

Bill No. 58 of 2009

THE RUBBER (AMENDMENT) BILL, 2009

A

BILL

further to amend the Rubber Act, 1947.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Rubber (Amendment) Act, 2009.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

24 of 1947. 5

2. In section 3 of the Rubber Act, 1947 (hereinafter referred to as the principal Act),—

Amendment of section 3.

(a) after clause (g), the following clause shall be inserted, namely:—

‘(ga) “processor” means a person who undertakes the processing of rubber;’ ;

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(b) in clause (k), for the words “fifty acres”, the words “ten hectares” shall be substituted.

- Amendment of section 4. **3.** In the principal Act, in section 4 , in sub-section (3), after clause (d) , the following clause shall be inserted, namely:—
- “(da) three members to be nominated by the Central Government of whom two shall be from the Department of Commerce and one from the Department of Agriculture and Co-operation;” 5
- Amendment of section 8. **4.** In the principal Act, in section 8,—
- (i) in sub-section (2),—
- (a) after clause (d), the following clause shall be inserted, namely:—
- “(da) improving the quality of rubber and implementing the standards for quality, marking , labelling and packing for the rubber produced or processed in, imported into or exported from India;” 10
- (b) in clause (e), for the words “and manufactures”, the words “manufacturers and processors ” shall be substituted;
- (ii) in sub-section (3), in clause (c), for the words “half-yearly reports”, the words “annual report” shall be substituted. 15
- Substitution of new section for sections 9, 9A and 9B. **5.** In the principal Act, for sections 9, 9A, and 9B, the following section shall be substituted, namely:—
- Rubber Development Fund. “9. (1)There shall be a fund to be called the Rubber Development Fund and there shall be credited,—
- (a) all sums forming the funds of the Board immediately before the commencement of the Rubber (Amendment) Act, 2009; 20
- (b) the proceeds of cess paid to the Board by the Central Government under sub-section (7) of section 12;
- (c) any sum of money that may be paid to the Board by way of grants or loans by the Central Government; 25
- (d) internal and extra budgetary resources of the Board;
- (e) all moneys received and collected under section 26A; and
- (f) any other sum that may be levied and collected under this Act and the rules made thereunder.
- (2) The Rubber Development Fund shall be applied— 30
- (a) to meet the expenses of the Board;
- (b) to meet the cost of the measures referred to in section 8;
- (c) to meet the expenditure incurred in the performance of its functions under this Act or the rules made thereunder;
- (d) to meet the expenditure for rehabilitation of small growers; and 35
- (e) for making such grants to rubber estates or for meeting the cost of such other assistance to rubber estates as the Board may think necessary for the development of such estates.”.
- Omission of section 10. **6.** Section 10 of the principal Act shall be omitted.
- Amendment of section 12. **7.** In the principal Act, in section 12,— 40
- (i) in sub-section (2),—
- (a) for the words “such rubber is used.”, the words “such rubber is used or from the exporter by whom such rubber is exported:” shall be substituted;

(b) the following provisos shall be inserted, namely:—

“Provided that the Central Government may, if considered necessary in the public interest, by order for reasons to be recorded in writing, exempt or reduce the duty of excise on rubber exported on such terms and conditions as it deems fit:

Provided further that the Central Government may, by notification in the Official Gazette, specify zero paisa per kilogram as the rate of duty of excise on natural rubber produced in India and procured for export by the exporters of natural rubber for the period from the 1st April, 1961 to the 31st August, 2003.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Subject to the provisions of this Act, every owner, exporter or the manufacturer, as the case may be, shall pay the duty of excise to the Board in the manner and for the period referred to in sub-section (4) and, if he fails to do so, the duty may be recovered with the cost of collection and interest at such rates, as may be prescribed, from the owner, exporter or the manufacturer, as the case may be, as an arrear of the land revenue.”;

(iii) in sub-section (4),—

(a) in clause (b), for the words “fifteen days”, the words “thirty days”, shall be substituted;

(b) in clause (b), in sub-clause (ii), for the words “rubber used”, the words “rubber acquired” shall be substituted.

(iv) in sub-section (5),—

(a) for the words “owner or manufacturer”, the words “owner, exporter or manufacturer” shall be substituted;

(b) after the words “as may be prescribed”, the following shall be inserted, namely:—

“and collect the cess from the owner, exporter or the manufacturer, as the case may be, after issuing a notice and after making such enquiry as it considers necessary, with such rate of interest as fixed under sub-section (3):

Provided that where for any reason, the Board finds that an owner, exporter or manufacturer, as the case may be, has paid cess in excess of what is due from him, it shall be adjusted against the future payment, if any, from him or shall be refunded to him.”.

8. In the principal Act, in section 13, in sub-section (1), after the words “The Central Government may”, the words “, if it deems necessary,” shall be inserted. Amendment of section 13.

9. In the principal Act, for section 17, the following section shall be substituted, Substitution of new section for section 17.
namely:—

“17. (1) The Board shall implement the standards for quality, marking, labelling and packing for various marketable forms of rubber, for the rubber produced or processed in, imported into or exported from, India. Implementation of standards for quality, marking, etc. for rubber.

(2) Any officer of the Board authorised by the Chairman may at any reasonable time inspect the rubber sold or purchased by any dealer or processor at any factory or other premises of a dealer, processor or manufacturer or exporter for the purpose of ensuring the compliance of the standards under sub-section (1).”.

Omission of section 18.	10. Section 18 of the principal Act shall be omitted.	
Amendment of section 19.	11. In the principal Act, in section 19, for the words “section 15 or section 17”, the words “or section 15” shall be substituted.	
Amendment of section 21.	12. In the principal Act, in section 21,— (a) for the words “any officer of the Board may”, the words “any officer of the Board authorised by the Chairman may” shall be substituted; (b) for the words “manufacturer, for”, the words “manufacturer or processor, for” shall be substituted.	5
Insertion of new section 22A.	13. In the principal Act after section 22, the following section shall be inserted, namely:—	10
Power of Central Government to issue directions to Board.	“22 A. (1) Without prejudice to the foregoing provisions of this Act, the Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time: Provided that the Board shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section. (2) The decision of the Central Government whether a question is one of the policy or not shall be final.”	15
Insertion of new section 24A.	14. In the principal Act after section 24, the following section shall be inserted, namely:—	20
Power to delegate.	“24 A. The Central Government may, by notification in the Official Gazette, direct that any power exercisable and functions performed by it under this Act may be exercised and performed in such cases and subject to such conditions, if any, as may be specified in the notification by such officer or authority as may be specified therein.”	
Amendment of section 25.	15. In the principal Act, in section 25, in sub-section (2),— (a) clause (xx) shall be omitted; (b) after clause (xxa), the following clause shall be inserted, namely:— “(xxb) the cost of collection and the rate of interest to be recovered in case of delayed payment of duty under sub-section (3) of section 12;”; (c) in clause (xxi), the words and figures “or section 17” shall be omitted.	25 30
Insertion of new section 25A.	16. In the principal Act after section 25, the following section shall be inserted, namely:—	
Power to make regulations.	“25A. (1) The Board may, with the previous approval of the Central Government, by notification make regulations, not inconsistent with the provisions of this Act and the rules made thereunder, to carry out its functions. (2) Every regulation made under sub-section (1) shall be laid before each House of Parliament.	35
Amendment of section 26.	17. In the principal Act, in section 26, in sub-section (1), for the words “one thousand rupees”, the words “five thousand rupees” shall be substituted.	
Insertion of new section 26A.	18. In the principal Act, after section 26, the following section shall be inserted, namely:—	40
Compounding of offences.	“26A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act may, either before the institution of prosecution or with the permission of the Court after the institution of the prosecution, be compounded by the Board on payment to the Board such sum of money as does not exceed the value of the goods in respect of which contravention has been committed.”	2 of 1974. 45

STATEMENT OF OBJECTS AND REASONS

The Rubber Act, 1947 was enforced on 18th April, 1947. Over the years the industry has undergone immense changes. In view of the development, suitable amendments in the provisions of the Rubber Act, 1947 are needed.

2. The provisions for registration of estates and licence for planting and replanting of rubber are redundant in the liberalised scenario. The omission of these sections will remove cumbersome restrictions. The existing procedure for assessment and collection of cess is time consuming and complex. Introduction of a self-assessment procedure in place will facilitate smooth collection and avoid delay. Enhancement of penalty for violation of the provisions of the Act and introduction of a new provision for compounding of offences will check illegal transaction and evasion of cess. Ensuring quality standards of natural rubber exported and imported as well as consumed in the domestic market is essential. A single fund in the place of the General fund and the Pool fund will be effective device for quick and smooth flow of money into the fund and it will give fresh impetus to the functioning of the Board.

3. The Rubber (Amendment) Bill, 2009, therefore, seeks to delete obsolete provisions and substitute some of the existing provisions in the Rubber Act, 1947 (XXIV of 1947) so as to further rechristen it to meet the changing scenario.

4. The Bill seeks to achieve the above objects.

NEW DELHI;

ANAND SHARMA.

The 13th July, 2009.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 2/1/2007-Plant(C)/102 dated the 8th July, 2009 from Shri Anand Sharma, Minister of Commerce and Industry to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the Rubber (Amendment) Bill, 2009, has recommended to the House the introduction under articles 117(1) and 274(1) and consideration of the Bill under article 117(3) of the Constitution of India.

FINANCIAL MEMORANDUM

In clause 7 of the Bill, *vide* second proviso to sub-section (2) of section 12, the Central Government is empowered to specify by notification, zero paise per kilogram as the rate of duty of excise on natural rubber produced in India and procured for export by the exporters of natural rubber for the period from 1st April, 1961 to the 31st August, 2003. This would result in exemption of cess amounting to Rs. 16,68,59,000 in respect of natural rubber produced in India and procured for export by the exporters of natural rubber for the said period.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill seeks to insert a new section 24A so as to empower the Central Government to direct, by notification in the Official Gazette, that any power exercisable and functions performed by it under this Act may be exercised and performed in such cases and subject to such conditions, if any, as may be specified in the notification by such officer or authority as may be specified therein.

2. Clause 15 of the Bill seeks to insert clause (*xxb*) in sub-section (2) of section 25 so as to empower the Central Government to make, by notification in the Official Gazette, rules for the cost of collection and the rate of interest to be recovered in case of delayed payment of duty under sub-section (3) of section 12.

3. Clause 16 of the Bill seeks to insert a new section 25A so as to empower the Rubber Board to make regulations for carrying out its functions with the previous approval of the Central Government, by notification.

4. The rules and regulations made under the proposed legislation shall be required to be laid before the Parliament.

5. The matters in respect of which rules or regulations may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE RUBBER ACT, 1947

(24 OF 1947)

	*	*	*	*	*
Definitions.	3.	In this Act, unless there is anything repugnant in the subject or context,—			
	*	*	*	*	*
		(k) "small grower" means an owner whose estate does not exceed fifty acres in area.			
	*	*	*	*	*
Functions of the Board.	8.	(1) *	*	*	*
		(2) Without prejudice to the generality of the foregoing provision, the measures referred to therein may provide for—			
	*	*	*	*	*
		(e) the collection of statistics from owners of estates, dealers, and manufacturers;			
	*	*	*	*	*
		(3) It shall also be the duty of the Board—			
	*	*	*	*	*
		(c) to submit to the Central Government and such other authorities as may be prescribed half-yearly reports on its activities and the working of this Act;			
	*	*	*	*	*
Funds of the Board.	9.	(1) The Indian Rubber Production Board constituted under the Rubber Control and Production Order, 1946, is hereby dissolved, and all funds and other property vested in, and all liabilities of, that Board shall respectively vest in, and be liabilities of, the Board constituted under this Act.			
		(2) The Board shall maintain two funds, a general fund and a pool fund.			
General fund.	9A.	(1) To the general fund shall be credited—			
		(a) all sums forming the funds of the Board immediately before the commencement of the Rubber (Production and Marketing) Amendment Act, 1954;			
		(b) all amounts paid to the Board by the Central Government under sub-section (7) of section 12.			
		(2) The general fund shall be applied—			
		(a) to meet the expenses of the Board;			
		(b) to meet the costs of the measures referred to in section 8;			
		(c) to meet the expenditure incurred in the performance of its functions under this Act or under rules made thereunder; and			
		(d) for making such grants to rubber estates or for meeting the cost of such other assistance to rubber estates as the Board may think necessary for the development of such estates.			

54 of 1954.

9B. (1) To the pool fund shall be credited— Pool fund.

(a) all sums realised by sales of rubber imported or purchased under section 8A;

(b) any other sum which the Board may, with the previous approval of the Central Government, transfer from the general fund to the pool fund.

(2) The pool fund shall be applied only to the rehabilitation of small growers in such manner as may be prescribed.

10. (1) Every person owning land planted with rubber plants, whether such land is comprised in one estate or in more than one estate and whether it is situated wholly or only partly in India, shall, before the expiry of one month from the date of commencement of this Act, apply to the Board to be registered as an owner in respect of each estate owned by him. Registration.

(2) A registration once made shall continue in force until it is cancelled by the Board.

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12. (1) * * * * * Imposition of new rubber cess.

(2) The duty of excise levied under sub-section (1) shall be collected by the Board in accordance with rules made in this behalf either from the owner of the estate on which the rubber is produced or from the manufacturer by whom such rubber is used.

(3) The owner or, as the case may be, the manufacturer shall pay to the Board the amount of the duty within one month from the date on which he receives a notice of demand therefor from the Board and, if he fails to do so, the duty may be recovered from the owner or the manufacturer, as the case may be, as an arrear of land revenue.

(4) For the purpose of enabling the Board to assess the amount of the duty of excise levied under this section—

* * * * *

(b) without prejudice to the provisions of section 20, every owner and every manufacturer shall furnish to the Board a return not later than fifteen days after the expiry of the period to which the return relates, stating,—

* * * * *

(ii) in the case of a manufacturer, the total quantity of rubber used by him in such period out of the rubber produced in India.

(5) If any owner or manufacturer fails to furnish, within the time prescribed, the return referred to in sub-section (4), or furnishes a return which the Board has reason to believe is incorrect or defective, the Board may assess the amount of the duty of excise in such manner as may be prescribed.

* * * * *

17. (1) No person shall plant or replant rubber except under and in accordance with the conditions of a special licence issued by the Board. Licences for planting or replanting.

(2) A licence issued under this section shall specify the area in which rubber may be planted or replanted and the period for which the licence shall be valid.

(3) No licence issued under this section shall be transferable except with the land to which it relates.

18. (1) Every holder of a licence issued under section 17 shall, at such times as the Board may require, furnish to it a report specifying the areas newly planted or replanted during the period to which the report relates and containing such other particulars as may be required by the Board. Reports to be submitted by licencees.

(2) The Board may revoke any licence issued under section 17, if it is satisfied that the licence was obtained by misrepresentation or fraud or if the licensee contravenes any of the terms of the licence or if the licensee fails to submit the report referred to in sub-section (1).

Fees for special licences.	<p>19. The Board may levy such fees as may be prescribed for the issue and renewal of special licences under section 14, section 15 or section 17.</p> <p style="text-align: center;">* * * * *</p>
Inspection of land and premises.	<p>21. Any person authorised in this behalf by the Central Government or by the Board or any member authorised by the Chairman in writing or any officer of the Board may at any reasonable time inspect any place of business of a dealer or any factory or other premises of a manufacturer, for the purpose of verifying any statement or return submitted under this Act or for any other purposes of this Act.</p> <p style="text-align: center;">* * * * *</p>
Power of Central Government to make rules.	<p>25. (1) * * * * *</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for all or any of the following matters, namely:—</p> <p style="text-align: center;">* * * * *</p> <p style="padding-left: 40px;">(xx) the form of application for registration under section 10 or the cancellation of such registration, the fee payable on such applications, the procedure to be followed in granting or cancelling registration and the registers to be kept by the Board;</p> <p style="text-align: center;">* * * * *</p> <p style="padding-left: 40px;">(xxi) the form of application for special licences (under section 14 or section 17, the fees for the grant or renewal of such licences, and the forms of such licences;</p> <p style="text-align: center;">* * * * *</p>
Penalties.	<p>26. (1) If any person—</p> <p style="padding-left: 40px;">(a) contravenes any provision of this Act, other than section 11 or section 13, or any rule made under this Act, or</p> <p style="padding-left: 40px;">(b) in any report or return to be furnished under this Act, makes any statement which is false and which he knows to be false or does not believe to be true, or</p> <p style="padding-left: 40px;">(c) obstructs any officer of the Board in the discharge of any duty imposed on or entrusted to him by or under this Act, or</p> <p style="padding-left: 40px;">(d) having the control or custody of any account book or other record, fails to produce such book or record when required by any authorised officer to do so,</p> <p>he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.</p>

LOK SABHA

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further to amend the Rubber Act, 1947.

(Shri Anand Sharma, Minister of Commerce and Industry)