction to vectors, stray animals and excessive foul odour ;

(d) “house-gully” means a passage or strip of land constructed, set apart or utilized for the purpose of serving as 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 matter therefrom ;

(e) “local authority” means a Municipal Corporation, a Municipal Council, a *Nagar Panchayat*, an Industrial Township, a Cantonment Board, a *Village Panchayat* constituted or continued, under any law for the time being in force ;

(f) “market” includes any place where persons assemble for exposing for sale, 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, notwithstanding that there may be no common regulation for the concourse of the buyers and the sellers and whether or not any control is exercised over the business of, or the persons frequenting the market by the owner of the place or by any other persons ;

(g) “non-biodegradable garbage” means the garbage or waste material, made up of non-biodegradable material and not capable of being destroyed by the activity of living beings or by biological natural process, which remains in the environment for long period of time and has potential to harm ecosystem ;

(h) “non-biodegradable material” means the material which cannot be decomposed or degraded by action of micro-organisms, sunlight or other natural actions and includes goods made or manufactured from polyethylene, nylon or other plastic substances such as poly-vinyl-chloride (P.V.C.), poly-propylene and polystyrene, specified in the Schedule to this Act ;

(i) "occupier" includes,—

(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) a rent free tenant of any land or building ; and

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

(j) "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 of other person or as an agent, trustee, guardian or receiver for any other person 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 ;

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

(l) "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 ;

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

(n) "Public Analyst" means the person appointed or recognized to be the Government Analyst, in relation to any environmental laboratory established or recognized in the State, under the provisions of the Environment (Protection) Act, 1986 ;

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1986.

(o) "public place" means any place which is open to use and enjoyment of the public 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 ;

(p) "standards" means standards specified by the Government, through notification, under this Act or the standards prescribed under the Environment (Protection) Act, 1986 ;

29 of
1986.

(q) "wetland" includes swamps and marshes, wet grass lands and pit lands, estuaries, deltas and tidal flats, near shore marine areas, mangroves, wastelands and creeks and human made sites such as fish ponds, rice paddies, reservoirs and salt pans.

Prohibition to throw biodegradable and non-biodegradable garbage in public drains, sewage lines, natural or manmade lake, wetlands.

3. (1) 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, natural or manmade lake, wetlands, any non-biodegradable garbage or construction debris or any biodegradable garbage by placing in a non-biodegradable bag or container likely to —

- (i) injure the drainage and sewage system ;
- (ii) interfere with the free flow or affect the treatment and disposal of drain and sewage contents ;
- (iii) be dangerous or cause a nuisance or be prejudicial to the public health ; and
- (iv) damage the lake, river water or wetland.

(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 biodegradable or non-biodegradable garbage in any public place or in a place open to public view, unless,—

- (a) the garbage is placed in a garbage receptacle; or
- (b) the garbage is deposited in a location designated by a local authority having jurisdiction on an area for the disposal of such garbage.

Restriction or prohibition on use of certain non-biodegradable material.

4. (1) The State Government may, by notification in the *Official Gazette*, impose restriction or prohibition on the use of non-biodegradable material, or any other material harmful to environment within the State, which is contrary to the norms, as the State Government may, by notification in the *Official Gazette*, specify.

(2) The State Government may, by general or special order, impose requirements on manufacturers, distributors and other persons who produce or handle commodities, with respect to the type, size, thickness, labelling and composition of packaging with respect to its use and disposal including standards or norms for material degradability and re-cyclability.

Provision for placement of receptacles and places for deposit of non-biodegradable garbage and establishment of waste collection system.

5. It shall be the duty of the local authority, or any officer authorized by it, to —

- (a) place or provide or place in proper and convenient situation public receptacles, depots or places for temporary deposit or collection of non-biodegradable garbage ;
- (b) provide separate dustbins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit of biodegradable garbage ;

(c) provide for the removal of contents of receptacles, depots and of the accumulation at all places provided or appointed by it under clause (a); and

(d) arrange for recycling of the non-biodegradable garbage so collected.

6. It shall be the duty of the owners and occupiers of every land and building to—

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

(i) collect or to cause to be collected from their respective land and building the non-biodegradable garbage and to deposit, or cause to be deposited, in garbage receptacles, depots or places provided for temporary deposits or collection of the non-biodegradable garbage by the local authority in the area ;

(ii) provide separate garbage receptacles, other than those kept and maintained for deposit of biodegradable garbage, of the type and in the manner specified by the local authority or its officers for collection therein of all the non-biodegradable waste from such land and building and to keep such receptacles or dustbins in good condition and repair ;

(iii) segregate and store the waste generated by them into a minimum of two receptacles one for biodegradable waste and other for non-biodegradable waste.

7. The local authority or the competent authority may, after giving notice in writing to the owner or occupier or part-owner or person claiming to be the owner or part-owner of any land or building, which has become a place of unauthorized stacking or deposit of non-biodegradable garbage or non-biodegradable material which is likely to cause a nuisance or is likely to injure the drainage and sewage system or is likely to be dangerous to life and health, remove or cause to be removed the garbage or material so stacked or collected, or take such steps as it may think necessary, and dispose of the said garbage or material at the cost of such person in the manner as provided under sub-section (5) of section 8.

Power of local authority or competent authority to remove non-biodegradable garbage or non-biodegradable material.

8. (1) Subject to the provisions of this section, any person empowered by the State Government, by notification in the *Official Gazette*, shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place for the purpose of—

Power of entry and inspection.

(i) performing any of the functions entrusted to him by the State Government ; or

(ii) determining whether, and if so, in what manner, any such functions are to be performed, or whether any provisions of this Act or the rules made thereunder, or any notice, order or direction served, made or, given under this Act, is being, or has been, complied with ; or

(iii) examining any record, register, document or any other material object, or for conducting a search of any building 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 for seizing such record, register, document or other material object if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder.

(2) Every person handling any non-biodegradable material or non-biodegradable garbage, shall be bound to render all assistance to the person empowered under sub-section (1) for carrying out the functions under that sub-section, and if he fails to do so without any reasonable cause or excuse, he shall be liable to be punished under this Act.

(3) If any person willfully delays or obstructs any person empowered under sub-section (1) in the performance of his functions, he shall be liable to be punished under this Act.

(4) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code. 2 of 1974.

(5) Any non-biodegradable garbage or non-biodegradable material seized under this section, shall be disposed of in the prescribed manner.

Penalties. 9. (1) Whoever contravenes any of the provisions of this Act or any rules, notification or order made under this Act shall, on conviction, be punished,—

(a) for the first offence with a fine which may extend to five thousand rupees ;

(b) for the second offence with a fine which may extend to ten thousand rupees ;

(c) for the subsequent offence, with an imprisonment for a term which may extend to three months and with a fine which may extend to twenty-five thousand rupees.

(2) Whoever, in any manner aids, abets or is accessory to the commission of an offence under this Act shall, on conviction, be punished with the punishment provided for the offence.

Offences by companies. 10. (1) If the person committing any 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 :

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 exercised all due diligence to prevent the commission of the offence.

(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 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.

Explanation.—For the purposes of this section,—

(i) “company” means any body corporate and includes a firm or other association of individuals; and

(ii) “director”, in relation to a firm, means a partner in the firm.

11. All offences under the Act shall be tried in a summary way by a court not below the rank of a Judicial Magistrate of the First Class or the Metropolitan Magistrate 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.

Offences to be tried summarily.

2 of 1974.

12. (1) Any officer of the State Government or of the local authority, authorized by the State Government or, as the case may be, by the local authority, in this behalf, may accept from any person who has committed or who is reasonably suspected of having committed the first or second offence under this Act, a sum of money by way of compounding of the offence as specified in the Table below :—

Compounding of offences.

TABLE

Sr. No.	Contravention/offence	The sum of money to be accepted for compounding of an offence
(1)	(2)	(3)
1	First offence	Five thousand rupees
2	Second offence	Ten thousand rupees.

(2) On payment of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set at liberty

and no proceeding shall be instituted or continued against such person in any criminal court.

(3) The acceptance of sum of money for compounding of an offence in accordance with sub-section (1) shall be deemed to be an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973.

Power of the State Government to constitute authority, to appoint officers and to issue directions.

13. (1) The State Government may, by an order published in the *Official Gazette*, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions of the State Government under this Act, as may be mentioned in the order.

(2) The State Government may, in exercise of its powers and the performance of its functions under this Act, issue directions, in writing, to any officer or authority and such officer or authority shall be bound to comply with such directions.

(3) Without prejudice to the provisions of sub-section (1), the State Government may appoint, by general or special order published in the *Official Gazette*, officers with such designation as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

Power to amend Schedule.

14. (1) Where it is expedient to do so, the State Government may, in the public interest and in consultation with the Public Analyst, by notification in the *Official Gazette*, omit any entry from the Schedule or add any entry thereto or amend any such entry and the Schedule shall, on the issue of such notification, be deemed to be so amended.

(2) Every notification issued under sub-section (1) shall be laid, as soon as may be after it is made, before each House of the State Legislature.

Delegation of powers.

15. The State Government may, by order published in the *Official Gazette*, direct that any power exercisable by it under this Act, except the power to make rules, may also be exercised, by such officer or authority, as may be specified therein.

Protection of action taken in good faith.

16. No suit, prosecution or other legal proceeding shall lie against the State Government or the local authority or any officer or other employee of the State Government or the local authority or any other person authorized by State Government for anything which is in good faith done, or intended to be done under this Act or the rules made or directions issued, thereunder.

Other laws not affected.

17. 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.

18. (1) The State Government may, by notification in the *Official*

Gazette, make rules for the purpose of carrying out the provisions of this Act. Power to make rules.

(2) Except when the rules are made for the first time, all rules made under this Act shall be subject to the condition of previous publication.

(3) Without prejudice to the generality of the provisions of the sub-section (1), such rules may provide for,—

(i) requirements or conditions on manufacturers, distributors, users and other persons who produce or handle commodities with respect to type, size, thickness, labelling and composition of packaging, with respect to its use and disposal, including standards or norms for material degradability and re-cyclability under sub-section (2) of section 4 ; and

(ii) any other matter which may be, or which is required to be, prescribed for giving effect to the provisions of this Act.

(4) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of the State Legislature 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 in which it is so laid or the session immediately following, both Houses agree in making any modification or both Houses agree that the rule should not be made, and notify their decision in the *Official Gazette*, the rule shall, from the date of publication of such notification, 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 or intended to be done under that rule.

Mah.
Ord.
IV of
2006.

19. (1) The Maharashtra Non-biodegradable Garbage (Control) Ordinance, 2006, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the said Ordinance shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.

Repeal of
Mah. Ord.
IV of 2006
and saving.

SCHEDULE

[See section 2 (h) and 14]

*Non-Biodegradable and Biodegradable Garbage or
Material, Electronic Waste*

- I. Acetyl.
- II. Acrylic.
- III. Cellulose Acetate.
- IV. Cellulose Acetate Butyrate.
- V. Construction debris.
- VI. Electronic Waste.
- VII. HIPS.
- VIII. Nylon.
- IX. Plastic strips used for packaging.
- X. Polycarbonate.
- XI. Polyethylene.
- XII. Polyethylene terephthalate (PET).
- XIII. Polypropylene.
- XIV. Polystyrene.
- XV. Poly-Vinyl—Chloride (PVC).
- XVI. Thermocol.

STATEMENT OF OBJECTS AND REASONS

It was observed that during the torrential rain on 26th July 2005 non-biodegradable garbage, especially plastic bags, HIPS Cups, plastic strips and thermocol used for packaging were grossly responsible for blockage of gutters, sewers and drains, resulting in serious environmental problem in Mumbai and other parts of the State. With a view to prevent the occurrence of such problems, the Government of Maharashtra has decided to declare the entire State of Maharashtra as the "Plastic Bag Free Area" and had published draft Order, dated the 13th September 2005, inviting suggestions and objections from the general public.

2. As large number of suggestions were received, suggesting the establishment of a proper and scientific waste collection and disposal system for non-biodegradable waste such as plastic bags, HIPS Cups and thermocol used for packaging, to prevent the occurrence of the situation caused by deluge of July 2005, the Government of Maharashtra had appointed an Expert Committee to study the objections received, the problems of plastic bags from various angles and to submit its findings and recommendations to the Government, so as to enable it to regulate the use of polyethylene bags and to resolve this major problem.

3. The said Committee has, *inter alia*, recommended the State Government to consider enacting of a special law to prevent throwing or depositing non-biodegradable garbage in public drains, roads, wetland, wasteland, water bodies, places open to public view; and to regulate the use of non-biodegradable material in the State. After considering the report of the Expert Committee, the Government considered it expedient to make a special law to prevent throwing or depositing non-biodegradable garbage in public drains, roads, wetland, wasteland, water bodies, places open to public view; to regulate the use of non-biodegradable material and for matters connected therewith or incidental thereto, on the lines of the Himachal Pradesh Non-Biodegradable Garbage (Control) Act, 1995.

4. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that

circumstances existed which rendered it necessary for him to take immediate action to make a law, for the purposes aforesaid, the Maharashtra Non-biodegradable Garbage (Control) Ordinance, 2006 (Mah. Ord. IV of 2006), was promulgated by the Governor of Maharashtra, on the 27th February 2006.

5. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 13th March 2006.

GANESH NAIK,
Minister for Environment.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 2.—Under this clause power is taken to the State Government,—

(a) under sub-clause (b), to appoint, by notification in the *Official Gazette*, any authority, officer or person for enforcement of the provisions of this Act, to be the competent authority ; and

(b) under sub-clause (p), to specify, by notification, the standards including the standards for material degradability and re-cyclability for the use and disposal of non-biodegradable material.

Clause 3(2).—Under this clause, power is taken to the State Government to prescribe by rules, procedure and safeguards to place or permit to be placed any biodegradable or non-biodegradable garbage in any public or in a place open to public view.

Clause 4.—Under this clause, power is taken to the State Government,—

(a) under sub-clause (1),—

(i) to impose, by notification in the *Official Gazette*, such restriction or prohibition on the use of non-biodegradable material or any other material harmful to environment within the State ; and

(ii) to specify, by notification in the *Official Gazette*, non-biodegradable material or any other material harmful to environment, which is contrary to the norms ; and

(b) under sub-clause (2), to impose, by general or special order, requirements on manufacturers, distributors and other persons who produce or handle commodities with respect to the type, size, thickness, labelling and composition of packaging with respect to its use and disposal including standards or norms for material degradability and re-cyclability.

Clause 8.—Under this clause, power is taken to the State Government,—

(a) under sub-clause (1), to empower, by notification in the *Official Gazette*, any person to enter at all reasonable times with such assistants as he considers necessary, any place, for the purpose of performing any of the functions entrusted to him by the State Government ; and

(b) under sub-clause (5), to prescribe by rules, the manner in which the seized non-biodegradable garbage or non-biodegradable material shall be disposed off.

Clause 13.—Under this clause, power is taken to the State Government,—

(a) under sub-clause (1), to constitute, by order published in the *Official Gazette*, an authority or authorities by such name or names as may be specified therein for the purpose of exercising and performing such of the powers and functions of the State Government under this Act, as may be mentioned in the order ; and

(b) under sub-clause (3), to appoint, by general or special order published in the *Official Gazette*, officers with such designation as he thinks fit for the purpose of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

Clause 14(1).—Under this clause, power is taken to the State Government, to omit any entry from the Schedule, add any entry thereto or amend any such entry, by notification in the *Official Gazette*, in the public interest and in consultation with the Public Analyst.

Clause 15.—Under this clause, power is taken to the State Government, to direct, by order published in the *Official Gazette*, that any power exercisable by it under this Act, except the power to make rules, may be exercised by such officer or authority, as may be specified therein.

Clause 18.—Under this clause, power is taken to the State Government, to make rules, by notification in the *Official Gazette*, for the purpose of carrying out the provisions of this Act and any other matter which may be or which is required to be prescribed.

2. The abovementioned proposals for delegation of legislative power are of a normal character.