

Uttarakhand Plastic and Other Non Biodegradable Garbage (Regulation of Use and Disposal) Act, 2013

UTTARAKHAND

India

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Act 17 of 2013

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Uttarakhand Plastic and Other Non Biodegradable Garbage (Regulation of Use and Disposal) Act, 2013(Uttarakhand Act No. 17 of 2013)Last Updated 7th March, 2020An Act to regulate the use and disposal of plastic and other non-biodegradable garbage in the State of Uttarakhand and for matters connected therewith or incidental thereto.Be it enacted by the Legislative Assembly of Uttarakhand in the Sixty-fourth Year of the Republic of India, as follows :-Chapter - I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Uttarakhand Plastic and Other Non Biodegradable Garbage (Regulation of Use and Disposal) Act, 2013.(2)It extends to the whole of Uttarakhand.(3)It shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires-(a)"bio-degradable garbage" means the garbage or waste material capable of being destroyed by the action of living beings;(b)"Competent authority" means any authority, officer or person appointed by the State Government, by notification, for enforcement of any of the provisions of this Act;(c)"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 the removal of such matter therefrom;(d)"local authority" means a Municipal Corporation, a Municipal Council, a Nagar Panchayat, a Cantonment Board, a Zila Parishad, a Kshettra Panchayat or a Gram Panchayat constituted under any law for the time being in force;(e)"market" includes any place where persons, assemble for exposing 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 concurrence of the buyers and the sellers and whether or not any control is exercised over the business of the person frequenting the market by the owner of the place or by any other persons;(f)"non-biodegradable garbage" means the waste garbage made of non-biodegradable material;(g)"non-biodegradable material" means the material including plastic which cannot be decomposed or degraded by action of micro-organisms, sunlight or other natural actions and includes goods made or manufactured from Polythene, Nylon or other plastic substances such as Poly Vinyl Chlorides (P.V.C.), Poly-Propylene and Poly-styrene specified in the Schedule to this Act;(h)"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 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;(i)"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;(j)"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.(k)"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;(l)"prescribed" means prescribed by rules made under this Act;(m)"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 (29 of 1986); and(n)"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.

Chapter - II Restriction or prohibition on use of non-biodegradable material

3. Restriction or prohibition on use of certain things manufactured from non-biodegradable material.

(1)The State Government may, by notification, impose restriction or prohibition on the manufacture, sale, purchase, storage, distribution and use of any plastic or other non-biodegradable material within the State of Uttarakhand, which is contrary to the norms as the State Government may, by notification, specify.(2)The State Government may, by notification, impose requirements on manufacturers, distributors and other persons, who produce or handle commodities, with respect to the type, size, labelling and composition of packaging or with respect to its use and disposal including standards or norms for material degradability and re-cyclability.

4. Prohibition on throwing non-biodegradable garbage in public drain, sewers and water bodies.

(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, canals, ponds, streams or rivers, any non biodegradable garbage or any bio-degradable garbage in a non-biodegradable bag or container.(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 garbage in any public place or in a place open to public view, unless-(a)the garbage is placed in a closed 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. Restriction on burn of non- biodegradable.

- No person shall burn any non-biodegradable garbage containing any material mentioned in the schedule.

Chapter - III Management of non-biodegradable garbage

6. Provision for placement of receptacles and places for deposit of non-biodegradable garbage.

- It shall be the duty of the local authority, or any officer authorized by it, to-(a)place or provide in proper and convenient situation public receptacles, or places for temporary deposit or collection of non-biodegradable garbage;(b)provide separate dust bins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit of bio-degradable garbage;(c)provide for the removal of contents of receptacles, deposit and of the accumulation at all places provided under clause (a) of this section;(d)arrange for recycling of the non-biodegradable garbage collected under this Act;(e)all such receptacles should have the facility to be closed from the upper side facing the sky.

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

- 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 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 dust bins, other than those kept and maintained for deposit of bio-degradable garbage, of the type and in the manner prescribed 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 dust bins in good condition and repair.

8. Power of local authority or competent authority for removal of non-biodegradable garbage or non-biodegradable material.

- 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 occasion 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 said 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 the rules made under this Act.

Chapter - IV Penalties and Punishments

9. Power of entry and inspection.

(1) Subject to the provisions of this section, any person empowered by the State Government, by notification in this behalf, shall have a right to enter, at all reasonable times with such assistance as considered necessary, any place-

(a) for the purpose of performing any of the functions entrusted to him by the State Government;

(b) for the purpose of 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 there under or any notice, order or direction served, made or, given under this Act is being or has been complied with;

(c) for the purpose of 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 reasons 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 be punished under this Act.

(3) The provisions of 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.

(4) Any non-biodegradable garbage or non-biodegradable material seized under this section shall be disposed of in the manner as the State Government may, by notification, specify.

10. Penalties.

- Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rules, notification or order made, issued or given under this Act, or abets or is accessory to the commission of an offence under this Act shall be punishable with three months simple imprisonment or fine, upto Five hundred in case of individuals and petty retailers, upto Fifty thousand in case of retail shops and business enterprises and upto Two lakhs in case of manufacturing and trading firms, or with both.

11. Punishment.

- Whoever having been convicted of an offence under this Act is convicted again of any offence under this Act shall be punishable for the latter offence with double the penalty provided in section 10 above.

12. 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 Act 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) above, 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 corporate body and includes a firm or other association of individuals; and (b) "Director" in relation to a firm means a partner in the firm.

13. Offences to be tried summarily.

- All offences under the 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 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 by such officer as may be authorized by the State Government in this behalf, on payment, for credit to the State Government, of such sum as the State Government may, by notification, specify: Provided that such payment in any single case shall not exceed the fine prescribed for the same. (2) Where any offence has been compounded under sub-section (1) above, no proceeding shall be taken against the offender, in respect of the offence as compounded, and the offender, if in custody, shall be discharged. Chapter-V Registration of Waste Godowns and Safety of Labour

15. Registration.

(1) Every operator of Waste Godowns will obtain registration from concerning local bodies including Gram Panchayats for storage of any type of non-biodegradable garbage as per provisions of rules made on this behalf. (2) All agencies entrusted for cleaning and collection of non-biodegradable garbage as registered under sub-section (1) will disclose the identity and responsibilities of each rag picker and other labour engaged in cleaning, collection, storage and management of garbage and no person below the age of fourteen would be engaged in the aforesaid activities. (3) No registered waste godown or labour involved in cleaning, segregating or otherwise disposing any garbage, whether

biodegradable or otherwise will be prosecuted in any way for storing, collecting, sale or purchase of collected garbage for the purpose of recycling or composting or transport to bigger collection and recycling centers :Provided that all such transportation should be done in closed wagons or containers.(4)All registered godowns and local bodies will provide modern cleaning equipments, shoes, gloves, aprons and other safety measures to their registered labour involved in cleaning and collection of garbage.Chapter-VI Miscellaneous

16. Directions by the State Government.

- The State Government may from time to time, issue any such directions for the efficient administration of this Act and it shall be binding on the authorities to which such directions are issued to comply with the same.

17. Power to amend Schedule.

(1)Where it is expedient to do so, the State Government may, 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 issued, before the State Legislative Assembly.

18. Power to delegate.

- The State 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 20) may also be exercised, in such cases as may be specified in the order, by such officer or authority, as may be specified therein.

19. Protection of action taken in good faith.

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

20. Power to make rules.

(1)The State Government may make rules for the purposes of carrying out of all or any of the provisions of this Act.(2)Every rule made by the State Government under this Act shall be laid as soon as may be, after it is made, before the State Legislative Assembly while it is in session, for a total period of fourteen days which may comprise in one session or in two successive sessions.

21. Research.

- The State Government may conduct or get conducted any research activity that is ancillary to solid waste management.

22. Repeal and savings.

(1)The Uttar Pradesh Plastic and Other Non-biodegradable (Regulation of Use and Disposal) Act, 2000 (Uttar Pradesh Act No. 29 of 2000) (to the context of the State of Uttarakhand) is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

Schedule

[See clause (g) of section 2]Non-Biodegradable Garbage(Irrespective of any size and thickness)

1. Polyethylene

2. Nylon

3. P.V.C.

4. Poly-propylene

5. Poly-styrene

6. PET- Poly-Ethylene terephthalate

7. HDPE-High density Polyethylene

8. LDPE-Low density Polyethylene and

9. Other resins and multi materials like ABS (Acrylonitrile butadiene styrene), PPO (Polyphenylene oxide), PC (Polycarbonate), PBT (Polybutylene terephthalate) etc.