

रजिस्ट्री सं० सी(डीएन) 127/88

REGISTERED No. D(DN)187/88



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 1
PART II—Section 1

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 8] नई दिल्ली, बुधवार, जनवरी 23, 1991/माघ 3, 1912
No. 8] NEW DELHI, WEDNESDAY, JANUARY 23, 1991/MAGHA 3, 1912

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation.

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:—

THE PUBLIC LIABILITY INSURANCE ACT, 1991

No. 6 of 1991

[22nd January, 1991.]

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, by notification, appoint.

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

(a) "accident" means an accident or incident occurring while handling any hazardous substance;

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

Short title
and com-
mence-
ment.

Defini-
tions.

(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, and exceeding such quantity as may be specified, by notification, by the Central Government;

29 of 1986.

(e) "insurance" means insurance against liability under sub-section (1) of section 3;

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

(g) "owner" means a person who has control over handling any hazardous substance;

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

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

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

Liability
to
give
relief
in certain
cases on
principle
of no
fault.

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 the Schedule for such death, injury or damage.

(2) In any claim for relief under sub-section (1) (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 purposes 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.

Duty of
owner to
take out
insurance
policies.

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

Provided that any 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 sub-section (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.

(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 (1) of section 3.

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

Verifica-
tion and publica-
tion of
accident
by Collec-
tor.

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

- (a) by the person who has sustained the injury;
- (b) by the owner of the property to which the damage has been caused;
- (c) where death has resulted from the accident, by all or any of the legal representatives of the 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;

Applica-
tion for
claim for
relief.

Provided that where all the 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 (1) 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.

Award of
relief.

7. (1) On receipt of an application under sub-section (1) 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 the claims, and may make an award determining the amount of relief which appears to him to be just and specifying the 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 expeditiously and in any case within a period of fifteen days from the date of the award.

(3) When an award is made under this section, the owner or the insurer, as the case may be, who is required to pay any amount in terms of such award shall, within thirty days of the date of announcement of the award, deposit the entire amount so awarded 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 a 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 XXVI 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 (1) 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 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 (1) of section 6.

Provi-
sions as to
other right
to claim
compen-
sation for
death, etc.

8. (1) The right to claim relief under sub-section (1) 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 the amount of relief paid under this Act.

Power to
call for
informa-
tion.

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 complied with, require any owner to submit to that person such information as that person may reasonably think necessary.

10. Any person, authorised by the 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 complied with and such owner is bound to render all assistance to such person.

Power of entry and inspection.

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 (1) of section 4, he may enter into and search such place, premises or vehicle for such handling of hazardous substance.

Power of search and seizure.

(2) Where, as a result of any search under sub-section (1) any handling of hazardous substance has been found in relation to which contravention of sub-section (1) of section 4 has taken place, he may seize 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.

(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.

Power to give 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.

Awa
relief

Power
to make
applica-
tion to
courts for
restrain-
ing owner
from
handling
hazar-
dous
sub-
stances.

Penalty
for
contra-
vention
of sub-
section
(1) or
sub-
section
(2) of
section
4 or fail-
ure to
comply
with
directions
under sec-
tion 12.

Penalty
for fail-
ure to
comply
with
direction
under
section
9 or
order
under
section
11 or
obstruct-
ing any
person in
discharge
of his
functions
under
section
10 or 11.

13. (1) If the Central Government or any person authorized 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 of 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) authorise 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 be specified by the Court.

(4) All expenses incurred by the Central Government, or as the case may be, the person in implementing the directions of Court under clause (b) 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 sub-section (1) or sub-section (2) of section 4 or fails to comply with any direction issued under section 12, he shall be punishable with 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 be 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 the Code of Criminal Procedure, 1973, or in the Probation of Offenders Act, 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.

2 of 1974.
20 of 1958

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 offence and shall be liable to be proceeded against and punished accordingly:

Offences
by com-
panies.

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 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.

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:

Offences
by Gov-
ernment
Depart-
ments.

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—

Cogni-
zance of
offences.

(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).

Power to
delegate.

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 done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

Protec-
tion of
action
taken in
good
faith.

Advisory
Commit-
tee.

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.

Effect of
other
laws.

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

Power to
make
rules.

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:—

- (a) 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 (5) 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.

(3) Every rule 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 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.

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 exceeding 3 days and is above 16 years of age.

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

K. L. MOHANPURIA.

Additional Secy. to the Govt. of India.