

GOVERNMENT OF GOA

Department of Law and Judiciary

Legal Affairs Division

Notification

7-4-1997/LA

The Goa Non-Biodegradable Garbage (Control) Act, 1996 (Goa Act 5 of 1997), which has been passed by the Legislative Assembly of Goa on 18-12-1996 and assented to by the Governor of Goa on 12-3-1997, is hereby published for general information of the public.

P. V. Kadneker, Joint Secretary (Law).

Panaji, 17th March, 1997.

The Goa Non-Biodegradable Garbage (Control) Act, 1996

(Goa Act No. 5 of 1997) [12-3-1997]

AN

ACT

to prevent throwing, or depositing non-biodegradable garbage in public drains, roads and place open to public view in the State of Goa and for matter connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of Goa in the Forty-seventh Year of the Republic of India as follows:—

1. Short title, extent and commencement.— (1) The Act may be called the Goa Non-Biodegradable Garbage (Control) Act, 1996.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the State 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) “biodegradable garbage” means the garbage or waste materials capable of being destroyed by the action of living beings;

¹[(aa) “commercial establishment” means an establishment used for commercial purposes, such as, bars, shacks, restaurants, private offices, fitness clubs, retail stores, banks, financial institutions, supermarkets, auto and boat dealerships, etc. and other such establishments;]

(b) “house gully” means a passage or strip of land constructed, set apart or utilised for the purpose of serving as or carrying a drain or affording access to the latrine, urinals, cesspool or other receptacle for filth or other polluted matter, by persons employed in the clearing thereof in the removal of such matter therefrom;

²[(ba) “inert waste” means waste which is neither chemically nor biologically reactive and will not decompose;]

(c) “local authority” means ³[a Municipal Corporation, a Municipal Council], a Zilla Panchayat or a Panchayat constituted, or continued, under any law for the time being in force;

(d) “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 person frequenting, the market by the owner of the place or by any other persons;

(e) “non-biodegradable garbage” means the waste garbage or material which is not biodegradable garbage and includes polyethylene, nylon and other plastic goods such as P. V. C. polypropylene and polystyrene which are not capable of being destroyed by an action of living beings and are more specifically included in the schedule to this Act,;

(f) “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; ⁴[]

(iv) any person who is liable to pay to the owner damages for the use and occupation of any land or building; ⁵[and]

⁶[(v) any person who is in charge of any place owned by the Central or State Government, Government Company or Corporation, or any place where exhibitions and other events are organized;]

(g) “Official Gazette” means the Official Gazette of the Government;

(h) “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 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;

(i) “place” means any land or building or part of a building and includes the

garden, ground and outhouses, if any, pertaining to a building or part of a building;

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

(k) “prescribed” means prescribed by rules made under this Act;

(l) “Public Analyst” means the person appointed or recognised 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 (Central Act 29 of 1986).

(m) “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; and

(n) “State Government” means the Government of Goa.

⁷[(o) “plastic” means material which contains as an essential ingredient a high polymer such as polyethylene (PE), polycarbonates (PC), high density polyethylene, vinyl, low density polyethylene, polypropylene, polystyrene (PS Styrofoam/Thermocol) resins, multi materials like Acrylonitrile Butadiene Styrene (ABS), Polyphenylene Oxide, Polycarbonate, Polyvinyl Chloride, Acetal, Acrylic, Cellulose Acetate, Cellulose Acetate Butyrate, Nylon, Polybutylene terephthalate and shall also include Non Woven Polypropylene, Multilayered co- extruder Polyterephthalate (PT), Polyamindes, Polymethylmethacrylate, Plastic microbeads.

(p) “plastic carry bags” means bags made from plastic material with or without handles used for the purpose of carrying or dispensing commodities but do not include bags that constitute or form an integral part of the packaging in which goods are sealed prior to use;

(q) “Styrofoam” is a type of expanded polystyrene used especially for making food containers and packing materials.]

3. Prohibition to throw garbage in public places, drains and sewage,— (1) No person, by himself or through another, shall knowingly or otherwise throw or cause to be thrown in drain, ventilation shaft, pipe and fittings, connected with the private or public drainage works, any non-biodegradable garbage or any biodegradable garbage 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 sewage contents; and

(iii) be dangerous or cause a nuisance or be prejudicial to public health.

(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 garbage.

⁸[3(A). *Prohibition on use of plastic carry bags, etc.*— (1) No person shall manufacture, import, store, transport or sell plastic carry bags or items made up of plastic/styrofoam such as, cups, straws, lids, cutlery, cello and poly film, metalised film, plastic cellophane paper and such other items as specified by the Government, by notification in the Official Gazette.

(2) No person including commercial establishment shall use or throw or cause to be thrown plastic carry bags and items specified in sub-section (1), in a public place.

(3) No person shall burn nonbiodegradable garbage in public place. Provided that provisions of this section shall not apply to export oriented units or units in special economic zones, notified by the Central Government, manufacturing their products against an order for exports. Such export oriented units shall not allow their products for sale and usage within the State of Goa.]

4. 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 authorised 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, deposit and of the accumulation at all places provided or appointed by it under clause (a) of this section; and

(d) arrange for recycling of the non-biodegradable garbage collected under this Act.

⁹[5. *Duty of owner and occupier to collect, segregate and store non-biodegradable garbage etc.*— It shall be the duty of the owner and occupier to collect and segregate the non-biodegradable garbage generated within their place and store securely until it is handed over to the local authority.]

¹⁰[5A. *Penalty for contravening provision of section 5.*— (1) *Whoever contravenes any of the provisions of section 5 of this Act shall be punishable with:*— (a) a fine of Rs. 200/- for first offence, Rs. 500/- for the second offence, and Rs. 5000/- or with imprisonment which may extend to one month or with both, for every subsequent offence, when the offence is in relation to a residential house; (b) a fine of Rs. 2000/- for first offence, Rs. 5000/- for the second offence, and Rs. 25000/- or with imprisonment for a term which may extend to six months or with both, for every subsequent offence, when the offence is in relation to a commercial establishment.]

¹¹[5B. *Penalty for contravening provisions of section 3A.*— (1) whoever contravenes provisions of sub-section (1) of section 3A shall be punishable with a fine of Rs. 50,000/- (Rupees fifty thousand) for the first offence, Rs. 1,00,000/- (Rupees one lakh) for the second offence and Rs. 3,00,000/- (Rupees three lakhs), or with imprisonment which may extend to three months or with both for every subsequent offence.

(2) Whoever contravenes provisions of sub-section (2) of section 3A shall be punishable with,—

(i) a fine of Rs. 2,500/- (Rupees two thousand five hundred) for the first offence, Rs. 3,500 (Rupees three thousand five hundred) for the second offence and Rs. 5,000/- (Rupees five thousand), or with imprisonment which may extend to five days, or with both, for every subsequent offence, when the offence is in relation to an individual;

(ii) a fine of Rs. 10,000/- (Rupees ten thousand) for the first offence, Rs. 20,000/- (Rupees twenty thousand) for the second offence and Rs. 50,000/- (Rupees fifty thousand), or with imprisonment which may extend to one month or with both, for every subsequent offence, when offence is in relation to commercial establishment;

(3) Whoever contravenes provisions of sub-section (3) of section 3A shall be punishable with a fine of Rs. 5,000/- (Rupees five thousand) in case of simple burning, Rs. 25,000 (Rupees twenty five thousand) in case of bulk burning, for the first offence and for subsequent offences Rs. 10,000/- (Rupees ten thousand) for simple burning and Rs. 50,000 (Rupees fifty thousand) for bulk burning or with imprisonment which may extend upto a period of five days or with both.]

6. Power of local authority for removal of 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 unauthorised stacking or deposit of non-biodegradable garbage and is likely to occasion a nuisance, remove or cause to be removed the said garbage so stacked or collected; and if, in its opinion such stackings or collection of non-biodegradable waste is likely to injure the drainage and sewage system or is likely to be dangerous to life and health, it shall forthwith take such steps, at the cost of such persons as it may think necessary.

7. Studies, research and support programme.— The State Government may—

(a) undertake studies to determine the composition of biodegradable or non-biodegradable garbage;

(b) establish measures to conduct or support research or programmes to encourage source reduction, re-use and recycling of waste;

(c) conduct or support studies to determine the social and economic feasibility of household and other solid waste separation schemes, including studies of the type and amount of recyclable materials in solid wastes;

(d) encourage local authorities in the State to provide readily accessible solid waste collection depots for residents who are not provided with regular garbage pick-up;

(e) undertake and encourage, local authorities and other persons to implement policies to recycle waste materials, to promote energy conservation and to purchase products made from recyclable materials;

(f) conduct and support research on recycling including information on operating recycling business and market information on recyclables;

(g) conduct and support research on waste management and recycling, for use in educating the public, local authorities, institutions and industry; and

(h) impose requirements on manufacturers, distributors and other persons who produce or handle commodities with respect to the type, size, packaging, labelling and composition of packaging that may or must be used and with respect to the disposal of packaging including standards for material degradability and recyclability.

¹²[(i) levy a cess at such rates as may be determined by the Government from time to time, by notification in the Official Gazette, but not exceeding two percent of “sale price” as defined in clause (ad) of section 2 of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) of such items, marketed in non-biodegradable packaging material, including bottles and containers, as may be mentioned in such notification, which shall be utilized for implementation of solid waste management schemes including segregation, collection, safe disposal and re-cycling of non-biodegradable waste material and also to promote the sale and use of biodegradable packaging material, bags and containers;].

¹³[(j) specify by notification in the Official Gazette the manner of assessment, levy and collection of cess under clause (i)].

8. Penalties.— (1) ¹⁴[Save as provided in section 5A of this Act, 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, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to rupees five thousand, 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 latter offence.

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

9. 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 incharge 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” in relation to a firm means a partner in the firm.

10. Offences to be tried summarily.— 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 (Central Act 2 of 1974) shall, as far as may be, apply to such trials.

11. 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 authorised by the State Government in this behalf, on payment, for credit to the State Government, of such sums as such officer may specify.

(2) Where any offence has been compounded under sub-section (1) no proceedings shall be taken against the offenders, in respect of the offence as compounded, and the offender, if in custody, shall be discharged.

12. Directions by the State Government.— The local authority shall carry out such

directions as may be issued to it, from time to time by the State Government for the efficient administration of this Act.

13. Power to amend schedule.— (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, 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.

14. 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 17) may also be exercised in such cases as may be specified in the order, by such officer or authority as may be specified therein.

15. Protection of action taken in good faith.— No suit, prosecution or other legal proceedings shall lie against the State Government or the local authority or any officer or other employees of the State Government or the local authority or any other person authorised by the State Government for anything which is in good faith done or intended to be done under this Act or the Rules made thereunder.

16. 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.

17. Power to make rules.— The State Government may, subject to the condition of previous publication, make rules for the purpose of carrying out the provisions of this Act.

Secretariat Annexe,
Panaji,
Date: 17-3-1997.

B. S. SUBBANNA,
Secretary to the Government of Goa,
Law Department (Legal Affairs).

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1. Inserted vide Amendment Act 13 Of 2019 and come into force at once i.e. 23-9-2019.
 2. Inserted vide Amendment Act 13 Of 2019 and come into force at once i.e. 23-9-2019.
 3. Substituted vide Amendment Act 18 of 2014.
 4. Omitted vide Amendment Act 18 of 2014.
 5. Inserted vide Amendment Act 18 of 2014.
 6. Inserted vide Amendment Act 18 of 2014.
 7. Inserted vide Amendment Act 13 Of 2019 and come into force at once i.e. 23-9-2019.
 8. Inserted vide Amendment Act 13 Of 2019 and come into force at once i.e. 23-9-2019.
 9. Substituted vide Amendment Act 18 of 2014 original section read as follows : **5. Duty of owners and occupiers to collect and deposit non-biodegradable garbage, etc.**— *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 biodegradable 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 buildings and to keep such*

receptacles, dustbins in good conditions and repair.

10. Inserted vide Amendment Act 18 of 2014.
11. Inserted vide Amendment Act 13 Of 2019 and come into force at once i.e. 23-9-2019
12. Inserted by the Amendment Act 28 of 2000 and thereafter substituted vide Amendment Act 16 of 2013].
13. Inserted vide Amendment Act 16 of 2013.
14. Substituted vide Amendment Act 18 of 2014.