

The Civil Liability for Nuclear Damage Act, 2010

(ACT NO. 38 OF 2010)

[*As on the* 1*st June,* 2026]

LIST OF ABBREVIATIONS USED

G.S.R.	*for*	General Statutory Rules.
S.O.	,,	Statutory Order.
Notifn.	,,	Notification.

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THE CIVIL LIABILITY FOR NUCLEAR DAMAGE ACT, 2010

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THE CIVIL LIABILITY FOR NUCLEAR DAMAGE ACT, 2010

ACT NO. 38 OF 2010

[21st *September*, 2010.]

An Act to provide for civil liability for nuclear damage and prompt compensation to the victims of a nuclear incident through a no-fault liability regime channeling liability to the operator, appointment of Claims Commissioner, establishment of Nuclear Damage Claims Commission and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:–

CHAPTER I

PRELIMINARY

1. Short title, extent, application and commencement.—(*1*) This Act may be called the Civil Liability for Nuclear Damage Act, 2010.

(*2*) It extends to the whole of India.

(*3*) It also applies to nuclear damage suffered—

(*a*) in or over the maritime areas beyond the territorial waters of India;

(*b*) in or over the exclusive economic zone of India as referred to in section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (80 of 1976);

(*c*) on board or by a ship registered in India under section 22 of the Merchant Shipping Act, 1958 (44 of 1958) or under any other law for the time being in force;

(*d*) on board or by an aircraft registered in India under clause (*d*) of sub-section (*2*) of section 5 of the Aircraft Act, 1934 (22 of 1934) or under any other law for the time being in force;

(*e*) on or by an artificial island, installation or structure under the jurisdiction of India.

(*4*) It applies only to the nuclear installation owned or controlled by the Central Government either by itself or through any authority or corporation established by it or a Government company.

Explanation.–For the purposes of this sub-section, "Government company" shall have the same meaning as assigned to it in clause (*bb*) of sub-section (*1*) of section 2 of the Atomic Energy Act, 1962 (33 of 1962).

(*5*) It shall come into force on such date[1] as the Central Government may, by notification, 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.

2. Definitions.—In this Act, unless the context otherwise requires,-

(*a*) "Chairperson" means the Chairperson of the Commission appointed under sub-section (*1*) of section 20;

(*b*) "Claims Commissioner" means the Claims Commissioner appointed under sub-section (*2*) of section 9;

(*c*) "Commission" means the Nuclear Damage Claims Commission established under section 19;

(*d*) "environment" shall have the same meaning as assigned to it in clause (*a*) of section 2 of the Environment (Protection) Act, 1986 (29 of 1986);

1. 11th November, 2011, *vide* Notifn. No. S.O. 2526(E), dated 11th November, 2011, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii).

(*e*) "Member" means a Member of the Commission appointed under sub-section (*1*) of section 20;

(*f*) "notification" means a notification published in the Official Gazette and the term "notify" shall be construed accordingly;

(*g*) "nuclear damage" means–

(*i*) loss of life or personal injury (including immediate and long term health impact) to a person; or

(*ii*) loss of, or damage to, property,

caused by or arising out of a nuclear incident, and includes each of the following to the extent notified by the Central Government;

(*iii*) any economic loss, arising from the loss or damage referred to in sub-clauses (*i*) or (*ii*) and not included in the claims made under those sub-clauses, if incurred by a person entitled to claim such loss or damage;

(*iv*) costs of measures of reinstatement of impaired environment caused by a nuclear incident, unless such impairment is insignificant, if such measures are actually taken or to be taken and not included in the claims made under sub-clause (*ii*);

(*v*) loss of income derived from an economic interest in any use or enjoyment of the environment, incurred as a result of a significant impairment of that environment caused by a nuclear incident, and not included in the claims under sub-clause (*ii*);

(*vi*) the costs of preventive measures, and further loss or damage caused by such measures;

(*vii*) any other economic loss, other than the one caused by impairment of the environment referred to in sub-clauses (*iv*) and (*v*), in so far as it is permitted by the general law on civil liability in force in India and not claimed under any such law,

in the case of sub-clauses (*i*) to (*v*) and (*vii*) above, to the extent the loss or damage arises out of, or results from, ionizing radiation emitted by any source of radiation inside a nuclear installation, or emitted from nuclear fuel or radioactive products or waste in, or of, nuclear material coming from, originating in, or sent to, a nuclear installation, whether so arising from the radioactive properties of such matter, or from a combination of radioactive properties with toxic, explosive or other hazardous properties of such matter;

(*h*) "nuclear fuel" means any material which is capable of producing energy by a self-sustaining chain process of nuclear fission;

(*i*) "nuclear incident" means any occurrence or series of occurrences having the same origin which causes nuclear damage or, but only with respect to preventive measures, creates a grave and imminent threat of causing such damage;

(*j*) "nuclear installation" means—

(*A*) any nuclear reactor other than one with which a means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose;

(*B*) any facility using nuclear fuel for the production of nuclear material, or any facility for the processing of nuclear material, including re-processing of irradiated nuclear fuel; and

(*C*) any facility where nuclear material is stored (other than storage incidental to the carriage of such material).

Explanation.—For the purpose of this clause, several nuclear installations of one operator which are located at the same site shall be considered as a single nuclear installation;

(*k*) "nuclear material" means and includes–

(*i*) nuclear fuel (other than natural uranium or depleted uranium) capable of producing energy by a self-sustaining chain process of nuclear fission outside a nuclear reactor, either by itself or in combination with some other material; and

(*ii*) radioactive products or waste;

(*l*) "nuclear reactor" means any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons;

(*m*) "operator", in relation to a nuclear installation, means the Central Government or any authority or corporation established by it or a Government company who has been granted a licence pursuant to the Atomic Energy Act, 1962 (33 of 1962) for the operation of that installation;

(*n*) "prescribed" means prescribed by rules made under this Act;

(*o*) "preventive measures" means any reasonable measures taken by a person after a nuclear incident has occurred to prevent or minimise damage referred to in sub-clauses (*i*) to (*v*) and (*vii*) of clause (*g*), subject to the approval of the Central Government;

(*p*) "radioactive products or waste" means any radioactive material produced in, or any material made radioactive by exposure to, the radiation incidental to the production or utilisation of nuclear fuel, but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose;

(*q*) "Special Drawing Rights" means Special Drawing Rights as determined by the International Monetary Fund.

CHAPTER II

LIABILITY FOR NUCLEAR DAMAGE

3. Atomic Energy Regulatory Board to notify nuclear incident.—(*1*) The Atomic Energy Regulatory Board constituted under the Atomic Energy Act, 1962 (33 of 1962) shall, within a period of fifteen days from the date of occurrence of a nuclear incident, notify such nuclear incident:

Provided that where the Atomic Energy Regulatory Board is satisfied that the gravity of threat and risk involved in a nuclear incident is insignificant, it shall not be required to notify such nuclear incident.

(*2*) The Atomic Energy Regulatory Board shall, immediately after the notification under sub-section (*1*) is issued, cause wide publicity to be given to the occurrence of such nuclear incident, in such manner as it may deem fit.

4. Liability of operator.—(*1*) The operator of the nuclear installation shall be liable for nuclear damage caused by a nuclear incident –

(*a*) in that nuclear installation; or

(*b*) involving nuclear material coming from, or originating in, that nuclear installation and occurring before –

(*i*) the liability for nuclear incident involving such nuclear material has been assumed, pursuant to a written agreement, by another operator; or

(*ii*) another operator has taken charge of such nuclear material; or

(*iii*) the person duly authorised to operate a nuclear reactor has taken charge of the nuclear material intended to be used in that reactor with which means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose; or

(*iv*) such nuclear material has been unloaded from the means of transport by which it was sent to a person within the territory of a foreign State; or

(*c*) involving nuclear material sent to that nuclear installation and occurring after–

(*i*) the liability for nuclear incident involving such nuclear material has been transferred to that operator, pursuant to a written agreement, by the operator of another nuclear installation; or

(*ii*) that operator has taken charge of such nuclear material; or

(*iii*) that operator has taken charge of such nuclear material from a person operating a nuclear reactor with which a means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose; or

(*iv*) such nuclear material has been loaded, with the written consent of that operator, on the means of transport by which it is to be carried from the territory of a foreign State.

(*2*) Where more than one operator is liable for nuclear damage, the liability of the operators so involved shall, in so far as the damage attributable to each operator is not separable, be joint and several:

Provided that the total liability of such operators shall not exceed the extent of liability specified under sub-section (*2*) of section 6.

(*3*) Where several nuclear installations of one and the same operator are involved in a nuclear incident, such operator shall, in respect of each such nuclear installation, be liable to the extent of liability specified under sub-section (*2*) of section 6.

(*4*) The liability of the operator of the nuclear installation shall be strict and shall be based on the principle of no-fault liability.

Explanation.—For the purposes of this section,—

(*a*) where nuclear damage is caused by a nuclear incident occurring in a nuclear installation on account of temporary storage of material-in-transit in such installation, the person responsible for transit of such material shall be deemed to be the operator;

(*b*) where a nuclear damage is caused as a result of nuclear incident during the transportation of nuclear material, the consignor shall be deemed to be the operator;

(*c*) where any written agreement has been entered into between the consignor and the consignee or, as the case may be, the consignor and the carrier of nuclear material, the person liable for any nuclear damage under such agreement shall be deemed to be the operator;

(*d*) where both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or, jointly by a nuclear incident and one or more other occurrences, such other damage shall, to the extent it is not separable from the nuclear damage, be deemed to be a nuclear damage caused by such nuclear incident.

5. Operator not liable in certain circumstances.—(*1*) An operator shall not be liable for any nuclear damage where such damage is caused by a nuclear incident directly due to-

(*i*) a grave natural disaster of an exceptional character; or

(*ii*) an act of armed conflict, hostility, civil war, insurrection or terrorism.

(*2*) An operator shall not be liable for any nuclear damage caused to–

(*i*) the nuclear installation itself and any other nuclear installation including a nuclear installation under construction, on the site where such installation is located; and

(*ii*) to any property on the same site which is used or to be used in connection with any such installation; or

(*iii*) to the means of transport upon which the nuclear material involved was carried at the time of nuclear incident:

Provided that any compensation liable to be paid by an operator for a nuclear damage shall not have the effect of reducing the amount of his liability in respect of any other claim for damage under any other law for the time being in force.

(*3*) Where any nuclear damage is suffered by a person on account of his own negligence or from his own acts of commission or omission, the operator shall not be liable to such person.

6. Limits of liability.—(*1*) The maximum amount of liability in respect of each nuclear incident shall be the rupee equivalent of three hundred million Special Drawing Rights or such higher amount as the Central Government may specify by notification:

Provided that the Central Government may take additional measures, where necessary, if the compensation to be awarded under this Act exceeds the amount specified under this sub-section.

(*2*) The liability of an operator for each nuclear incident shall be–

(*a*) in respect of nuclear reactors having thermal power equal to or above ten MW, rupees one thousand five hundred crores;

(*b*) in respect of spent fuel reprocessing plants, rupees three hundred crores;

(*c*) in respect of the research reactors having thermal power below ten MW, fuel cycle facilities other than spent fuel reprocessing plants and transportation of nuclear materials, rupees one hundred crores:

Provided that the Central Government may review the amount of operator's liability from time to time and specify, by notification, a higher amount under this sub-section:

Provided further that the amount of liability shall not include any interest or cost of proceedings.

7. Liability of Central Government.—(*1*) The Central Government shall be liable for nuclear damage in respect of a nuclear incident,—

(*a*) where the liability exceeds the amount of liability of an operator specified under sub-section (*2*) of section 6, to the extent such liability exceeds such liability of the operator;

(*b*) occurring in a nuclear installation owned by it; and

(*c*) occurring on account of causes specified in clauses (*i*) and (*ii*) of sub-section (*1*) of section 5:

Provided that the Central Government may, by notification, assume full liability for a nuclear installation not operated by it if it is of the opinion that it is necessary in public interest.

(*2*) For the purpose of meeting part of its liability under clause (*a*) or clause (*c*) of sub-section (*1*), the Central Government may establish a fund to be called the Nuclear Liability Fund by charging such amount of levy from the operators, in such manner, as may be prescribed.

8. Operator to maintain insurance or financial securities.—(*1*) The operator shall, before he begins operation of his nuclear installation, take out insurance policy or such other financial security or combination of both, covering his liability under sub-section (*2*) of section 6, in such manner as may be prescribed.

(*2*) The operator shall from time to time renew the insurance policy or other financial security referred to in sub-section (*1*), before the expiry of the period of validity thereof.

(*3*) The provisions of sub-sections (*1*) and (*2*) shall not apply to a nuclear installation owned by the Central Government.

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Explanation.—For the purposes of this section, "financial security" means a contract of indemnity or guarantee, or shares or bonds or such instrument as may be prescribed or any combination thereof.

CHAPTER III

CLAIMS COMMISSIONER

9. Compensation for nuclear damage and its adjudication.—(*1*) Whoever suffers nuclear damage shall be entitled to claim compensation in accordance with the provisions of this Act.

(*2*) For the purposes of adjudicating upon claims for compensation in respect of nuclear damage, the Central Government shall, by notification, appoint one or more Claims Commissioners for such area, as may be specified in that notification.

10. Qualifications for appointment as Claims Commissioner.—A person shall not be qualified for appointment as a Claims Commissioner unless he–

(*a*) is, or has been, a District Judge; or

(*b*) in the service of the Central Government and has held the post not below the rank of Additional Secretary to the Government of India or any other equivalent post in the Central Government.

11. Salary, allowances and other terms and conditions of service of Claims Commissioner.—The salary and allowances payable to and other terms and conditions of service of Claims Commissioner shall be such as may be prescribed.

12. Adjudication procedure and powers of Claims Commissioner.—(*1*) For the purposes of adjudication of claims under this Act, the Claims Commissioner shall follow such procedure as may be prescribed.

(*2*) For the purpose of holding inquiry, the Claims Commissioner may associate with him such persons having expertise in the nuclear field or such other persons and in such manner as may be prescribed.

(*3*) Where any person is associated under sub-section (*2*), he shall be paid such remuneration, fee or allowance, as may be prescribed.

(*4*) The Claims Commissioner shall, for the purposes of discharging his functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) requisitioning any public record or copies thereof from any court or office;

(*e*) issuing of commission for the examination of any witness;

(*f*) any other matter which may be prescribed.

(*5*) The Claims Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

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CHAPTER IV

CLAIMS AND AWARDS

13. Inviting application for claims by Claims Commissioner.—After the notification of nuclear incident under sub-section (*1*) of section 3, the Claims Commissioner, having jurisdiction over the area, shall cause wide publicity to be given, in such manner as he deems fit, for inviting applications for claiming compensation for nuclear damage.

14. Person entitled to make application for nuclear damage.—An application for compensation before the Claims Commissioner or the Commission, as the case may be, in respect of nuclear damage may be made by–

(*a*) a person who has sustained injury; or

(*b*) the owner of the property to which damage has been caused; or

(*c*) the legal representatives of the deceased; or

(*d*) any agent duly authorised by such person or owner or legal representatives.

15. Procedure for making application before Claims Commissioner.—(*1*) Every application for compensation before the Claims Commissioner for nuclear damage shall be made in such form, containing such particulars and accompanied by such documents, as may be prescribed.

(*2*) Subject to the provisions of section 18, every application under sub-section (*1*) shall be made within a period of three years from the date of knowledge of nuclear damage by the person suffering such damage.

16. Award by Claims Commissioner.—(*1*) On receipt of an application under sub-section (*1*) of section 15, the Claims Commissioner shall, after giving notice of such application to the operator and affording an opportunity of being heard to the parties, dispose of the application within a period of three months from the date of such receipt and make an award accordingly.

(*2*) While making an award under this section, the Claims Commissioner shall not take into consideration any benefit, reimbursement or amount received by the applicant in pursuance of contract of insurance taken by him or for members of his family or otherwise.

(*3*) Where an operator is likely to remove or dispose of his property with the object of evading payment by him of the amount of the award, the Claims Commissioner may, in accordance with the provisions of rules 1 to 4 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), grant a temporary injunction to restrain such act.

(*4*) The Claims Commissioner shall arrange to deliver copies of the award to the parties within a period of fifteen days from the date of the award.

(*5*) Every award made under sub-section (*1*) shall be final.

17. Operator's right of recourse.—The operator of the nuclear installation, after paying the compensation for nuclear damage in accordance with section 6, shall have a right of recourse where–

(*a*) such right is expressly provided for in a contract in writing;

(*b*) the nuclear incident has resulted as a consequence of an act of supplier or his employee, which includes supply of equipment or material with patent or latent defects or sub-standard services;

(*c*) the nuclear incident has resulted from the act of commission or omission of an individual done with the intent to cause nuclear damage.

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18. Extinction of right to claim.—The right to claim compensation for nuclear damage shall extinguish, if such claim is not made within a period of–

(*a*) ten years, in the case of damage to property;

(*b*) twenty years, in the case of personal injury to any person,

from the date of occurrence of the incident notified under sub-section (*1*) of section 3:

Provided that where a nuclear damage is caused by a nuclear incident involving nuclear material which, prior to such nuclear incident, had been stolen, lost, jettisoned or abandoned, the said period of ten years shall be computed from the date of such nuclear incident, but, in no case, it shall exceed a period of twenty years from the date of such theft, loss, jettison or abandonment.

CHAPTER V

NUCLEAR DAMAGE CLAIMS COMMISSION

19. Establishment of Nuclear Damage Claims Commission.—Where the Central Government, having regard to the injury or damage caused by a nuclear incident, is of the opinion that it is expedient in public interest that such claims for such damage be adjudicated by the Commission instead of a Claims Commissioner, it may, by notification, establish a Commission for the purpose of this Act.

20. Composition of Commission.—(*1*) The Commission shall consist of a Chairperson and such other Members, not exceeding six, as the Central Government may, by notification, appoint.

(*2*) The Chairperson and other Members of the Commission shall be appointed on the recommendation of a Selection Committee consisting of three experts from amongst the persons having at least thirty years of experience in nuclear science and a retired Supreme Court Judge.

(*3*) A person shall not be qualified for appointment as the Chairperson of the Commission unless he has attained the age of fifty-five years and is or has been or qualified to be a Judge of a High Court:

Provided that no appointment of a sitting judge shall be made except after consultation with the Chief Justice of India.

(*4*) A person shall not be qualified for appointment as a Member unless he has attained the age of fifty-five years and–

(*a*) has held or is holding or qualified to hold, the post of Additional Secretary to the Government of India or any other equivalent post in the Central Government and possesses special knowledge in law relating to nuclear liability arising out of nuclear incident; or

(*b*) has been a Claims Commissioner for five years.

21. Term of office.—The Chairperson or a Member, as the case may be, shall hold office as such for a term of three years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of three years:

Provided that no person shall hold office as such Chairperson or Member after he has attained the age of sixty-seven years.

22. Salary, allowances and other terms and conditions of service of Chairperson and Members.—The salary and allowances payable to and other terms and conditions of service, including pension, gratuity and other retirement benefits, of the Chairperson and other Members shall be such as may be prescribed:

Provided that no salary, allowances and other terms and conditions of service of the Chairperson or other Members shall be varied to his disadvantage after his appointment.

23. Filling up of vacancies.—If, for reasons other than temporary absence, any vacancy occurs in the office of the Chairperson or Member, as the case may be, the Central Government shall appoint another person in accordance with the provisions of this Act to fill such vacancy and the proceedings may be continued before the Commission from the stage at which it was, before the vacancy is filled.

24. Resignation and removal.—(*1*) The Chairperson or a Member may, by a notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or the Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

(*2*) The Central Government shall remove from office the Chairperson or a Member who–

(*a*) has been adjudged an insolvent; or

(*b*) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(*c*) has become physically or mentally incapable of acting as a Member; or

(*d*) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(*e*) has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no Member shall be removed under clause (*d*) or clause (*e*) unless he has been given an opportunity of being heard in the matter.

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25. Chairperson or Member deemed to retire from service.—A person who, immediately before the date of assuming office as a Chairperson or a Member, was in service of the Government, shall be deemed to have retired from service on the date on which he enters upon office as such, but his subsequent service as the Chairperson or a Member shall be reckoned as continuing approved service counting for pension in service to which he belonged.

26. Suspension of pension.—If a person who, immediately before the date of assuming office as the Chairperson or a Member was in receipt of or being eligible so to do, has opted to draw, a pension, other than a disability or wound pension, in respect of any previous service under the Central Government, his salary in respect of service as the Chairperson or a Member shall be reduced–

(*a*) by the amount of that pension; and

(*b*) if he had, before assuming office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

27. Prohibition of acting as arbitrator.—No person shall, while holding office as a Chairperson or a Member, act as an arbitrator in any matter.

28. Prohibition of practice.—On ceasing to hold office, the Chairperson or a Member shall not appear, act or plead before the Commission.

29. Powers of Chairperson.—The Chairperson shall have the power of superintendence in the general administration of the Commission and exercise such powers as may be prescribed.

30. Officers and other employees of Commission.—(*1*) The Central Government shall provide the Commission with such officers and other employees as it may deem fit.

(*2*) The salary and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission shall be such as may be prescribed.

31. Application for compensation before Commission.—(*1*) Every application for compensation before the Commission for nuclear damage shall be made in such form, containing such particulars and accompanied by such documents, as may be prescribed.

(*2*) Subject to the provisions of section 18, every application under sub-section (*1*) shall be made within a period of three years from the date of knowledge of nuclear damage by the person suffering such damage.

32. Adjudication procedure and powers of Commission.—(*1*) The Commission shall have original jurisdiction to adjudicate upon every application for compensation filed before it under sub-section (*1*) of section 31 or transferred to it under section 33, as the case may be.

(*2*) Upon transfer of cases to the Commission under section 33, the Commission shall hear such applications from the stage at which it was before such transfer.

(*3*) The Chairperson may constitute benches comprising of not more than three Members of the Commission for the purpose of hearing of claims and any decision thereon shall be rendered by a majority of the Members hearing such claims.

(*4*) The Commission shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Commission shall have the power to regulate its own procedure including the places and the times at which it shall have its sittings.

(*5*) The Commission shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, (5 of 1908) while trying a suit, in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) requisitioning any public record or copies thereof from any court or office;

(*e*) issuing of commission for the examination of any witness;

(*f*) any other matter which may be prescribed.

(*6*) The Commission shall, after giving notice of application to the operator and after affording an opportunity of being heard to the parties, dispose of such application within a period of three months from the date of such receipt and make an award accordingly.

(*7*) While making an award under this section, the Commission shall not take into consideration any benefit, reimbursement or amount received by the applicant in pursuance of any contract of insurance or otherwise.

(*8*) Where an operator is likely to remove or dispose of his property with the object of evading payment by him of the amount of the award, the Commission may, in accordance with the provisions of rules 1 to 4 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), grant a temporary injunction to restrain such act.

(*9*) The Commission shall arrange to deliver copies of the award to the parties concerned within a period of fifteen days from the date of such award.

(*10*) Every award made under sub-section (*6*) shall be final.

33. Transfer of pending cases to Commission.—Every application for compensation pending before the Claims Commissioner immediately before the date of establishment of the Commission under section 19 shall stand transferred on that date to the Commission.

34. Proceedings before Claims Commissioner or Commission to be judicial proceedings.—Every proceeding before the Claims Commissioner or the Commission under this Act shall be deemed to be judicial proceeding within the meaning of sections 193, 219 and 228 of, and for the purposes of section 196 of, the Indian Penal Code (45 of 1860).

35. Exclusion of jurisdiction of civil courts.—Save as otherwise provided in section 46, no civil court (except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Claims Commissioner or the Commission, as the case may be, is empowered to adjudicate under this Act and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

36. Enforcement of awards.—(*1*) When an award is made under sub-section (*1*) of section 16 or under sub-section (*6*) of section 32,—

(*a*) the insurer or any person, as the case may be, who under the contract of insurance or financial security under section 8 is required to pay any amount in terms of such award and to the extent of his liability under such contract, shall deposit that amount within such time and in such manner as the Claims Commissioner or the Commission, as the case may be, may direct; and

(*b*) the operator shall, subject to the maximum liability specified under sub-section (*2*) of section 6, deposit the remaining amount by which such award exceeds the amount deposited under clause (*a*).

(*2*) Where any person referred to in sub-section (*1*) fails to deposit the amount of award within the period specified in the award, such amount shall be recoverable from such person as arrears of land revenue.

(*3*) The amount deposited under sub-section (*1*) shall be disbursed to such person as may be specified in the award within a period of fifteen days from the date of such deposit.

37. Annual report.—The Commission shall prepare, in such form and at such time in each financial year, as may be prescribed, an annual report giving full account of its activities during that financial year and submit a copy thereof to the Central Government which shall cause the same to be laid before each House of Parliament.

38. Dissolution of Commission in certain circumstances.—(*1*) Where the Central Government is satisfied that the purpose for which the Commission established under section 19 has served its purpose, or where the number of cases pending before such Commission is so less that it would not justify the cost of its continued function, or where it considers necessary or expedient so to do, the Central Government may, by notification, dissolve the Commission.

(*2*) With effect from the date of notification of dissolution of Commission under sub-section (*1*),—

(*a*) the proceeding, if any, pending before the Commission as on the date of such notification shall be transferred to the Claims Commissioner to be appointed by the Central Government under sub-section (*2*) of section 9;

(*b*) the Chairperson and all Members of the Commission shall be deemed to have vacated their offices as such and they shall not be entitled to any compensation for premature termination of their office;

(*c*) officers and other employees of the Commission shall be transferred to such other authority or offices of the Central Government, in such manner, as may be prescribed:

Provided that the officers and other employees so transferred, shall be entitled to the same terms and conditions of service as would have been held by them in the Commission:

Provided further that where an officer or an employee of the Commission refuses to join the services in such other authority or office, he shall be deemed to have resigned and shall not be entitled to any compensation for premature termination of contract of service;

(*d*) all assets and liabilities of the Commission shall vest in the Central Government.

(*3*) Notwithstanding the dissolution of the Commission under sub-section (*1*), anything done or any action taken or purported to have been done or taken including any order made or notice issued or any appointment, confirmation or declaration made or any document or instrument executed or any direction given by the Commission before such dissolution, shall be deemed to have been validly done or taken.

(*4*) Nothing in this section shall be construed to prevent the Central Government to establish the Commission subsequent to the dissolution of the Commission in accordance with the provisions of this Act.

CHAPTER VI

OFFENCES AND PENALTIES

39. Offences and penalties.—(*1*) Whoever—

(*a*) contravenes any rule made or any direction issued under this Act; or

(*b*) fails to comply with the provisions of section 8; or

(*c*) fails to deposit the amount under section 36,

shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

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(*2*) Whoever fails to comply with any direction issued under section 43 or obstructs any authority or person in the exercise of his powers under this Act shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

40. Offences by companies.—(*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was directly 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 any punishment under 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 any 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;

(*b*) "director", in relation to a firm, means a partner in the firm.

41. Offences by Government Departments.—Where an offence under this Act has been committed by any Department of the Government, the Head of the Department 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 section shall render such Head of the Department liable to any 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.

42. Cognizance of offences.—No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act:

Provided that cognizance of such offence shall not be taken except on a complaint made by the Central Government or any authority or officer authorised in this behalf by that Government.

CHAPTER VII

MISCELLANEOUS

43. Power to give directions.—The Central Government may, in exercise of its powers and performance of its functions under this Act, issue such directions, as it may deem fit, for the purposes of this Act, to any operator, person, officer, authority or body and such operator, person, officer, authority or body shall be bound to comply with such directions.

44. Power to call for information.—The Central Government may call for such information from an operator as it may deem necessary.

45. Exemption from application of this Act.—The Central Government may, by notification, exempt any nuclear installation from the application of this Act where, having regard to small quantity of nuclear material, it is of the opinion that the risk involved is insignificant.

46. Act to be in addition to any other law.—The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt the operator from any proceeding which might, apart from this Act, be instituted against such operator.

47. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against the Central Government or the person, officer or authority in respect of anything done by it or him in good faith in pursuance of this Act or of any rule or order made, or direction issued, thereunder.

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

(*2*) In particular, and without prejudice to the generality of the foregoing powers such rules may provide for –

(*a*) the other financial security and the manner thereof under sub-section (*1*) of section 8;

(*b*) the salary and allowances payable to and the other terms and conditions of service of Claims Commissioner under section 11;

(*c*) the procedure to be followed by Claims Commissioner under sub-section (*1*) of section 12;

(*d*) the person to be associated by Claims Commissioner and the manner thereof, under sub-section (*2*) of section 12;

(*e*) the remuneration, fee or allowances of associated person under sub-section (*3*) of section 12;

(*f*) any other matter under clause (*f*) of sub-section (*4*) of section 12;

(*g*) the form of application, the particulars it shall contain and the documents it shall accompany, under sub-section (*1*) of section 15;

(*h*) the salary and allowances payable to and other terms and conditions of service of Chairperson and other Members, under section 22;

(*i*) the powers of Chairperson under section 29;

(*j*) the salary and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission, under sub-section (*2*) of section 30;

(*k*) the form of application, the particulars it shall contain and the documents it shall accompany, under sub-section (*1*) of section 31;

(*l*) any other matter under clause (*f*) of sub-section (*5*) of section 32;

(*m*) the form and the time for preparing annual report by the Commission under section 37;

(*n*) the manner of transfer of officers and other employees of the Commission under clause (*c*) of sub-section (*2*) of section 38.

(*3*) Every rule made under this Act by the Central Government 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 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.

49. Power to remove difficulties.—(*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 appear to it to be necessary or expedient for removing the difficulty:

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

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

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STATEMENT OF OBJECTS AND REASONS

The nuclear industry in India is growing and as a result of the steps taken particularly in the recent period, it is expected to form an important part of the energy-mix of the country. While making the design, and during construction and operation of nuclear power plants every care is taken to ensure safety of the plant, public and the environment. However, in the unlikely event of a nuclear incident or accident, there may be damage to individuals, property and environment on a large scale. The geographical scope of damage caused by a nuclear accident may not be confined to national boundaries and it may have trans-boundary effects. In such an event, it is desirable that protection is accorded to victims of such incident or accident by a third party liability regime. It is necessary to give compensation to persons if they suffer nuclear damage as a result of a nuclear incident and therefore it is important to make provision to ensure clarity of liability and the requirement to pay compensation.

2. At present, the nuclear power plants and facilities in India are owned by the Central Government or its Public Sector Undertakings. Therefore, any incident or accident that happens in these installations, and the liability issues arising therefrom, are the responsibility of the Central Government. This, however, leaves any trans-boundary liability to uncertainty. There is also a need to address the issue of nuclear liability during transport of nuclear material.

3. At the international level there are four instruments for nuclear liability, *i.e*., the 1960 Paris Convention, 1963 Vienna Convention, 1997 Protocol to Amend Vienna Convention and 1997 Convention on Supplementary Compensation for nuclear damage. Convention on Supplementary Compensation was developed under the auspices of International Atomic Energy Agency and which deal with nuclear liability. It provides for treaty relations among all countries that accept the basic principles of nuclear liability law and an international fund to compensate nuclear damage in the event of nuclear incident. The said Convention on Supplementary Compensation envisages a two tier system with respect to the amount of compensation, e.g., Installation State to ensure availability of the amount of compensation (at least 300 million Special Drawing Rights), and International Fund for which all contracting parties are obliged to contribute the amount based on a formula for calculation of contribution.

4. Convention on Supplementary Compensation is a free standing instrument open to all countries. It offers a country the means to become part of the global regime without having to become a member of the Paris Convention or the Vienna Convention. However, all countries party to the Convention on Supplementary Compensation are expected to abide by the basic principles of the nuclear liability law. For this reason, the Convention on Supplementary Compensation sets out a number of rules, which are consistent with the general principles of both the Paris Convention and the Vienna Convention. Any State willing to join the Convention on Supplementary Compensation will have to ensure that its national legislation is consistent with the provisions laid down in the Annex to Convention on Supplementary Compensation.

5. Many countries which are engaged in nuclear power generation are having their own legislations and some of them are parties to one or other international regimes.

6. India is not a party to any of the nuclear liability conventions mentioned above. Indian nuclear industry has been developed within the context of a domestic framework established by the Atomic Energy Act, 1962. There is no provision in the said Act about the nuclear liability or compensation for

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nuclear damage due to nuclear accident or incident and no other law deals with nuclear liability for nuclear damage in the event of nuclear incident.

7. It is, therefore, considered necessary to enact a legislation which provides for nuclear liability that might arise due to a nuclear incident and also on the necessity of joining an appropriate international liability regime.

8. The Bill seeks to achieve the above objectives.

PRITHVIRAJ CHAVAN

NEW DELHI;
The 11*th February,* 2010.

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