

THE RECYCLING OF SHIPS BILL, 2019

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Bill No. 361 of 2019

THE RECYCLING OF SHIPS BILL, 2019

A

BILL

to provide for the regulation of recycling of ships by setting certain standards and laying down the statutory mechanism for enforcement of such standards and for matters connected therewith or incidental thereto.

WHEREAS, the International Maritime Organisation adopted the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 which ensures that ships, when being recycled after the end of their operational lives, do not pose any unnecessary risk to the environment and to human health and safety;

AND WHEREAS, the said Convention was developed with inputs from International Maritime Organisation Member States, Non-Governmental Organisations and in co-operation with the International Labour Organisation and the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989;

AND WHEREAS, the Hong Kong Convention lays down the aspects relating to design, construction, operation and preparation of ships so as to facilitate safe and environmentally sound recycling, without compromising the safety and operational efficiency of ships and the establishment of an appropriate enforcement mechanism for recycling of ships;

AND WHEREAS, the said Convention contains the provisions which are not covered in the Ship-breaking Code (Revised), 2013 notified by the Government of India to regulate the recycling of ships in India;

AND WHEREAS, the said Convention lays down the multilateral framework to be followed internationally by countries which become a party to it;

AND WHEREAS, India, being a Member-State of the International Maritime Organisation, had participated in the said Convention and expressed views for the protection of environment and human health and safety during the process of recycling of ships;

AND WHEREAS, it is considered expedient to accede to the aforesaid Convention now and to have an appropriate legislation on issues relating to the recycling of ships.

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

CHAPTER I

PRELIMINARY

Short title,
commencement
and
application.

1. (1) This Act may be called the Recycling of Ships Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision. 5

(3) Unless otherwise expressly provided, the provisions of this Act shall apply to—

(a) any existing ship which is registered in India wherever it may be; 10

(b) any new ship which is required to be registered in India, wherever it may be;

(c) ships, other than those referred to in clauses (a) and (b), that enter a port, shipyard or off-shore terminal or a place in India or within the Exclusive Economic Zone or territorial waters of India or any marine areas adjacent thereto over which India has, or may have, exclusive jurisdiction with respect to control of pollution under the provisions of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, or any other law for the time being in force; 15 80 of 1976.

(d) any warship, naval auxiliary or other ship owned or operated by an Administration and used on Government non-commercial service, and which is destined for recycling in a ship recycling facility operating in or within the territorial jurisdiction of India; and 20

(e) ship recycling facilities operating in India or within any area falling under the exclusive territorial jurisdiction of India.

Definitions.

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

(a) “Administration” means the Government of the country whose flag the ship is entitled to fly, or under whose authority it is operating; 25

(b) “certificate of authorisation of ship recycling facility” means the certificate referred to in sub-section (6) of section 12;

(c) “certificate on inventory of hazardous materials” means the certificate referred to in section 8; 30

(d) “Competent Authority” means such Authority designated by the Central Government under section 4;

(e) “hazardous material” means any material or substance, which is liable to cause harm to human beings, other living creatures, plants, micro-organisms, property or the environment; 35

(f) “National Authority” means such Authority designated by the Central Government under section 3;

(g) “notification” means a notification published in the Official Gazette and the expressions “notify” or “notified” shall be construed accordingly;

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

(i) “ready for recycling certificate” means the certificate referred to in section 16;

(j) “regulations” means the regulations made by the National Authority under this Act;

10 (k) “ship” means a vessel and floating structure of any type whatsoever operating or having operated in the marine environment and includes submersibles, floating craft, floating platforms, self-elevating platforms, the floating storage units, and the like;

(l) “ship owner” means—

15 (i) a person or an association of persons or body of individuals or a company registered as the owner of the ship;

(ii) any organisation or a person such as the Manager or the Bareboat Charterer, who has assumed the responsibility for operation of the ship from the owner of the ship;

20 (iii) a company, which is registered as operator and is operating a ship owned by the Government; or

(iv) a person or an association of persons or company owning the ship for a limited period pending its sale or handing over to a ship recycling facility;

25 (m) “Ship Recycler” means the owner of the ship recycling facility or any other organisation or person who has assumed the responsibility for operation of the ship recycling facility and who has agreed to take over all duties and responsibilities imposed by or under this Act;

30 (n) “ship recycling” means the activity of dismantling of a ship at a ship recycling facility in order to recover components and materials for reprocessing and reuse, while taking care of hazardous and other materials and includes associated operations such as storage, treatment of components and materials on site, but not their further processing or disposal in separate facilities;

(o) “ship recycling facility” means a defined area that is a site, yard or facility used for the recycling of ships and meets such requirements as may be specified by the regulations;

35 (p) “ship recycling plan” means a plan specific to a ship developed by the ship recycling facility to recycle such a ship in safe and environmentally sound manner;

(q) “statement of acceptance” means a statement of acceptance referred to in sub-section (4) of section 20;

40 (r) “statement of completion” means a statement of completion referred to in section 23;

44 of 1958. (s) “Surveyor” means a Surveyor as defined under clause (48) of section 3 of the Merchant Shipping Act, 1958 or any other person or body of persons as may be notified by the Central Government;

45 (t) “worker” means a person employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not, in any ship recycling, or in cleaning any part of the

machinery or premises used for ship recycling, or in any other kind of work incidental to, or connected with, the ship recycling, or the subject of the ship recycling but does not include any member of the armed forces of the Union.

(2) The words and expressions used and not defined in this Act but defined in the—

(i) Explosives Act, 1884;	5	4 of 1884.
(ii) Inland Vessels Act, 1917;		1 of 1917.
(iii) Petroleum Act, 1934;		30 of 1934.
(iv) Factories Act, 1948;		63 of 1948.
(v) Merchant Shipping Act, 1958;		44 of 1958.
(vi) Atomic Energy Act, 1962;	10	33 of 1962.
(vii) Wildlife (Protection) Act, 1972;		53 of 1972.
(viii) Water (Prevention and Control of Pollution) Act, 1974;		6 of 1974.
(ix) Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976;		80 of 1976.
(x) Forest (Conservation) Act, 1980;	15	69 of 1980.
(xi) Air (Prevention and Control of Pollution) Act, 1981;		14 of 1981.
(xii) Environment (Protection) Act, 1986,		29 of 1986.

shall have the same meanings respectively assigned to them in those Acts.

CHAPTER II

AUTHORITIES UNDER THE ACT

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Designation of National Authority.

3. The Central Government shall, by notification, designate an officer not below the rank of Joint Secretary to the Government of India as the National Authority, which shall administer, supervise and monitor all activities relating to ship recycling under this Act.

Designation of Competent Authority.

4. The Central Government shall, by notification, designate an Authority to be called the Competent Authority, for performance of such duties within the geographical area or areas of expertise as may be prescribed. 25

CHAPTER III

REQUIREMENTS FOR SHIPS

Non-application of provisions of this Chapter.

5. Nothing contained in this Chapter shall apply to—

(a) any warship, naval auxiliary, or other ships owned or operated by the Government and used for Government non-commercial purpose; 30

(b) ships of less than five hundred gross tonnage:

Provided that the Central Government may notify appropriate measures, not impairing operations or operational capabilities of such ships to ensure, as far as practicable, that such ships act in a manner consistent with the provisions of this Act. 35

Controls on hazardous materials.

6. (1) No ship shall install or use such prohibited hazardous materials as may be notified by the Central Government:

Provided that the Central Government may, by notification and for the reasons specified therein, exempt certain class or category of ships from the provisions of sub-section (1).

(2) Every ship shall comply with such restrictions and conditions, as may be prescribed. 40

7. (1) The National Authority or such person or organisation, as the Central Government may by notification authorise, shall carry out following surveys of the ships—

(a) an initial survey before the issue of certificate on inventory of hazardous materials, so as to verify such requirements as may be prescribed;

5 (b) a renewal survey at intervals not exceeding five years as may be prescribed;

(c) an additional survey either general or partial, at the request of the ship owner after a change, replacement or significant repair of the structure, equipment, systems, fittings, arrangements or material;

10 (d) a final survey prior to the ship being taken out of service and before the recycling of the ship so as to verify such requirements as may be prescribed; and

(e) such other surveys as may be prescribed.

(2) The survey shall be conducted and a certificate to this effect shall be issued in accordance with the provisions of this Act and the rules or regulations made thereunder.

15 8. (1) The owner of every new ship shall make an application to the National Authority for a certificate on inventory of hazardous materials for the purposes of this Act and such certificate shall be specific to each ship:

Certificate on inventory of hazardous materials.

20 Provided that the existing ships on the date of commencement of this Act and for which the certificate on inventory of hazardous materials had not been issued, the owner of such ship shall make an application to the National Authority within a period of five years from the date of commencement of this Act:

Provided further that a certificate on inventory of hazardous materials issued by any Administration shall be valid for the purposes of this Act.

(2) The terms and conditions, the format and the manner for granting the certificate on inventory of hazardous materials shall be such as may be prescribed.

25 (3) The certificate on inventory of hazardous materials shall be properly maintained and updated throughout the operational life of the ship, reflecting the new installations containing hazardous materials and relevant changes in the ship structure and equipment.

30 *Explanation.*—For the purposes of this sub-section, the expression “new installation” includes systems, equipment, insulation or other material installed on a ship after the date of coming into force of this Act.

(4) The certificate on inventory of hazardous materials shall be endorsed by the National Authority after successful completion of an additional survey conducted in accordance with clause (c) of sub-section (1) of section 7.

Explanation.—For the purposes of this section, the expressions—

35 (i) “existing ship” means a ship which is not a new ship;

(ii) “new ship” means a ship,—

(a) for which the building contract is placed on or after the date of coming into force of this Act; or

40 (b) other than the ship referred to in sub-clause (a), the keel of which is laid or which is at a similar stage of construction after six months from the date of coming into force of this Act; or

(c) which is to be delivered after thirty months from the date of coming into force of this Act,

and which is intended to be registered in India.

Validity of certificate.

9. The certificate referred to in sub-section (1) of section 8 shall be issued or renewed for such period, not exceeding five years, as may be prescribed:

Provided that where validity of certificate on inventory of hazardous material expires at a time when a ship is not in the port in which it is to be surveyed, the Administration may extend the period of validity of such certificate and this extension shall be granted only— 5

(a) for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed; or

(b) in cases where it appears proper and reasonable to the Administration to do so:

Provided further that no certificate shall be extended for a period longer than three months, and a ship to which an extension is granted shall not, on its arrival on the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having the certificate renewed. 10

Suspension or cancellation of certificate.

10. The certificate on inventory of hazardous materials shall be liable to be suspended or cancelled by the National Authority in any of the following cases, namely:— 15

(i) if the ship, *prima facie*, does not comply with the particulars of the certificate;

(ii) where the inventory of hazardous materials is not properly maintained and updated with such changes in the ship structure and equipment as may be prescribed;

(iii) in case of transfer of the ship to the flag of another State;

(iv) if the survey specified by the Administration is not completed within the period specified in section 7; or 20

(v) if endorsement of certificate does not disclose,—

(a) conduct of an additional survey as required under section 7; or

(b) extension of the validity of the certificate required under section 9:

Provided that no certificate under this section shall be suspended or cancelled unless the owner of the ship has been given an opportunity of being heard. 25

CHAPTER IV

SHIP RECYCLING FACILITY

Authorisation of ship recycling facility.

11. No Ship Recycler shall recycle a ship, unless the ship recycling facility is authorised as per the procedure laid down in section 12. 30

Ship recycling facility management plan and procedure for authorisation of ship recycling facility.

12. (1) A Ship Recycler seeking a certificate of authorisation for ship recycling facility from the Competent Authority or an organisation recognised by it, shall prepare a ship recycling facility management plan as specified by the regulations and submit an application to the Competent Authority. 35

(2) Every application for authorisation under sub-section (1), shall be made to the Competent Authority in such form and manner and accompanied by such fee as may be prescribed.

(3) Every ship recycling facility engaged in recycling of ships, immediately before the commencement of this Act, shall apply for authorisation within sixty days from the date of such commencement. 40

(4) Subject to the provisions of sub-section (3), every ship recycling facility engaged in recycling of ships, immediately before the commencement of this Act shall cease to conduct any such recycling on the expiry of six months from the date of commencement of

this Act unless such ship recycling facility has applied for authorisation and is so authorised or till such application is disposed of, whichever is earlier.

5 (5) No ship recycling facility shall be authorised under this Act unless the Competent Authority is satisfied that such facility maintains such equipment and standards as may be specified by the regulations.

(6) The Competent Authority shall, after holding an enquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules and the regulations made thereunder, grant a certificate of authorisation in such format as may be specified by the regulations.

10 (7) If, after an enquiry and after giving to the applicant an opportunity of being heard, the Competent Authority is satisfied that the applicant has not complied with the requirements of this Act, or the rules or regulations made thereunder, it shall, for reasons to be recorded in writing, reject the application for authorisation.

15 (8) Every certificate of authorisation for ship recycling facility shall be valid for such period not exceeding five years as may be specified by the regulations.

(9) Every certificate of authorisation shall be renewed in such manner and after such period and on payment of such fee as may be prescribed.

20 (10) The Competent Authority shall undertake an annual audit of every ship recycling facility to satisfy compliance with the requirements of this Act, the rules and regulations made thereunder and forward such audit report to the National Authority.

25 **13.** (1) The Competent Authority may, whenever it considers necessary, for the reasons to be recorded in writing, conduct an enquiry or inspection of a ship recycling facility and issue a notice to the Ship Recycler to show cause as to why the authorisation of his ship recycling facility should not be suspended or cancelled for the reasons mentioned in the notice.

Suspension or cancellation of authorisation.

(2) The manner of enquiry or inspection by the Competent Authority shall be such as may be specified by the regulations.

30 (3) If the Competent Authority is satisfied that there has been a breach of the provisions of this Act or the rules or the regulations made thereunder, it may, without prejudice to any criminal action that it may take against such Ship Recycler, suspend or cancel the authorisation of his ship recycling facility:

Provided that no such authorisation shall be suspended or cancelled without giving an opportunity of being heard in the matter to the Ship Recycler.

35 (4) Notwithstanding anything contained in sub-sections (1) and (2), if the Competent Authority is of the opinion that it is necessary or expedient so to do in public interest, it may, for reasons to be recorded in writing, suspend or cancel the authorisation of any ship recycling facility without issuing any notice referred to in sub-section (1).

63 of 1948. 40 **14.** Every Ship Recycler shall maintain adequate measures for emergency preparedness and response in accordance with the provisions of the Factories Act, 1948 in his ship recycling facility.

Emergency preparedness and response.

63 of 1948. **15.** (1) Every Ship Recycler shall provide adequate measures for safety, health, training and welfare of workers in his ship recycling facility and for this purpose, the provisions of the Factories Act, 1948 shall apply.

Workers safety, training and insurance.

45 (2) Every Ship Recycler shall provide an individual or comprehensive insurance coverage for the regular and temporary workers in such manner as may be prescribed.

(2) Where the Competent Authority fails to convey its decision regarding grant of permission within fifteen days of receipt of application, the permission shall be deemed to have been granted.

5 (3) The Competent Authority may deny permission for recycling for reasons to be recorded in writing after affording an opportunity of being heard to the ship owner.

(4) The Ship Recycler, on receipt of a copy of permission to recycle the ship, shall issue a statement of acceptance to the ship owner under intimation to the Competent Authority in such form and manner as may be specified by the regulations and thereafter the ship owner may get the ship de-registered.

10 **21.** Every Ship Recycler shall,—

(a) ensure safe and environmentally sound removal and management of hazardous materials from a ship; and

15 (b) comply with such requirements related to basic infrastructure facilities including those related to environmentally safe disposal or management of wastes and hazardous materials, in such manner as may be specified by the regulations.

22. (1) Every Ship Recycler shall—

(i) ensure that there is no damage caused to the environment in any form due to the recycling activities at the ship recycling facility; and

(ii) take necessary measures for protection of the environment.

20 (2) In case of oil spill in the facility, the Ship Recycler shall be served a notice by the Competent Authority to take remedial action in such manner as may be specified by the regulations.

25 (3) For contravention of the provisions of this section, the Ship Recycler shall be liable to pay such environmental damages and cleanup operation compensation in such manner as may be prescribed.

Safe and environmentally sound management of hazardous materials.

Obligation on Ship Recycler to take measures for protection of environment.

CHAPTER VI

REPORTING REQUIREMENTS

30 **23.** When a ship is recycled in accordance with the provisions of this Act, a statement of completion containing such particulars as may be specified by the regulations shall be submitted by the Ship Recycler to the Competent Authority.

Statement of completion.

24. The Competent Authority shall give report to the National Authority, from time to time, which shall include information comprising the list of approved facilities, list of ships which have not complied with the provisions of this Act and action taken on such ships and list of ships recycled, as may be required by the National Authority.

Report to National Authority.

CHAPTER VII

APPEALS

40 **25.** (1) Any person who is aggrieved by any decision made by the Competent Authority or the authorised surveyor or any authorised organisation or authorised person may file an appeal to the National Authority within a period of thirty days from the date of receipt of such decision in such manner as may be prescribed:

Appeal against decision of Competent Authority.

Provided that in respect of matters under any other law for the time being in force for which an appellate provision exists, in such law, then the appellant shall file the appeal to the authority specified in such law.

45 (2) The appeal filed under sub-section (1) shall be disposed of in such manner as may be prescribed.

Appeal against
decision of
National
Authority.

26. (1) Any person who is aggrieved by any decision made by the National Authority may file an appeal to the Central Government within a period of thirty days from the date of receipt of such decision in such manner as may be prescribed.

(2) The appeal filed under sub-section (1) shall be disposed of in such manner as may be prescribed.

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CHAPTER VIII

POWERS AND FUNCTIONS OF NATIONAL AUTHORITY, COMPETENT AUTHORITY AND CENTRAL GOVERNMENT

Power to
search and
seize records,
etc.

27. (1) If the National Authority or the Competent Authority has reason to believe that an offence under this Act has been or is being committed at any ship recycling facility, such Authority or any officer authorised therefor in this behalf may, subject to the rules and regulations made under this Act, enter and search at all reasonable times with such assistance, if any, as such Authority or officer considers necessary, such ship recycling facility and examine any record, register, document, equipment or any other material object found therein and seize the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

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(2) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

2 of 1974.

Power to
inspect,
dismiss,
exclude or
detain a ship.

28. (1) The National Authority or Administration or any Survey authorised by it, may inspect any ship, at a reasonable time, while at any port or within Indian waters:

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Provided that any such inspection shall be only for the purpose of verifying that there is on board either a certificate on inventory of hazardous materials or a ready for recycling certificate.

(2) The National Authority may dismiss, exclude or detain the ship from its ports or within Indian waters in case of,—

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(a) failure to carry a valid certificate on inventory of hazardous materials or a valid ready for recycling certificate or both, as applicable; or

(b) non-compliance with the control measures for hazardous materials notified by the Central Government.

(3) A ship detained under sub-section (2) shall remain under detention till such time until the non-compliance is rectified or till such time until permission is granted by the National Authority for such detained ship to proceed to an appropriate repair yard or port, without danger to the ship, environment or persons on board.

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(4) Any Commissioned Officer of the Indian Navy or Indian Coast Guard or any Port Officer, Pilot, Harbour Master, Conservator of Port or Customs Collector may detain the ship, the detention of which is authorised or ordered to be detained under this Act.

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Power to
exempt.

29. (1) Notwithstanding anything contained in this Act, the Central Government may, by order in writing and upon such conditions, if any, as it may think fit to impose, exempt any vessel or any class thereof, ship recycling facility or Ship Recycler from any specified requirement contained in or prescribed in pursuance of this Act or dispense with the observance of any such requirement, if it is satisfied that the requirement has been substantially complied with or that compliance with the requirement is or ought to be dispensed with in the circumstances of the case.

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(2) Where an exemption granted under sub-section (1) is subject to any conditions, a breach of any of those conditions shall, without prejudice to any other remedy, be deemed to be an offence under this Act.

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30. The provisions of this Act shall not apply to such category of Indian ships, as the Central Government may, from time to time, by notification specify:

Act not to apply to certain ships.

Provided that such ships shall be required to act in such manner as may be prescribed.

CHAPTER IX

5 OFFENCES, PENALTIES AND COMPENSATION

31. (1) Whoever installs or uses any prohibited hazardous material in a ship in contravention of the provisions of this Act or rules or regulations made thereunder shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five lakh rupees or with both.

Penalty for contravention of provisions of Act or rules or regulations.

10 (2) Whoever contravenes the provisions of section 12 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten lakh rupees or with both.

15 (3) Whoever contravenes the provisions of sub-section (1) of section 17 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten lakh rupees or with both.

(4) Whoever contravenes the provisions of sub-section (1) of section 18, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten lakh rupees or with both.

20 (5) Whoever fails to ensure safe and environmentally sound removal and management of any hazardous material from a ship in accordance with the regulations shall be punishable with an imprisonment for a term which may extend to six months or with fine which may extend to five lakh rupees or with both.

(6) Whoever fails to respond to the notice issued for oil spill under sub-section (2) of section 22 shall be punishable—

25 (i) with a fine which may extend to five lakh rupees in case of non response within twelve hours of issuance of first notice;

(ii) with a fine which may extend to ten lakh rupees in case of non response within twenty-four hours of issue of second notice; and

30 (iii) with an imprisonment which may extend to three months and with a fine which may extend to ten lakh rupees in case of non response beyond twenty-four hours of issue of third notice.

35 **32.** Whoever contravenes any of the provisions of this Act or any rules or regulations made thereunder, for which no specific punishment has been provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to two lakh rupees or with both and, in the case of a continuing contravention, with an additional fine which may extend to five thousand rupees for every day during which such contravention continues after the conviction for the first such contravention.

Penalty for contravention of provisions of this Act or rules or regulations for which no specific punishment is provided.

40 **33.** (1) If any ship, after detention or after service of any notice or order for such detention, proceeds to sea before it is released by the National Authority, the owner or master of the ship shall be guilty of an offence under this Act.

Punishment for other offences.

45 (2) Whoever restrains or detains or forcibly takes to sea, any person authorised under this Act to detain or survey the ship, on the execution of his duty, the owner, master or agent of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea and shall also be guilty of an offence under this Act.

Offences by companies.	<p>34. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was 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:</p> <p>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 had exercised all due diligence to prevent the commission of such offence.</p> <p>(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 neglect 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.</p> <p><i>Explanation.</i>—For the purposes of this section,—</p> <p>(a) “company” means any body corporate and includes a co-operative society, firm or other association of individuals; and</p> <p>(b) “director” means a whole time director in the company and in relation to a firm means a partner in the firm.</p>	5 10 15 20
Offences to be non-cognizable, bailable and compoundable.	<p>35. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be non-cognizable, bailable and compoundable.</p>	2 of 1974.
Cognizance of offences.	<p>36. No court shall take cognizance of an offence under this Act except on a complaint made by—</p> <p>(a) the Central Government;</p> <p>(b) the National Authority or an officer authorised in this behalf; or</p> <p>(c) the Competent Authority or an officer authorised in this behalf.</p>	25
Amount payable by owner, master or agent.	<p>37. When any owner or master or agent is convicted of an offence under sub-section (2) of section 33, the amount payable on account of expenses by such owner or master or agent shall be determined and recovered in such manner as may be prescribed.</p>	30
Place of trial and jurisdiction of court.	<p>38. Any person committing any offence under this Act or any rules made thereunder, may be tried for such offence in any place in which he may be found, or in any Court which the Central Government may, by notification, direct in this behalf, or in any Court in which he might be tried under any other law for time being in force.</p>	
Compensation.	<p>39. (1) Where a ship is unduly detained or delayed as a result of an inspection or investigation without any reasonable cause, then, such ship shall be entitled to compensation for any loss or damage suffered thereby.</p> <p>(2) The rate of compensation referred to in sub-section (1), the method of calculation and the manner of payment of such compensation shall be such as may be prescribed.</p> <p>(3) For the purpose of adjudging compensation under this section, the Central Government may, by notification, nominate an officer of the Central Government, not below the rank of Joint Secretary to the Government of India, to be an adjudicating officer for holding an inquiry in the prescribed manner, after giving any person concerned an opportunity of being heard.</p>	35 40

CHAPTER X
MISCELLANEOUS

- 5 **40.** (1) The Central Government may, by general or special order, subject to such conditions and restrictions as may be provided in such order, direct that any power, authority or jurisdiction exercisable by it under or in relation to a provision of this Act (except the power to make rules), be exercisable also by the National Authority or Competent Authority or such other officer not below the rank of Joint Secretary to the Government of India. Delegation of powers.
- 10 (2) The National Authority or the Competent Authority may, with the previous approval of the Central Government, by general or special order, subject to such conditions and restrictions as may be provided in such order, direct that any power, authority or jurisdiction exercisable by it under or in relation to a provision of this Act (except the power to make regulations), be exercisable also by such officer or other authority as may be specified in such order.
- 15 **41.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force. Act not in derogation of any other law.
- 42.** (1) The Central Government may, by notification, make rules to carry out the provisions of this Act. Power to make rules.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
- 20 (a) the duties of Competent Authority within the geographical area or areas of expertise under section 4;
- (b) the restrictions and conditions imposed on installation or use of any hazardous material, to be complied by every ship under sub-section (2) of section 6;
- 25 (c) the requirements to be verified for the survey of ships under clauses (a), (b) and (d) of sub-section (1) of section 7;
- (d) the other conditions to be required for the survey of ships under clause (e) of sub-section (1) of section 7;
- 30 (e) the terms and conditions, validity, the format and manner for granting the certificate on inventory of hazardous materials under sub-section (2) of section 8 and section 9;
- (f) the changes in ship structures and equipment under clause (ii) of section 10;
- (g) the form, fees and the manner of making the application for authorisation of ship recycling facility under sub-section (2) of section 12;
- 35 (h) the manner, period and fees for renewal of certificate of authorisation under sub-section (9) of section 12;
- (i) the manner of providing individual or comprehensive insurance coverage for the regular and temporary workers under sub-section (2) of section 15;
- 40 (j) the manner of advance intimation about the arrival of ship under sub-section (1) of section 19;
- (k) requisition of the services of representatives of agencies for grant of permission under sub-section (1) of section 20;
- (l) the liability of the Ship Recycler for environmental damages under sub-section (3) of section 22;
- 45 (m) the manner of filing an appeal against the orders of the Competent Authority and the manner of disposal of such appeal under section 25;

(n) the manner of filing an appeal against the orders of National Authority and the manner of disposal of such appeal under section 26;

(o) the manner in which the ships are required to act for non-application of the provisions of the Act under the proviso to section 30;

(p) the manner of determination and recovery of amount payable under section 37;

(q) the rate of compensation, method of calculation and the manner of compensation entitled by a ship under sub-section (2) of section 39;

(r) the manner of holding an inquiry for the purpose of payment of compensation under sub-section (3) of section 39; and

(s) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by rules.

Power to
make
regulations.

43. (1) The National Authority with the previous approval of the Central Government, by notification in the Official Gazette, may make regulations not inconsistent with the provisions of this Act and the rules made thereunder.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the requirements relating to ship recycling facility under clause (o) of sub-section (1) of section 2;

(b) the manner of preparation of a ship recycling facility management plan under sub-section (1) of section 12;

(c) the equipment and other standards to be maintained by the Ship Recycler under sub-section (5) of section 12;

(d) the form in which a certificate of authorisation shall be issued under sub-section (6) of section 12;

(e) the period of validity of certificate of authorisation for ship recycling facility under sub-section (8) of section 12;

(f) the manner of enquiry or inspection by the Competent Authority under sub-section (2) of section 13;

(g) the manner of making an application to the National Authority for a ready for recycling certificate under sub-section (1) of section 16;

(h) the manner and format for issuing of the ready for recycling certificate under sub-section (2) of section 16;

(i) the manner of obtaining the written permission of the Competent Authority under sub-section (1) of section 18;

(j) the authority to authorise the ship recycling facility under sub-section (2) of section 18;

(k) submission of documents by ship owner under clause (iii) of sub-section (1) of section 19;

(l) the conditions for safe-for-entry or safe-for-hotwork or both under sub-section (2) of section 19;

(m) the form and manner of issue of statement of acceptance by the Ship Recycler under sub-section (4) of section 20;

(n) the requirements relating to removal and management of hazardous materials and basic infrastructure to be complied with by the Ship Recycler under clause (b) of section 21;

5 (o) the manner of serving of notice by the Competent Authority to a Ship Recycler in case of oil spill under sub-section (2) of section 22;

(p) the manner of submission of statement of completion by the Ship Recycler under section 23; and

(q) any other matter which is required to be, or may be, specified by regulations.

10 **44.** Every rule made by the Central Government and every regulation made by the National Authority under this Act shall be laid, as soon as may be after it is made, before each House of Parliament 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, both Houses agree in making any modification in the rule or regulation or both Houses agree that
15 the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Laying of rules and regulations.

20 **45.** No suit, prosecution or other legal proceeding shall lie against the Central Government or the State Government or the National Authority or the Competent Authority or any officer authorised by the Central Government or the State Government or the National Authority or the Competent Authority for anything done in good faith or intended to be done in pursuance of the provisions of this Act.

Protection of action taken in good faith.

25 **46.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Removal of difficulties.

Provided that no such order shall be made under this section after the expiry of a period of three years from the date of commencement of this Act.

30 (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

India is a leader in the global ship recycling industry with a share of over thirty per cent. The ship-recycling industry is a labour-intensive sector, but, it is susceptible to concerns relating to environmental safety. The existing regulatory framework, namely, the Ship Breaking Code (Revised), 2013, governs the ship recycling activity in India and lays down the standards for environmental protection and workers' safety. However, the said Code does not provide penalties for contravention of the provisions of the Code or deal with the restrictions and prohibitions on use of hazardous materials on ships.

2. In view of the above, it is proposed to enact a legislation to provide for restrictions or prohibitions on use of hazardous material on ships and regulation of recycling of ships by setting certain standards and laying down the statutory mechanism for enforcement of such standards and for matters connected therewith or incidental thereto.

3. The proposed Recycling of Ships Bill, 2019, *inter alia*, provides for the following, namely:—

(i) to designate an Authority to be called the National Authority to administer, supervise and monitor all activities relating to ship recycling;

(ii) to designate an Authority to be called the Competent Authority, to perform the prescribed duties within the geographical areas of expertise;

(iii) the provisions of this Bill shall not apply to any warship, naval auxiliary, or other ships owned or operated by the Government and used for Government non-commercial purpose;

(iv) to provide that no ship shall install or use any prohibited hazardous material notified by the Central Government;

(v) to issue a certificate on inventory of hazardous materials and ready for recycling certificate which are an essential documents to the ships which are destined to be recycled by its owner;

(vi) the provisions relating to ship recycling plan which shall be prepared by the Ship Recycler and the general requirements for recycling of ships;

(vii) to impose an obligation on the Ship Recycler to take measures for protection of environment during the process of ship recycling; and

(viii) providing for appeal against the orders of Competent Authority to the National Authority and from the National Authority to the Central Government.

4. The Notes on clauses explain in detail the various provisions contained in the Bill.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;

MANSUKH MANDAVIYA

The 21st November, 2019.

Notes on Clauses

Clause 1. This Clause relates to the short title and commencement of the proposed legislation and enables the Central Government to appoint a date with respect to the commencement of the provisions of the proposed legislation. This Clause also specifies that the legislation shall apply to every existing ship, every new ship required to be registered in India, other ships while there within the Exclusive Economic Zone or territory borders of India and all ship recycling facilities within the territorial jurisdiction of India.

Clause 2. This Clause contains the definition of various expressions used in the proposed legislation.

Clause 3. This Clause provides that the Central Government will designate an officer not below the rank of Joint Secretary, as National Authority to administer, supervise and monitor all activities relating to ship recycling under this legislation.

Clause 4. This Clause provides that the Central Government shall designate the Competent Authority for performance of specified duties in the prescribed geographical area or area of expertise.

Clause 5. This Clause provides that the chapter on "Requirements for Ships" will not apply to any ship owned or operated by the Government and used for noncommercial purposes and ships of less than five hundred gross tonnage.

Clause 6. This Clause empowers the Central Government to control installation or use of notified prohibited hazardous materials on ships.

Clause 7. This Clause empowers the national authority or the person or organization authorized by Central Government to conduct different types of surveys of the ships.

Clause 8. This Clause provides that every ship should possess and maintain a Certificate on Inventory of Hazardous Materials and lays down the process for issue of the Certificate.

Clause 9. This Clause lays down the period of validity of the Certificate on Inventory of Hazardous Materials.

Clause 10. This Clause lays down the process for suspension or cancellation of the Certificate on Inventory of Hazardous Materials.

Clause 11. This Clause provides that no ship shall be recycled in a facility not authorized under this Act.

Clause 12. This Clause lays down the process for authorization of ship recycling facility.

Clause 13. This Clause lays down the process for suspension or cancellation of authorization of ship recycling facility.

Clause 14. This Clause provides that every ship recycler shall maintain adequate measures for emergency preparedness and response as per the provisions of factory Act, 1948.

Clause 15. This Clause provides that every ship recycler shall maintain adequate measures for workers' safety, health, instruction, supervision, training and welfare as per the provisions of factory Act, 1948.

Clause 16. This Clause lays down the process for issue of Ready for Recycling Certificate and its validity.

Clause 17. This Clause lays down the requirement of a ship recycling plan for every ship to be recycled and the process for its preparation and approval.

Clause 18. This Clause prescribes general requirements of prior permission for recycling of the ship.

Clause 19. This Clause prescribes certain obligations on the part of owner of a ship which is intended to be recycled in India.

Clause 20. This Clause prescribes the process for grant of permission for recycling of a ship.

Clause 21. This Clause prescribes certain obligations on the part of ship recycler for safe and environmentally sound management of hazardous materials.

Clause 22. This Clause prescribes certain obligations on the part of ship recycler for taking measures for protection of environment.

Clause 23. This Clause prescribes that statement of completion will be issued after a ship has been recycled in accordance with the provisions of the legislations.

Clause 24. This Clause provides for submission of reports by the Competent Authority to the National Authority.

Clause 25. This Clause provides for appeal against the decisions of the Competent Authority.

Clause 26. This Clause provides for appeal against the decisions of the National Authority.

Clause 27. This Clause empowers the National Authority or the Competent Authority to search and seize any records if it has reason to believe that any offence under this legislation has been or is being committed in any ship recycling facility.

Clause 28. This Clause empowers the National Authority or any authorized surveyor to inspect, dismiss, exclude and detain a ship when it's not carrying valid certificate or is not complying with the control measures for hazardous materials.

Clause 29. This Clause empowers the Central Government to exempt any vessel or any class of vessels or any ship recycling facility or any ship recycler, by an order in writing and subject to specified conditions, from the provisions of this legislation.

Clause 30. This Clause empowers the Central Government to specify any category of ships to which the provisions of this legislation will not apply.

Clause 31. This Clause prescribes the penalties for contravention of the provisions of this legislation or rules or regulations made this legislation.

Clause 32. This Clause prescribes the penalties for contravention of the provisions of this legislation or rules or regulations made this legislation, for which no specific punishment has been provided in this legislation.

Clause 33. This Clause prescribes punishment for other offences under this legislation, when a ship under detention proceeds to the sea before it is released and when any person authorized to detain or survey a ship is restrained or detained or forcibly taken to sea.

Clause 34. This Clause relates to the offences by companies and inter alia, states that if the person committing an offence under the proposed legislation is a company, then, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of 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. This Clause further provides that no such person shall be liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Clause 35. This Clause provides that offences this under legislation will be non-cognizable, bailable and compoundable.

Clause 36. This Clause provides that a court will take cognizance of any offence under this legislation only on a complaint by the Central Government, National Authority, Competent Authority or an Authorized Officer.

Clause 37. This Clause provides for determination and recovery of amount payable on account of expenses when any offence is committed under *Clause 33* of this legislation.

Clause 38. This Clause specifies the place and the jurisdiction of the court for trial for an offence under this legislation.

Clause 39. This Clause provides for payment of compensation for any loss or damage suffered by any ship which is found to be unduly detained or delayed without any reasonable cause and provides that the Central Government may nominate an officer of the rank of Joint Secretary or above as the adjudicating officer for adjudging the compensation.

Clause 40. This Clause provides that Central Government may delegate its powers under this legislation to National Authority or Competent Authority or an officer not below the rank of Joint Secretary and also provides for delegation of its powers by the National Authority or the Competent Authority or any officer of Authority.

Clause 41. This Clause provides that the provisions of this legislation will be in addition to and not over rule the provisions of any other legislation already in force.

Clause 42. This Clause provides that the Central Government may, by notification make rules for carrying out the provisions of this legislation.

Clause 43. This Clause provides that the National Authority may, with the prior approval of Central Government and by notification, make regulations for carrying out the provisions of this legislation.

Clause 44. This Clause provides that every rule and regulation made under this legislation shall be laid, as soon as may be after it is made, before each house of Parliament.

Clause 45. This Clause gives protection to the Central Government or State Government or the National Authority or Competent Authority or any authorized person for anything which is done or intended to be done in good faith in pursuance of the provisions of this legislation.

Clause 46. This Clause relates to removal of difficulties and provides that if any difficulty arises in giving effect to the provisions of the proposed legislation, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the Act, as appears to it to be necessary or expedient for removing the difficulty and that every such order laid, as soon as may be after it is made, before each house of Parliament.

FINANCIAL MEMORANDUM

The provisions of the proposed Bill does not involve any expenditure either recurring or non-recurring from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 42 of the Recycling of Ships Bill, 2019 seeks to empower the Central Government to make rules for—(a) The duties of Competent Authority within the geographical area or areas of expertise under section 4; (b) the restrictions and conditions imposed on installation or use of any hazardous material, to be complied by every ship under sub-section (2) of section 6; (c) the requirements to be verified for the survey of ships under clauses (a), (b) and (d) of sub-section (1) of section 7; (d) the other conditions to be required for the survey of ships under Clause (e) of sub-section (1) of section 7; (e) the terms and conditions, validity, the format and manner for granting the certificate on inventory of hazardous materials under sub-section (2) of section 8 and section 9; (f) the changes in ship structures and equipment under Clause (ii) of section 10; (g) the form, fees and the manner of making the application for authorisation of ship recycling facility under sub-section (2) of section 12; (h) the manner, period and fees for renewal of certificate of authorisation under sub-section (9) of section 12; (i) the manner of providing individual/comprehensive insurance cover for permanent/ temporary workers under section (2) of section 15; (j) the manner of advance intimation about the arrival of ships under sub-section (1) of section 19; (k) requisition of the services of representatives of agencies and procedure for grant of permission under sub-section (1) of section 20; (l) the liability of the Ship Recycler for environmental damages under sub-section (3) of section 22; (m) the manner of filing an appeal against the orders of the Competent Authority and the manner of disposal of such appeal under section 25; (n) the manner of filing an appeal against the orders of National Authority and the manner of disposal of such appeal under sub-section (1) of section 26; (o) the manner in which the ships are required to act for non-application of the provisions of the Act under the proviso to section 30; (p) the manner of determination and recovery of amount payable under section 37; (q) the rate of compensation, the method of calculation and the manner of compensation entitled by a ship under sub-section (2) of section 39; (r) the manner of holding an inquiry for the purpose of payment of compensation under sub-section (3) of section 39; and (s) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by rules.

2. Clause 43 of the Bill empowers the National Authority, with the previous approval of the Central Government, by notification in the Official Gazette, to make regulations not inconsistent with the provisions of this Act and the rules made there under to provide for— (a) the requirements relating to ship recycling facility under Clause (o) of sub-section (1) of section 2; (b) the manner of preparation of a ship recycling facility management plan under sub-section (1) of section 12; (c) the equipment and other standards to be maintained by the Ship Recycler under sub-section (5) of section 12; (d) the form in which a certificate of authorisation shall be issued under sub-section (6) of section 12; (e) the period of validity of certificate of authorisation for ship recycling facility under sub-section (8) of section 12; (f) the manner of making an application to the National Authority for a ready for recycling certificate under sub-section (1) of section 16; (g) the manner and format for issuing of the ready for recycling certificate under sub-section (2) of section 16; (h) the manner of enquiry or inspection by the Competent Authority under sub-section (2) of section 13; (i) the manner of obtaining the written permission of the Competent Authority under sub-section (1) of section 18; (j) the authority to authorise the ship recycling facility under sub-section (2) of section 18; (k) submission of documents by ship owner under Clause (ii) of sub-section (1) of section 19; (l) the conditions for safe-for-entry or safe-for-hotwork or both under sub-section (2) of section 19; (m) the form and manner of issue of statement of acceptance by the Ship Recycler under sub-section (4) of section 20; (n) the requirements relating to removal

and management of hazardous materials and basic infrastructure to be complied with by the Ship Recycler under Clause (b) of section 21; (o) the manner of serving of notice by the Competent Authority to a Ship Recycler in case of oil spill under sub-section (2) of section 22; (p) the manner of submission of statement of completion by the Ship Recycler under section 23; and (q) any other matter which is required to be, or may be, specified by regulations.

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

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to provide for the regulation of recycling of ships by setting certain standards and laying down the statutory mechanism for enforcement of such standards and for matters connected therewith or incidental thereto.

(Shri Mansukh Mandaviya, Minister of State of Chemicals & Fertilizers.)