

The Smoke-Nuisances Act, 1905

(ACT NO. III OF 1905)

¹♣An Act to amend the law relating to the abatement of nuisances arising from the smoke of furnaces or

fire-places in certain areas in Bangladesh.

WHEREAS it is expedient to amend the law relating to the abatement of nuisances arising from the smoke of furnaces or fire places in certain areas in Bangladesh.

It is hereby enacted as follows:-

Short title and extent.

- 1.(1) This Act may be called the ²[* * *] Smoke-Nuisances Act, 1905; and
- (2) [Omitted by the Schedule of the East Pakistan Repealing and amending Ordinance, 1962 (Ordinance No. XIII of 1962).]

Power to extend Act.

- 2.(1) The Government may, by notification published in the official Gazette and in such other manner (if any) as the Government may determine, declare its intention to extend this Act to any specified area in Bangladesh:
- ³[* * *]

(2) Any inhabitant of an area to which it is proposed to extend this Act may, if he objects to such extension submit his objection in writing to the Government within a period of three months from the publication of the said notification in the official Gazette.

(3) At any time after the expiration of the said period, and after considering the objections (if any) submitted under sub-section (2), the Government may, by notification in the official Gazette, extend this Act to the said area.

Definitions

3. In this Act,-

- (1) “furnace” means any furnace or fireplace used-

(a) for working engines by steam, or

(b) for any other purpose whatsoever:

Provided that no furnace or fireplace-

(i) used for the burning of the dead, or

(ii) used in a private house for bona fide domestic purposes other than the purpose specified in clause (a),

shall be deemed to be a furnace or fireplace within the meaning of this Act:

(2) "Inspector" means a Chief Inspector of Smoke-nuisances, or an Assistant Inspector of Smoke-nuisances, appointed under this Act;

(3) "the Commission" means the Bangladesh Smoke-nuisances Commission constituted under this Act;

(4) the expression "owner," when used with reference to a furnace, includes any agent or hirer using the furnace, and any foreman or other person superintending the working of the furnace; and

(5) "Magistrate" means Magistrate of the first class or a Bench of Magistrates exercising first class powers under the Code of Criminal Procedure, 1898.

**Constitution
of
Commission.**

4.(1) The Government shall, by notification in the official Gazette, constitute a commission, to be called the Bangladesh Smoke-nuisances Commission, to supervise and control the working of this Act.

(2) The said Commission shall consist of a President and so many other members as the Government may determine.

(3) Not more than one half of the members (including the President) shall be officials nominated by the Government; and the remainder shall be non-officials nominated, in such manner as the Government may direct, by bodies or associations whose interests are likely to be affected by this Act.

(4) Subject to the provisions of sub-section (3), all members of the Commission shall be appointed, and all vacancies in the Commission shall, as occasion requires, be filled up by the Government by notification in the official Gazette.

(5) No act done by the Commission shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Commission.

Appointment of Inspectors.

5.(1) The Government may, by notification in the official Gazette, appoint a Chief Inspector of Smoke-nuisances and so many Assistant Inspectors of Smoke-nuisances as it may think fit.

(2) Every Assistant Inspector appointed under sub-section (1) shall be subordinate to the Chief Inspector, and all Inspectors shall be subordinate to, and subject to the control of, the commission.

(3) Every Inspector appointed under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the ⁴[Penal Code].

Power to prohibit the erection or use of kilns or furnaces, or the manufacture of coke, in specified areas.

6.(1) The Government may, by notification in the official Gazette, prohibit, within any specified area,-

(a) the erection or use of any specified class of brick tile or lime-kilns, or, clamps for making bricks, or

(b) the erection or use of furnaces to be used for the calcining or smelting of ores or minerals, or for the casting, puddling or rolling of iron or other metals, or for the conversion of pig-iron into wrought-iron, or

(c) the manufacture of coke, in ovens, or with special appliances, or

(d) the making of coke without ovens or special appliances.

(2) If any kiln, clamp or furnace be erected or used in contravention of any notification issued under sub-section (1), clause (a) or clause (b), the owner thereof shall be liable to fine which may extend to two hundred and fifty Taka.

(3) If any person manufactures coke in contravention of any notification issued under sub-section (1), clause c), he shall be liable to fine which may extend, on a first conviction, to two hundred and fifty Taka, and on any subsequent conviction to five hundred Taka.

(4) If any person makes coke in or upon any building or land in contravention of any notification issued under sub-section (1), clause (d),-

(a) such person, and

(b) the owner (if he knowingly permits the coke to be made by such person) or the occupier of such building or land

shall be jointly and severally liable to a fine which may extend, on a first conviction, to twenty-five Taka, and on any subsequent conviction to fifty Taka; and the coke so made may be seized by an Inspector pending the order of the Magistrate.

(5) In any prosecution under sub-section (4), the Magistrate may, besides imposing a fine as aforesaid, record an order directing the confiscation of any coke seized as in that sub-section provided; and, in such a case, it shall be lawful for the Commission to dispose of the same in such manner as the Government may, by rule made under section 10, prescribe.

(6) For the purposes of sub-section (4),-

(i) the expression "occupier" means any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the building or land in respect of which the word is used, and includes an owner living in, or otherwise using, his own building or land; and

(ii) the expression "owner" includes the person for the time being receiving the rent of any building or land or of any part of any building or land, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose or as a receiver, or who would so receive such rent, if the building, land, or part thereof, were let to a tenant.

Power to order demolition of kilns or furnaces erected or used within prohibited areas.

7.(1) Whenever a Magistrate imposes a fine on any person under section 6, sub-section (2), for erecting or using a kiln, clamp or furnace in contravention of any notification issued under section 6, sub-section (1), clause (a) or clause (b), he may be order direct such person to demolish the kiln, clamp or furnace within a period to be specified on the order.

(2) If any person fails to demolish any kiln, clamp or furnace within the period prescribed in any such order, or within such longer period as the Magistrate may, for special reason, allow, he shall be liable to fine which