

The Delhi Plastic Bag (Manufacture, Sales and Usage) and Non-Biodegradable Garbage (Control) Act, 2000

DELHI

India

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Act 6 of 2001

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The Delhi Plastic Bag (Manufacture, Sales and Usage) and Non-Biodegradable Garbage (Control) Act, 2000 Delhi Act No. 6 of 2001 Received the assent of the Lt. Governor of Delhi on 16.4.2001. An Act to prevent contamination of foodstuff carried in recycled plastic bags, reduce the use of plastic bags, throwing or depositing non-biodegradable garbage in public drains, roads and places open to public view in the National Capital Territory of Delhi and for matters connected therewith or incidental thereto. Be it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Fiftieth Year of the Republic of India as follows:-

Chapter I

Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Delhi Plastic Bag (Manufacture, Sale and Usage) and Non-Biodegradable Garbage (Control) Act, 2000. (2) It extends to the whole of the National Capital Territory of Delhi. (3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint and different dates may be appointed for different areas.

2. Definitions.

- In this Act, unless the context otherwise requires:- (a) "authorization" means permission granted by the Delhi Pollution Control Committee for the manufacturing of non-biodegradable recycled plastic bags; (b) "bio-degradable garbage" means garbage or waste material capable of being destroyed by the action of living organism, heat, light, radiation, oxidation or combination of these

factors;(c)"food" means any article used as food or drink for human consumption other than drugs and water and includes:- (a) any article which ordinarily enters into or is used in the composition or preparation of human food; (b) any flavouring matter or condiment and; (c) any other article which the government, may having regard to its use, nature, substance or quality, declare by notification in the official gazette as food for the purpose of this Act. (d) "Government" means the Lieutenant Governor of the National Capital Territory of Delhi, referred to in Article 239-AA of the Constitution; (e) "Lieutenant Governor" means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under Article 239 of the Constitution; (f) "local authority" includes the Municipal Corporation of Delhi, the New Delhi Municipal Council, the Delhi Cantonment Board, the Delhi Development Authority or any successor body to any of them and any other statutory authority performing municipal functions; (g) "market" includes any place where persons assemble 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, 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 person frequenting, the market by the owner of the place or by any other person; (h) "non-biodegradable garbage" means the waste garbage or material which is not bio-degradable garbage and includes plastic material such as polyethylene, nylon, P.V.C., polypropylene, pet etc., which are not capable of being easily destroyed by the action of living organisms, light, heat, moisture, radiations, oxidations or combination of all these factors and are more specifically included in the Schedule of 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 who is in occupation of or otherwise using his land or building; (iii) a rent free tenant of any land or building; (iv) an owner or tenant of any jhuggi/temporary structure or land or building in any unauthorized colony; (v) any person who is liable to pay to the owner damages for the use and occupation of any land for 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 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; (k) "pigments" means inorganic and organic chemical substances used in manufacturing of recycled, coloured plastic bags; (l) "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 building; (m) "place open to public view" includes any place or building, monument, fence or balcony visible to a person being in, or passing along, any public place; (n) "prescribed" means prescribed by rules made under this Act; (o) "public Analyst" means the person appointed or recognized to be the Government Analysts, in relation to any environment laboratory established or recognized in the National Capital Territory of Delhi, under the provisions of the Environment (Protection) Act, 1986 (29 of 1986); and (p) "public place" means any place which is open to use and enjoyment of the public 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.

Chapter II

Prohibition of Manufacture, Sale and Usage of Recycled Plastic Bags for Food

3. Prohibition of manufacture, sale etc. of recycled plastic bags for food.

(1) No person shall himself or by any person on his behalf manufacture for sale, or use any recycled non-biodegradable plastic bags or containers with or without containing inorganic or organic pigments, plasticizers, lubricants and stabilizers etc. which are liable to cause poisoning of food during storing, carrying or packing of any food with in the National Capital Territory of Delhi. (2) No licence, for the manufacture, sale of recycled plastic bags referred in sub-section (1) granted or received under any law before the date of commencement of this Act, shall entitle the holder thereof or any other person on this behalf to commence or carry on such business.

Chapter III

Management of Non-Biodegradable Garbage and Biodegradable Garbage

4. Prohibition to throwing garbage in public places, drains sewer etc.

(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, any non-biodegradable garbage or any bio-degradable garbage in a non-biodegradable bag likely to—(i) impair proper functioning of the drainage & 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 public health; (iv) likely to be injected by stray animals leading to serious health hazards. (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 the garbage:

5. Provision for placement of receptacles and places for deposit of garbage.

- 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 and final disposal of non-biodegradable garbage; (b) provided adequate number of separate dustbins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit of bio-degradable garbage; (c) provide for the timely and regular removal of contents of receptacles, deposit and of the accumulation at all places provided or appointed by it

under Clause (a) of this section;(d)make adequate provisions so that the receptacles, depots, dustbins-authorized and unauthorized-referred to above do not become a source of nuisance; and(e)make adequate provisions so that the receptacles, depots, dustbins or places referred to above do not become easily approachable to stray animals.

6. Duties of occupier of land and building.

- It shall be the duty of the owners and occupiers of all lands and buildings-(a)to collect or to cause to be collected from their respective land and buildings the non-biodegradable garbage and to deposit, or cause to be deposited, in public receptacles, deposits or places provided for temporary deposit or collection of the non-biodegradable garbage by the local authority in the area;(b)to provide separate receptacles or dustbins, other than those kept and maintained for deposit of bio-degradable garbage, of the type and in the manner prescribed by the local authority for collection therein of all the non-biodegradable waste from such land and building and to keep such receptacles/dustbins in good conditions and repair.

7. Power of local authority for removing non-biodegradable garbage.

- The local authority may, by notice in writing, require 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 and likely to occasion a nuisance, remove or cause to be removed the said garbage so stacked or collected and if, in its opinion, such stacking or collection of non-biodegradable waste is likely to harm the drainage and sewage system or is likely to be dangerous to life and health of human beings, it shall forthwith take such steps as may be necessary at the cost of such persons.

Chapter IV

Authorisation and Appeal

8. Authorization.

(1)Any person manufacturing non-biodegradable plastic bags for purposes other than those mentioned in Section 3 shall, by applying in the form as may be prescribed, seek authorization from the Delhi Pollution Control Committee which may grant authorization provided that following conditions are satisfied by him or reject the application as the case may be-(a)that the recycled bags would be coloured and pigmented and dyes used in manufacturing of the plastic bags shall be in accordance with the pigments & dyes listed in IS 9833 : 1981. Reprocessing or recycling is undertaken in accordance with IS 14534 : 1998 titled "Guidelines for recycling of plastics" and shall be marked-(i)recycled bag;(ii)unsafe for carrying food;(iii)name and address of the manufacturer;(b)that the minimum thickness of recycled bags & virgin bags shall not be less than 20 microns or any minimum thickness as specified by the Government;(c)carry bags or containers manufactured out of virgin plastic shall be of white colour.

9. Appeal.

(1) Any person, aggrieved by an order of direction of the Delhi Pollution Control Committee under Section 8, may appeal within thirty days from the date of such order of direction to the appellate authority notified as such by the Government for the purpose which may vary, set aside or confirm the said order or direction. (2) The decision of the appellate authority under sub-section (1) shall be final and shall not be questioned in any court of law.

Chapter V Penalties

10. Penalties.

(1) Whoever—(a) contravenes any provision of Chapter II and Chapter IV of this Act or fails to comply with any order or direction lawfully given to him under this Act shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which may extend to twenty five thousand rupees or with both; (b) contravenes any provision of Chapter III of this Act shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to five thousand rupees or with both. (2) Whoever having been convicted of an offence under this Act is again convicted of any offence under this Act shall be punishable with double the penalty provided for the first offence. (3) Whoever in any manner aids or abets to the commission of an offence under this Act shall on conviction be punished with imprisonment prescribed for the offence.

11. Offences by companies.

(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—(a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director" means a working partner of a firm or a Managing Director or a full time Director or an Executive Director who earns salary from the company.

12. Offences by Local Bodies.

- Notwithstanding anything contained above, any officer of any local body who fails to implement any provision of this act willfully shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

13. Offences to be tried summarily.

- All offences under this Act shall be tried in a summary way by a Metropolitan Magistrate and the provisions of Sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 (2 of 1974) shall, as far as may be, apply to such trials.

14. Compounding of offences.

(1) Any offence punishable under this Act may, before the institution of the prosecution be compounded, on payment of such amount for credit to the Government, by such officers or authorities as the Government may by notification in the official Gazette, specify in this behalf. (2) Where any offence has been compounded under sub-section (1) no proceedings shall be taken against the offender, in respect of the offence as compounded.

Chapter VI

Miscellaneous

15. Direction by the Government.

- The local authority shall carry out such directions as may be issued to it, from time to time, by the Government for the efficient administration of this Act.

16. Power to amend Schedule.

(1) Where it is expedient to do so, the Government may, in the public interest and in consultation with the Public Analyst, by notification in the official Gazette, add to, or omit from the Schedule any item of non-biodegradable waste and thereafter the Schedule shall be deemed to be amended accordingly. (2) Every notification under sub-section (1) shall be laid, as soon as may be after it is made, before the State Legislative Assembly of the National Capital Territory of Delhi.

17. Power to delegate.

- The Government, may, by order published in the official Gazette, direct that any power exercisable by it under this Act (not including the power to make rules under Section 19) may also be exercised, in such cases as may be specified in the order, by such officer or authority, as may be specified therein.

18. Protection of action taken in good faith.

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

19. Other laws not affected.

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

20. Power to make rules.

(1)The Government may subject to the condition of previous publication, make rules for the purposes of carrying out of the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely-(a)prescribing the procedure and safeguards to be complied with for placing or permitting to be placed any bio-degradable or non-biodegradable garbage in any public place or in a place open to public view-Section 4(2);(b)prescription of the form of application for seeking authorization and the fee payable with the application for the grant of authorization Section 8(1);(c)provide for the delegation of the powers and functions conferred by this Act on the Government to subordinate officers or authorities Section 17;(d)provide for the delegation of the powers and functions regarding compounding of offences by the Government to subordinate officers or authorities-Section 14;(e)the matters which are to be and may be prescribed under this Act.(3)Every rule made by the Government under this Act shall be laid, as soon as may be after it is made, before the House of the Legislative Assembly of the National Capital Territory of Delhi, 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, the House of the Legislative Assembly agrees in making any modification in the rules or the House agrees 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.

21. Power to remove difficulties.

(1)If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulties :Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.(2)Every order made under this section shall, as soon as may be after it is made, be laid before the House of the Legislative Assembly of Delhi.

Schedule

[See Section 2(h)]Non-Biodegradable Garbage

1. Polyethylene

2. Nylon

3. P.V.C.

4. Polypropylene

5. Polystyrene