

Bill to amend Water Act to decriminalise small offences cleared

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The modified law will provide an impetus to industries and make progress towards environmental protection at the same time, environment minister Bhupender Yadav said while tabling the bill in the Rajya Sabha on Tuesday.

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“One of the major provisions is decriminalising all penal provisions, which have been replaced only with penalty, except section 25 and 26. For section 41 to 45A, there is provision for imposing financial penalty instead of prosecution in court,” Yadav said.

Section 25 applies to mandatory consent to operate to be taken from state pollution boards and section 26 applies to discharge of sewage or trade effluents.

The government has earlier decriminalised several provisions related to air pollution under the Jan Vishwas (Amendment of Provisions) Act, 2023.

The water pollution bill relaxes several norms for industries and gives the Centre powers to exempt certain industries from statutory restrictions such as taking consent from state pollution control boards, earlier mandatory. It also allows the Centre to frame uniform guidelines for appointment of officials to state boards and prescribe service conditions of chairpersons of state pollution control boards.

“The present bill streamlines the consent to establish and operate mechanism,” Yadav said. “The central government shall have the power to issue notifications, exempt certain category of industries from requirement of obtaining prior consent before the establishment of any industrial unit. This will reduce the duplication of surveillance and unnecessary burden on regulatory agencies.”

Several members of the opposition raised concerns over the provisions of the draft legislation.

“The government has been systematically decriminalising offences against the environment and softening penalties to please the industrial-mining lobby that supports it,” said Trinamool MP Jawhar Sircar. “It has no idea of the long-term damage that its user-friendly policies and exemptions from controls inflict on the environment.”

“The water pollution control act will encourage river pollution and then the regime will spend billions on Namo Ganga and other massive plans,” Sircar said.

Pollution in the Ganga river is increasing, said V Sivadasan, member from the Communist Party of India (Marxist).

“₹12,000 crores has been spent for cleaning the river, but it is still suffering. Why? There is no result. There are no details on where money has gone,” Sivadasan said. “The bill is an attack to federal structure of water management. Local and state level monitoring of water bodies and water sources is very important, like it is being done in Kerala.”

“We know that industrial activities have contributed to water pollution and contamination of surface groundwater sources,” said M Thambi Durai of the All India Anna Dravida Munnetra Kazhagam. “Cauvery river water is also highly polluted with sewage and industrial pollutants. Four states are fighting over the Cauvery issue. There must be no controversy over who has powers of state boards, the state or Centre.”

Yadav clarified that small violations that do not cause any damage to the environment have been decriminalised. “Decriminalisation and fine on an everyday basis will push to industries to comply with law. There will be an adjudicating officer to adjudicate cases,” he said. The Centre will issue soon guidelines for the adjudicating authority, he added.

“A component of disgorgement of unlawful gains derived from the violation of the law must be accounted for, which is a standard global practice and used in other domestic corporate law. The expenses incurred in evaluating the damage, removing pollutants, restoring ecosystems, compensating victims and compensation for biodiversity loss should also be accounted for,” said Debadityo Sinha, Lead- Climate & Ecosystems, Vidhi Centre for Legal Policy.