

**Bill No. 35 of 2002.**

THE CASHEW BOARD BILL, 2002

By

SHRI KODIKUNNIL SURESH, M.P.

A

BILL

*to provide for the setting up of a Cashew Board for development of the cashew industry.  
Whereas it is expedient to provide for the development under the control of the  
Union of the cashew industry.*

BE it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:—

CHAPTER - I

PRELIMINARY

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| 5  | <p><b>1.</b> (1) This Act may be called the Cashew Board Act, 2002.<br/>(2) It extends to the whole of India.</p>  | <p>Short title and<br/>extent.</p>  |
| 10 | <p><b>2.</b> It is hereby declared that it is expedient in the public interest that the Union should<br/>take under its control the cashew industry.</p> <p><b>3.</b> In this Act, unless the context otherwise requires,—<br/>(a) “Board” means the Cashew Board constituted under section 4;<br/>(b) “Chairman” means the Chairman of the Board;<br/>(c) “Cashew” means and includes raw and processed cashew;</p> | <p>Declaration as<br/>to expediency<br/>of control.</p> <p>Definitions.</p> |

- (d) "Commissioner" means the Commissioner of Customs as specified in clause (b) of section 3 of the Custom's Act, 1962; 52 fo 1962.
- (e) "curing establishment" means any place to which raw cashew is transported by a registered owner for curing, and includes any estate which the Board may declare to be a curing establishment for the purposes of this Act; 5
- (f) "dealer" means a person carrying on the business of selling cashew whether wholesale or by retail;
- (g) "estate" means an area administered as one unit which contains land planted with cashew plants;
- (h) "prescribed" means prescribed by rules made under this Act; 10
- (i) "registered estate" means an estate in respect of which an owner is registered under sub-section (1) of section 11 and includes also any estate in respect of which an owner is required to be registered under the provisions of that sub-section;
- (j) "registered owner" means an owner of a registered estate who has been or is required to be registered under sub-section (1) of section 9; 15
- (k) "surplus pool" means the stock of cashew accumulated by the Board out of the amounts delivered to the Board under section 23 ; and
- (l) "year" means the period of twelve months beginning with the first day of July and ending with the thirtieth day of June next following.

CHAPTER - II 20

ESTABLISHMENT OF CASHEW BOARD

Establishment and constitution of Cashew Board.

**4. (1) There shall be established a Board to be known as Cashew Board for the development of cashew industry.**

(2) The Board shall consist of the following members namely:—

- (a) a Chairman to be appointed by the Central Government by notification in the official Gazette; 25
- (b) a Vice-Chairman, who shall be elected from amongst the members of the Board;
- (c) three Members of Parliament, of whom two shall be elected by the House of People and one by the Council of States; and 30
- (d) such number of other members not exceeding eleven as the Central Government may think expedient, to be appointed by that Government by notification in the Official Gazette from among persons who are in its opinion of representing:—
  - (i) Governments of the principal cashew growing States;
  - (ii) cashew growing industry; 35
  - (iii) cashew trade interests;
  - (iv) interests of labour;
  - (v) interests of the consumer; and
  - (vi) such other interests as, in the opinion of the Central Government, ought to be represented on the Board. 40

(3) The number of persons to be appointed as members from each of the categories specified in clause (d) of sub-section (2), the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of the Board shall be such as may be prescribed.

(4) Any officer of the Central Government when deputed by that Government in this behalf shall have the right to attend meetings of the Board and take part in the proceedings thereof but shall not be entitled to vote.

5 (5) Not act done by the Board shall be questioned on the ground merely on the existence of any vacancy in, or any defect in the constitution of, the Board.

(6) It is hereby declared that the office of member of the Board shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

10 (7) The Board shall be a body corporate by the name of the Cashew Board, having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

5. Before taking any action regarding the affairs of the Board under this Act, the Central Government shall ordinarily consult the Board.

Central Government to consult the Board.

15 **6. (1) The Board may appoint such Committees for such purposes and may employ such staff as it thinks necessary for the efficient discharge of its functions under this Act.**

Committees of the Board.

(2) The Board may authorise agents to discharge on its behalf its functions in relation to the marketing, storing and processing of cashew.

20 **7. The Chairman shall be entitled to such salary and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government.**

Salary and allowances and other conditions of services of Chairman.

25 **8. (1) The Central Government shall appoint an officer to be called the Chief Cashew Marketing Officer and a Secretary to the Board and may appoint a Deputy Secretary to the Board and such number of Marketing Officers, as may be necessary, to exercise such powers and to perform such duties under the direction of the Board as may be prescribed.**

Appointment of Marketing Officer, etc.

30 **(2) The officers appointed under this section shall be entitled to such salaries and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government.**

35 **9. (1) Every owner of land planted with cashew plants, whether such land is comprised in one estate or in more than one estate and whether it is situated wholly or partly in India, shall, before the expiration of one month from the date on which he first became owner of such estate or estates, apply to the registering officer appointed in this behalf by the State Government to be registered as an owner in respect of each estate owned by him; and any registration made before the commencement of the Cashew Board Act, 2002 shall be deemed to have been made under this sub-section.**

Registration.

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

40 **10. (1) The State Government may, by notification in the Official Gazette, make rules for carrying into effect the provisions of section 9.**

State Government to make rules.

45 (2) Without prejudice to the generality of the foregoing power, such rules may prescribe the form of the application for registration and for cancellation of registration, the fee payable on such applications, the particulars to be included in such applications, the procedure to be followed in granting and cancelling registration, the registers to be kept by registering officers, and the supply by registering officers of information to the Board.

## CHAPTER-III

## CONTROL OF SALE, EXPORT AND RE-IMPORT OF CASHEW

Fixation of Price.	<p><b>11.</b> (1) The Central Government may by notification in the Official Gazette fix the price or prices at which cashew may be sold wholesale or retail in the Indian market.</p> <p>(2) No registered owner or licensed processor or dealer shall sell cashew whole-</p>	5
Restriction on sale.	<p><b>12.</b> No registered owner shall sell or contract to sell cashew from any registered estate if by such sale the free sale quota allotted to that estate is exceeded nor shall a registered owner sell or contract to sell any cashew produced in his estate in any year for which no free sale quota is allotted to the estate.</p>	10
Registered Owners not to sell cashew without license.	<p><b>13.</b> No registered owner shall sell cashew unless either—</p> <p>(a) it has been processed at or is delivered to the buyer through processing establishment licensed under section 22, or</p> <p>(b) it is sold under and in accordance with the provisions of a licence procured</p>	15
Export of cashew.	<p><b>14.</b> No cashew shall be exported from India otherwise than by the Board or under an authorisation granted by the Board in the prescribed manner and in the prescribed cases, and the provisions of the Customs Act, 1962, shall apply:</p> <p>Provided that nothing herein contained shall apply to cashew:</p> <p>(i) shipped as stores on Board any vessel or aircraft in such quantity as the Collector considers reasonable, having regard to the number of the crew and passengers and the length of the voyage or journey, as the case may be, on which the vessel or aircraft is about to proceed, or</p> <p>(ii) carried as personal baggage of a passenger, not exceeding such quantities as the Central Government may, by notification in the Official Gazette, specify, or</p> <p>(iii) exported for such purposes and in such quantities as the Central Government may specify in the like manner:</p> <p>Provided further that the Central Government may, by order in writing specify the quantity of cashew which shall be permitted for export during any year and where any such order is made, no cashew shall be exported from India in excess of the said quantity.</p>	20 25 30
Exported cashew not to be re-imported.	<p><b>15.</b> (1) No cashew which has been exported from India shall be re-imported into India except under and in accordance with a permit granted by the Board.</p> <p>(2) The Board may in any fit case grant such a permit and no charge shall be made therefor.</p>	35
Free sale quota.	<p><b>16.</b> (1) Unless with the previous sanction of the Central Government the Board decides that no free sale quota be allotted, the Board shall, as soon as may be, allot to each registered estate a free sale quota for the year.</p> <p>(2) the free sale quota shall be fixed at a percentage, common to all registered estates, not exceeding fifty per cent of the probable total production of the estate in the year as estimated by the Board:</p> <p>Provided that the Board may, with the previous sanction of the Central Government allot such quota at a percentage higher than fifty per cent of the said probable total production.</p>	40 45

(3) The Board may at any time vary the quantum of free sale quota by varying the fixed percentage common to all registered estates, or may express the whole or any part of the free sale quota of an estate in terms of bulk instead of in terms of weight.

5 **17. (1)** Every registered owner shall file a return at such intervals with such particulars as may be prescribed. Return.

(2) The Board may authorize an officer to visit any estate at any time to verify the accuracy of any return made under this section or to ascertain the productive capacity of the estate.

10 **18.** The registered owner of any estate may, subject to the prescribed conditions, obtain from the Board a licence for the sale from that estate of unprocessed cashew. Permission to sale unprocessed cashew.

15 **19. (1)** All cashew produced by a registered estate in excess of the Quantity specified in the cashew allotted to that estate or when no cashew quota has been allotted to any estate, all cashew produced by the estate shall be delivered to the Board for inclusion in the surplus pool by the owner of the estate or by the processing establishment receiving the cashew from the estate: Surplus pool.

Provided that where no free sale quotas have been allotted to estates, the Chairman may allow the owner of any estate to retain with himself for purposes of consumption by his family such quantity of cashew the chairman may think reasonable:

20 Provided further that where the Central Government is satisfied that it is not practicable for any class of owners producing cashew in any specified area to comply with the provisions of this sub-section on account of the small quantity of cashew produced by them or on account of their estates being situated in a remote locality, the Central Government may, by notification in the Official Gazette, exempt such class of owners from the provisions of this sub-section.

25 (2) Delivery shall be made to the Board in such places, (at such times) and in such manner as the Board may direct, and such directions may provide for partial delivery to the surplus pool at any time whether or not at that time the free sale quota of cashew has been exceeded; and the cashew delivered shall be such as to represent quantity and quality of the produce of the estate and the Board may reject any consignment offered for delivery which does not satisfy this requirement, but shall not reject any consignment merely for a defect in processing.

30 (3) Cashew delivered for inclusion in the surplus pool shall upon delivery to the Board remain under the control of the Board which shall be responsible for storage, processing where necessary, and marketing of the cashew.

35 (4) The Board shall from time to time prepare a differential scale for the valuation of cashew, and shall in accordance with that scale classify the cashew in each consignment delivered for inclusion in the surplus pool according to its kind and quality, and shall make an assessment of its value based on its quantity, kind and quality.

40 (5) The Board may, with the consent of a registered owner treat as having been delivered for inclusion in the surplus pool any cashew from such estate which the registered owner may agree to have so treated.

45 (6) When cashew has been delivered or is treated as having been delivered for inclusion in the surplus pool, the registered owner whose cashew has been so delivered or is treated as having been so delivered shall retain no rights in respect of such cashew except his right to receive the payments referred to in section 28.

**20. (1)** The Board shall take all practical measures to market the cashew including in the surplus pool, and all sales thereof shall be conducted by or through the Board. Marketing.

(2) The Board may purchase for inclusion in the surplus pool cashew not delivered for inclusion in it.

#### CHAPTER - IV

##### CURING OF CASHEW

- Curing of cashew in licensing establishment. 5  
Licence. 21. No registered owner shall cause of all cashew to be processed elsewhere than in a licensed curing establishment, whether the curing establishment is maintained by himself for by another person.
22. Every establishment processing the cashew shall obtain from the Board a licence to operate as such.

#### CHAPTER - V

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##### FINANCE

- Funds. 23. The Board shall maintain two separate funds, a General Fund and a Pool Fund.
- General Fund. 24. (1) To the General Fund shall be credited—
- (a) **all amounts paid to the Board by the Central Government; and**
  - (b) any sums transferred to the General Fund under the proviso to sub-section (2) of section 24; and 15
  - (c) all fees levied and collected by the Board under this Act;
- (2) **The General fund shall be applied—**
- (a) **to meet the expenses of the Board;**
  - (b) **to meet the cost of such measures as the Board may consider advisable to undertake for promoting agricultural and technological research in the interest of the cashew industry in India;** 20
  - (c) **for making such grants to cashew estates or for meeting the cost of such other assistance to cashew estates as the Board may think necessary for the development of such estates;** 25
  - (d) **to meet the cost of such measures as the Board considers advisable to undertake for promoting the sale and increasing the consumption in India and elsewhere of cashew produced in India; and**
  - (e) **to meet the expenses for securing better working conditions and the provisions and improvement of amenities and incentives for workers.** 30
- Pool Fund. 25. (1) To the Pool Fund shall be credited all sums realised by sales by the Board of cashew from the surplus pool;
- (2) the Pool Fund shall be applied to-
- (a) the making to registered owners of estates of payments proportionate to the value of the cashew delivered by them for inclusion in the surplus pool; 35
  - (b) the costs of storing; processing and marketing cashew deposited in and of administering the surplus pool;
  - (c) the purchase of cashew not delivered for inclusion in the surplus pool:
- Provided that where, after the requirements of the clauses of this sub-section have been met, there remains any excess in the Pool Fund, the Board may, with the previous sanction of the Central Government, transfer the whole or any part of such excess to the credit to the General Fund. 40

- 26. Notwithstanding anything contained in section 25, the Board may apply any part of the pool fund to the making of a donation to the Fund known as the Gandhi National Memorial Fund.** Donations.
- 27.** The Board may, subject to any prescribed conditions borrow on the security of the General Fund or the Pool Fund for any purposes for which it is authorised to expend money from such fund, or on the security of the cashew delivered or treated as delivered for inclusion in the surplus pool for any purposes for which it is authorised to expend money from the Pool Fund. Power to borrow.
- 28. (1) The Board shall at such times as it thinks fit make to registered owners who have delivered cashew for inclusion in the surplus pool such payments out of the Pool Fund as it may think proper.** Payment to owners.
- (2) The sum of all payments made under sub-section (1) to any one registered owner shall bear to the sum of the payments made to all registered owners the same proportion as the value of the cashew delivered by him out of the year's crop to the surplus pool bears to the value of all cashew delivered to the surplus pool out of the year's crop:**
- Provided that in calculating the sums of all payments made under sub-section (1) and the value of the cashew delivered to the surplus pool out of the year's crop, respectively, any payment accepted by a registered owner as final payment in immediate settlement for cashew delivered by him for inclusion in the surplus pool and the value of any such cashew shall be excluded.
- CHAPTER-VI**
- PENALTIES AND PROCEDURE
- 29.** Any owner of a cashew estate who fails to apply for registration shall be punishable with fine which may extend to ten thousand rupees and to a further fine which may extend to five hundred rupees for each month after the first month during which such failure continues. Penalties for non-registration.
- 30. 30.** Any registered owner who contravenes the provisions of this Act shall be punishable with fine which may extend to fifty thousand rupees. Penalties for violation of Act.
- 31.** If any processing establishment operates as such without a licence, the owner shall be punishable with fine which may extend to fifty thousand rupees. Penalties for processing establishment without licence.
- 32.** Any registered owner who fails to furnish the return required by sub-section (1) of section 16 shall be punishable with fine which may extend to ten thousand rupees. Penalties for non-filing of returns.
- 33.** Any person who makes in any return to be furnished under section 19 in any report which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to ten thousand rupees. Penalties for filing false returns.
- 34.** Any registered owner or licensed processor who fails to deliver any cashew to the Board shall be punishable with fine which may extend to ten thousand rupees, and the Court by which such person is convicted may order the confiscation and delivery to the Board of any cashew in respect of which the offence was committed. Penalties for non-delivery of cashew.
- 35.** If the Board is satisfied that any cashew which is required to be delivered for inclusion in the surplus pool is being or is likely to be disposed of otherwise than by such delivery, the Board may order the seizure of such cashew and may authorise an officer of the Board to effect seizure thereof for delivery for inclusion in the surplus pool, and such Seizure.

	authorization shall be sufficient warrant for such officer to take all steps necessary to secure possession of the cashew.	
Penalties for failure to produce record.	<b>36.</b> Whoever obstructs any member or officer of the Board or any person authorised by the Board or by the Central Government in the discharge of any duty imposed on or entrusted to him under this Act, or who having control over or custody of any records fails to produce such records when required to do so or refuses information lawfully asked for by a member or officer of the Board or by a person authorised by the Board or by the Central Government to inspect such records or ask for such information shall be punishable with fine which may extend to ten thousand rupees.	5
Offences by Companies.	<b>37.</b> (1) If the person committing any offence under this Act is 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:  Provided that nothing contained in this sub-section shall render any such person liable to punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.  (2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any 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.  Explanation,—For the purposes of this section,—  (a) "company" means any body corporate and includes a firm or other association of individuals; and  (b) "director" in relation to a firm means a partner in the firm.	10 15 20
Judicial Magistrate to try cases.	<b>38.</b> (1) No court other than the court of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall take cognizance of any offence punishable under this Act.  (2) No court shall take cognizance of an offence punishable under section 30 except on a complaint made by an officer authorised in this behalf by the State Government or of the offence specified in sub-section (2) of section 11 except on a complaint made by an officer authorised in this behalf either by the State Government or by the Board or of an offence punishable under any other section except on a complaint made with the previous sanction of the Central Government by an officer authorised in this behalf by the Board:  Provided that the Central Government may, by notification in the Official Gazette, direct that the previous sanction of the Central Government shall not be necessary for complaints in such cases or classes of cases as may be specified in the notification.	25 30 35 40
Control of Central Government.	<b>39.</b> (1) All acts of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken by the Board.  (2) The records of the Board shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.	45
Appeal.	<b>40.</b> (1) Any person aggrieved by an order of the Board refusing a licence to or cancelling the licence of a curing establishment may, within sixty days of the making of the order, appeal to the Central Government.	

(2) Any person making an appeal under this section shall pay a fee of five rupees which shall be credited to Central Revenues.

5 **41.** Any person authorised in this behalf by the Central Government or by the Board or any member of the Board so authorised by the Chairman in writing or any officer of the Board, may enter at all reasonable times any estate or any curing establishment or any place where cashew is stored or exposed for sale, and may require the production for his inspection of any records kept therein, or ask for any information relating to the production, storage or sale of cashew. Inspection.

10 **42.** (1) The Board shall keep accounts in such manner as may be prescribed of all money received and expended by it. Accounts.

(2) The account shall be kept separately for the General Fund and the Pool Fund.

15 (3) The Board shall cause the accounts to be audited annually by auditors appointed by the Central Government, and the auditors shall have the power to disallow any item of expenditure which has, in their opinion, been incurred otherwise than in accordance with this Act.

(4) The Central Government may on the application of the Board allow any item of expenditure disallowed by the auditors under sub-section (3).

20 **43.** Any registered owner may, subject to the prescribed conditions, inspect the records maintained by the Board and may on payment of the prescribed fee obtain copies of any proceedings or orders of the Board. Payment of fees for obtaining copies of proceedings.

**44.** All contracts for the sale of cashew so far as they are at variance with the provisions of this Act shall be void. Contracts in violation of the Act to be void.

25 **45.** No suit, prosecution or other legal proceedings shall lie against the Board or any officer of the Board for or in respect of anything in good faith done or intended to be done under this Act. Act done in good faith.

**46.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

30 (2) Without prejudice to the generality of the foregoing power, rules may be made providing for all or any of the following matters:—

35 (i) the constitution of the Board, the number of persons to be appointed as members from each of the categories specified in clause (d) of sub-section (2) of section 4, the term of office and other conditions of service of, the procedure to be followed by, and the manner of filling vacancies among, the members of the board;

(ii) the circumstances in which, and the authority by which, members may be removed;

40 (iii) the procedure to be followed at meetings of the Board and at committees thereof for the conduct of business and the number of members which shall form a quorum at meeting;

(iv) the maintenance by the Board of records of business transacted by the Board and the submission of copies thereof to the Central Government;

(v) the holding of a minimum number of meetings of the Board every year;

45 (vi) the powers of the Board, its Chairman and committees thereof with respect to the incurring of expenditure;

- (vii) the conditions subject to which the Board may incur expenditure outside India;
- (viii) the preparation of budget estimates of receipts and expenditure of the Board and the authority by which the estimates are to be sanctioned;
- (ix) the maintenance of the accounts of income and expenditure of the Board and the audit of such accounts; 5
- (x) the deposits of the funds of the Board in banks and the investment of such funds;
- (xi) the re-appropriation of the estimated savings from any budget head to any other budget head; 10
- (xii) the conditions subject to which the Board may borrow funds;
- (xiii) the conditions subject to which and the manner in which contracts may be entered into by or on behalf of the Board;
- (xiv) the delegation to the Committee or Chairman or Vice-Chairman or members or officers of the Board of any of the powers and duties of the Board under this Act; 15
- (xv) the staff which may be employed by the Board and the pay and allowances and leave and other conditions of service of officers (other than those appointed by the Central Government) and other employees of the Board;
- (xvi) the travelling and other allowances of members of the Board and of committees thereof; 20
- (xvii) the maintenance of the registers and other records of the Board and its various committees;
- (xviii) the manner in which the free sale quota of cashew shall be determined; 25
- (xix) the manner in which the Board shall exercise its powers of buying and selling cashew;
- (xx) the appointment by the Board of agents;
- (xxi) the conditions to be fulfilled by a curing establishment before a licence to operate as such can be issued; 30
- (xxii) the form of, and the particulars to be contained in, any returns or reports to be made to the Board under this Act;
- (xxiii) the form of, manner of application for, fees payable for, procedure in granting and conditions governing, the licences and permits to be issued by the Board; 35
- (xxiv) the collection of any information or statistics in respect of cashew or any product of cashew;
- (xxv) any other matter (other than any matter specified in section 12) which is to be or may be prescribed under this Act.
- (3) "Every rule made under this section 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 both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule." 40  
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STATEMENT OF OBJECTS AND REASONS

Government has taken many steps to improve various commercial crops which earn huge foreign exchange and generate considerable employment opportunities. With a view to promoting such crops, Government have set up Boards like Tea Board, Coffee Board, Tobacco Board to improve such crops. But unfortunately, Government have not yet set up Cashew Board. Cashew is one of the major foreign exchange earners.

In order to improve this crop, it is imperative that a Cashew Board be set up immediately.

NEW DELHI;  
*March 28, 2002.*

KODIKUNNIL SURESH

#### FINANCIAL MEMORANDUM

The Bill envisages setting up of a Cashew Board which will in turn entail expenditure from the Consolidated Fund of India. It is likely that an annual recurring expenditure of about rupees fifty lakhs will be involved.

A non-recurring expenditure of about rupees one crore may also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 46 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. Since the matters will be with respect to administrative detail only, the delegation of legislative power will be of a normal character.

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*(Shri Kodikunnil Suresh, M.P.)*

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