THE PUBLIC LIABILITY INSURANCE ACT, 1991

No. 6 of 1991

[22nd January, 1991]

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd January, 1991 Magha, 3, 1912 (Saka)

The following Act of Parliament received the assent of the President on the 22nd January, 1991, and is hereby published for general information:-

An Act to provide for public liability- insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling any hazardous substance and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Public Liability Insurance Act, 1991.

(2) It shall come into force on such date as the Central Government may, b) notification, appoint.

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

1[(a) "accident" means an accident involving a fortuitous, sudden or unintentional occurrence while handling any hazardous substance resulting in continuous, intermittent or repeated exposure to death, of or injury to, any person or damage to any property but does not include an accident by reason only of war or radio-activity;]

(b) "Collector means the Collector having jurisdiction over the area in which the accident occurs;

(c) "handling", in relation to any hazardous substance, means the manufacture, processing, treatment, package, storage, transportation by vehicle, use, collection, destruction, conversion, offering for sale, transfer or the like of such hazardous substance;

(d)"hazardous substance" means any substance or preparation which is defined as hazardous substance under the Environment (Protection) Act, 1986 (29 of 1986), and exceeding such quantity as may be specified, by notification, by the Central Government;

(e) "insurance" means insurance against liability under sub-section (I) of section A:

(f) "notification" means a notification published in the official Gazette;

2[(g) "owner" means a person who owns, or has control over handling any hazardous substance at the time of accident and includes,-

(i) in the case of firm, any of its partners;

(ii) in the case of an association, any of its members; and

(iii) in the case or a company, any of its directors, managers, secretaries or other officers who is directly in charge of, and is responsible to the company for the conduct of the business of the company;]

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

3[(ha) "Relief Fund" means the Environmental Relief Fund establishment under section 7A]

(i) "rules" means rules made under this Act;

(ii) "vehicle" means any mode of surface transport other than railways.

3. (1) Where death or injury to any person (other than a workman) or damage to any property has resulted from an accident, the owner shall-be liable to give such relief as is specified in Schedule for such death,

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injury or damage.

(2) In any claim for relief under sub-section (I) (hereinafter referred to in this Act as claim for relief), the claimant shall not be required to plead and establish that the death, injury or damage in respect of which the claim has been made was due to any wrongful act, neglect or default of any person.

Explanation.-For the purpose of this section,-

(i) "workman" has the meaning assigned to it in the Workmen□s Compensation Act, 1923 (8 of 1923);

(ii) "injury" includes permanent total or permanent partial disability or sickness resulting out of an accident.

4. (1) Every owner shall take out, before he starts handling any hazardous substance, one or more insurance policies providing for contracts of insurance thereby he is insured against liability to give relief under sub-section (1) of section 3;

Provided that ally owner handling any hazardous substance immediately before the commencement of this Act shall take out such insurance policy or policies as soon as may be and in any case within a period of one year from such commencement.

(2) Every owner shall get the insurance policy, referred to in subsection (1), renewed from time to time before the expiry of the period of validity thereof so that the insurance policies may remain in force throughout the period during which such handling is continued.

4[(2A) No insurance policy taken out by an owner shall be for a amount less than the amount of the paid-up capital of the under taking handling any hazardous substance and owned or controlled by that owner and more than the amount, not exceeding fifty crore rupees, as may be prescribed.

Explanation.- "Paid-up capital" in this sub-section means, in the case of an owner not being a company, the market value of all assets and stocks of the undertaking on the date of contracts of insurance.

(2B) The liability of the insurer under one insurance policy shall not exceed the amount specified in the terms of the contract of insurance in that insurance policy.

(2C) Every owner shall also, together with the amount of premium, pay to the insurer, for being credited to the Relief Fund established under section 7A, such further amount, not exceeding the amount of premium, as may be prescribed.

(2D) The insurer shall remit the further amount received from the owner under sub-section (2C) to the Relief Fund in such manner and within such period as may be prescribed and where the insurer fails to so remit the further amount, such amount shall be recoverable from insurer as arrears of land revenue or of public demand.]

(3)The Central Government may, by notification, exempt from the operation of sub-section (1) any owner, namely:-

(a) the Central Government;

(b) any State Government,

(c) any corporation owned or controlled by the Central Government or a State Government; or

(d) any local authority:

Provided that no such order shall be made in relation to such owner unless a fund has been established and is maintained by that owner in accordance with the rules made in this behalf for meeting any liability under sub-section (I) of section 3.

5. Whenever it comes to the notice of the Collector that an accident has occurred at any place within his

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jurisdiction, he shall verify the occurrence of such accident and cause publicity to be given in such manner as he deems fit for inviting applications under sub-section (1) of section 6

6. (1) An application for claim {or relief may be made-

a) by the person who has sustained thc injury;

(b) by the owner of the property to which thc damage has been caused;

(c) where death has resulted from the accident, by all or any of the legal representatives of thc deceased; or

(d) by any agent duly authorised by such person or owner of such property or all or any Of the legal representatives of the deceased, as the case may be:

Provided that where all thc legal representatives of the deceased have not joined in any such application for relief, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application.

(2) Every application under sub-section (I) shall be made to the Collector and shall be in such form, contain such particulars and shall be accompanied by such documents as may be prescribed.

(3) No application for relief shall be entertained unless it is made within five years of the occurrence of the accident.

7. (1) On receipt of an application under sub-section (I) of section 6, the Collector shall after giving notice of the application to the owner and after giving the parties an opportunity of being heard, hold an inquiry into the claim or, each of he claims, and may make an award determining the amount of relief which appears to him to be just and specifying thc person or persons to whom such amount of relief shall be paid.

(2) The Collector shall arrange to deliver copies of the award to the parties concerned expenditiously and in any case within a period of fifteen days from the date of thc award.

5 [(3) When an award is made under this section,-

(a) the insurer, who is required to pay any amount in terms of such award and to the extend specified in sub-section (2B) of section 4, shall, within a period of thirty days of the date of announcement of the award, deposit that amount in such manner as the Collector may direct;

(b) the Collector shall arrange to pay from the Relief Fund, in terms of such award and in accordance with the scheme made under section 7A, to the person or persons referred to in sub-section (I) such amount in such manner as may be specified in that scheme;

(c) the owner shall, within such period, deposit such amount in such manner as the Collector may direct.]

(4) In holding any inquiry under sub-section (1), the Collector may, subject to any rules made in this behalf, follow such summary procedure as he thinks fit.

(5) The Collector shall have all the powers of Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Collector shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XX\□I of the Code of Criminal Procedure, 1973 (2 of 1974).

(6) Where the insurer or the owner against whom the award is made under sub-section (I) fails to deposit the amount of such award within the period specified under sub-section (3), such amount shall be recoverable from the owner, or as the case may be, the insurer as arrears of land revenue or of public

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demand.

(7) A claim for relief in respect of death of, or injury to, any person or damage to any property shall be disposed of as expeditiously as possible and every endeavour shall be made to dispose of such claim within three months of the receipt of the application for relief under sub-section (I) of section 6.

6 [(8) Where an owner is likely to remove or dispose of his property with a view to evading payment by him of the amount of award, the Collector may, in accordance with the provisions contained in rules I to 4 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908, (5 of 1908), grant a temporary injuction to restrain such act.]

7 [7A. (I) the Central Government may, by notification in the official Gazette, establish a fund to bc known as the Environment Relief Fund.

(2) The Relief Fund shall bc utilised for paying, in accordance with the provisions of this Act and the scheme, relief under the award made by the Collector under section 7.

(3) The Central Government may, by notification in the Official Gazette, make a scheme specifying the authority in which the relief fund shall vest, the manner in which the Fund shall be administered the form and the manner in which money shall be drawn from the Relief Fund and for all other matters connected with or incidental to thc administration of the Relief Fund and the payment of relief therefrom.]

8. (1) Thc right to claim relief under sub-section (I) of section 3 in respect of death of, or injury to, any person or damage to any property shall be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force.

(2) Notwithstanding anything contained in sub-section (1), where in respect of death of, or injury to, any person or damage to any property, the owner, liable to give claim for relief, is also liable to pay compensation under any other law, the amount of such compensation shall be reduced by thc amount of relief paid under this Act.

9. Any person authorised by the Central Government may, for the purposes of ascertaining whether any requirements of this Act or of any rule or of any direction given under this Act have been compiled with, require any owner to submit to that person such information as that person may reasonably think necessary.

10. Any person, authorised by thc Central Government in this behalf, shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place, premises or vehicle, where hazardous substance is handled for the purpose of determining whether any provisions of this Act or of any rule or of any direction given under this Act is being or has been compiled with and such owner is bound to render all assistance to such person.

11. (1) If a person, authorised by the Central Government in this behalf, has reason to believe that handling of any hazardous substance is taking place in any place premises or vehicle, in contravention of sub-section (I) of section 4, he may enter into and search such place, premises or vehicle for such handling of hazardous substance.

(2) Where, as a result Of any search under sub-section (I) any handling of hazardous substance has been found in relation to which contravention of sub-section (I) of section 4 has taken place, he may sieze such hazardous substance and other things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act:

Provided that where it is not practicable to seize any such substance or thing he may serve on the owner an order that the owner shall not remove, part with, or otherwise deal with, the hazardous substance and such other things except with the previous permission of that person.

(3) He may, if he has reason to believe that it is expedient so to do to prevent an accident dispose of the hazardous substance seized under sub-section (2) immediately in such manner as he may deem fit.

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(4) All expenses incurred by him in the disposal of hazardous substances under sub-section (3) shall be recoverable from the owner as arrears of land revenue or of public demand.

12. Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in exercise of its powers and performance of its functions under this Act, issue such directions in writing as it may deem fit for the purposes of this Act to any owner or any person, officer, authority or agency and such owner, person, officer, authority or agency shall be bound to comply with such directions.

Explanation.-For the removal of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct-

a. prohibition or regulation of the handling of any hazardous substance; or

b. stoppage or regulation of the supply of electricity, water or any other service.

13. (1) If the Central Government or any person authorised by that Government in this behalf has reason to believe that any owner has been handling any hazardous substance in contravention of any of the provisions of this Act, that Government or, as the case may be, that person may make an application to a Court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate first class for restraining such owner from such handling.

(2) On receipt of the application under sub-section (1), the Court may make such order as it deems fit.

(3) Where under sub-section (2), the Court makes an order restraining any owner from handling hazardous substance. it may. in that order-

(a) direct such owner to desist from such handling;

(b) aulhorise the Central Government or, as the case may be, the person referred to in sub-section (1), if the direction under clause (a) is not complied with by the owner to whom such direction is issued, to implement the direction in such manner as may bc specified by thc Court.

(4) All expenses incurred by the Central Government, or as the case may be, thc person in implementing the directions of Court under clause (h) of sub-section (3), shall be recoverable from the owner as arrears of land revenue or of public demand

14. (1) Whoever contravenes any of the provisions of [8][sub-section (1), sub-section (2), sub-section (2A) or sub-section (2C)] of section 4 or fails to comply with any directions issued under section 12, he shall be punishable imprisonment for a term which shall not be less than one year and six months but which may extend to six years, or with fine which shall not be less than one lakh rupees, or with both

(2) Whoever, having already been convicted of an offence under sub-section (1), is convicted for the second offence or any offence subsequent to the second offence, he shall bc punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine which shall not be less than one lakh rupees.

(3) Nothing contained in section 360 of thc Code of Criminal Procedure, 1973 (2 of 1974), or in the Probation of Offenders Act, 1958 (20 of 1958), shall apply to a person convicted of an offence under this Act unless such person is under eighteen years of age.

15. If any owner fails to comply with direction issued under section 9 or fails to comply with order issued under sub-section (2) of section 11, or obstructs any person in discharge of his functions under section 10 or sub-section (1) or sub-section (3) of section 11, he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to ten thousand rupees, or with both

16. (1) Where any 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

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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 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 thc purposes of this section,–

a. "company" means any body corporate and includes a firm or other association of individual;

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

17. Where an offence under this Act has been committed by any Department of 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.

18. No court shall take cognizance of any offence under this Act except on a complaint made by-

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

19. the Central Government may, by notification delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act (except the power under section 23) as it may deem necessary or expedient to any person (including any officer, authority or other agency).

20. No suit, prosecution or other legal proceeding shall lie against the Government or the person, officer, authority or other agency in respect of anything which is done or intended to be do11e in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

21. (1) The Central Government may, from time to time, constitute an Advisory Committee on the matters relating to the insurance policy under this Act.

(2) The Advisory Committee shall consist of–

a. Three officers representing the Central Government;

b. two persons representing the insurers;

c. two persons representing the owners; and

d. two persons from amongst the experts of insurance or hazardous substances, to be appointed by the Central Government.

(3) The Chairman of the Advisory Committee shall be one of the members representing the Central Government. nominated in this behalf by that Government.

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22. The provisions of this Act and any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law

23. (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 power, such rules may provide for all or any of the following matters, namely-

[9][(a) the maximum amount for which an insurance policy may be taken out by an owner under sub-section (2A) of section 4;

(aa) the amount required to be paid by every owner for being eredited to the Relief Fund under sub-section (2C) of section 4;

(ab) the manner in which and the period within the amount received from the owner is required to be remitted by the insurer under sub-section (2D) of section 4];

[10][(ac) establishment and maintenance of fund under sub-section (3) of section 4];

(b) the form of application and the particulars to be given therein and the documents to accompany such application under sub-section (2) of section 6;

(c) the procedure for holding an inquiry under sub-section (4) of section 7;

(d) the purposes for which the Collector shall have powers of a Civil Court under sub-section (S) of section 7;

(e) the manner in which notice of the offence and of the intention to make a complaint to the Central Government shall be given under clause (b) of section 18;

(f) any other matter which is required to be, or may be, prescribed.

[11][(3) Every rule or scheme made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session [or 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 scheme or both Houses agree that the rule or scheme should not be made, the rule or scheme 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 or scheme.]

THE SCHEDULE

[See Section 3(1)]

(i) Reimbursement of medical expenses incurred up to a maximum of Rs. 12,500 in each case.

(ii) For fatal accidents the relief will be Rs. 25,000 per person in addition to reimbursement of medical expenses if any, incurred on the victim up to a maximum of Rs. 12,500.

(iii) For permanent total or permanent partial disability or other injury or sickness, the relief will be (a) reimbursement of medical expenses incurred, if any, up to a maximum of Rs. 12,500 in each case and (b) cash relief on the basis of percentage of disablement as certified by an authorised physician. The relief for total permanent disability will be Rs. 25,000.

(iv) For loss of wages due to temporary partial disability which reduces the earning capacity of the victim, there will be a fixed monthly relief not exceeding Rs. 1,000 per month up to a maximum of 3 months: provided the victim has been hospitalised for a period of exceeding 3 days and is above 16 years of age.

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(v) Up to Rs. 6,000 depending on the actual damage, for any damage to private property.

K.L. MOHANPURIA

Addl Secy. to Govt. of India

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[1] Substituted by Public Liability Insurance (Amendment) Act. 1992 dt. 31.1.92.
[2] Substituted by Public Liability Insurance (Amendment) Act. 1942, dated 31.1.1992.
[3] Ibid.
[4] Inserted by Public Liability Insurance (Amendment) Act, 1992 dt. 31.1.1992.
[5] Substituted by Public Liability Insurance (Amendment) Act, 1992 dt. 3].1.1992.
[6] Z bid
[7] Inserted by Public Liability Insurance (Amendment) Act, 1992 dl. 31.1.92.
[8] Substituted by Public Liability Insurance (Amendment) Act, 1992 dt. 31.1.92.
[9] Inserted by Public Liability Insurance (Amendment) Act, 1992 dt. 31.1.92.
[10] ibid. re-lettered:
[11] Substituted by Public Liability Insurance (Amendment) Act, 1992 dt. 31.1.92.

MINISTRY OF ENVIRONMENT AND FORESTS

(Department of Environment, Forests and Wildlife)

1 [NOTIFICATION]

New Delhi, the 27th March, 1991

G.S.R. 253.-In exercise of the powers conferred by sub-section (2) of section I of the Public Liability Insurance Act, 1991 (6 of 1991), the Central Government hereby appoints the 1st day of April, 1991 as the date on which the said Act shall come into force.

[No. 18(3)/91-PL]

R. RAJAMANI, Scey.

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1 Extract from the Gazette of India: Pan II, Sec. 3, Sub-sec. (i) Appearing on Page No. 1003 dated 13-4-91.

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