

Bill No. LXXXIX of 2010

THE PUBLIC LIABILITY FOR NON-NUCLEAR INDUSTRIAL
MISHAP BILL, 2010

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BILL

to provide for stringent punishment and adequate compensation for non-nuclear industrial mishaps in the country and for matters connected therewith and incidental thereto.

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

1. (1) The Act may be called The Public Liability for Non-Nuclear Industrial Mishap Act, 2010.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

5 (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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

Definitions.

(a) "appropriate Government" means in case of a State, the Government of that State and in all other cases the Central Government;

(b) "claim Commissioner" means the claims Commissioner appointed under section 3 for the purpose of adjudicating upon claims for compensations with respect of non-nuclear and Industrial mishaps;

(c) "Fund" means Non-nuclear Industrial Mishap Fund established under section 15. 5

(d) "Liability" means the liability of the State or the Central Government or both for fixing and awarding compensation to the victims of any mishaps causing minor or major injuries or death of the individuals.

(e) "mishap" means any incident causing injury or death of any individual due to operational fault in the non-nuclear industry; 10

(f) "Non-Nuclear Industries" includes industries other than the nuclear industries, which are covered under the Civil Liability for Nuclear Damage Act, 2010 and the Public Liability Insurance Act, 1991, whether Government undertakings, private or in joint venture or an autonomous undertaking; 38 of 2010.
6 of 1991.

(g) "prescribed" means prescribed by rules made under this Act. 15

Compensation for Non-nuclear & Industrial Mishaps.

3. (1) Whoever suffers due to Non-nuclear Industrial mishap shall be entitled to claim compensation in accordance with the provisions of this Act.

(2) For the purpose of adjudicating upon claims for compensation for any mishap, the appropriate Government shall notify the mishap within a period of six months from the date of occurrence of such mishap and appoint one or more Claims Commissioners for such areas, as may be specified in that notification. 20

Qualification for appointment as Claims Commissioner.

4. 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 appropriate Government and has held the post not below the rank of Joint Secretary or Deputy Collector of the area or any other equivalent post. 25

Salary, Allowances & other terms and conditions of service of the Claims Commissioner.

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

Adjudicating procedure and powers of Claims Commissioner.

6. (1) For the purpose of adjudication of claims under this Act, the Claims Commissioner shall follow such procedure as may be prescribed. 30

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

(3) **Any person associated under sub-section (2), shall be paid such remuneration, fee or allowance, as may be prescribed. 35**

(4) **The Claims Commissioner shall be deemed to be a Civil Court for the purposes of discharging his functions under the Act and shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908. 5 of 1908.
2 of 1974.**

Inviting applications for claims by Claims Commissioner.

7. After the notification of non-nuclear mishap under sub-section (2) of section 3, the Claim 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 injuries or death caused due to such mishap. 40

<p>8. An application for Compensation before the Claim Commissioner of Non-nuclear and Industrial mishap shall be made by,—</p>	<p>Persons entitled to make application for Non-nuclear and Industrial mishaps.</p>
<p>(a) a person who has sustained injury; or (b) the legal representatives of the deceased; or (c) any agent duly authorized by such persons.</p>	
<p>9. (1) Every application for compensation before the Claims Commissioner shall be made in such form, containing such particulars and accompanied by such documents as may be prescribed.</p>	<p>Procedure for making applications before Claims Commissioner.</p>
<p>(2) Every application under sub-section (1) of section 9 shall be made within a period of six months from the date of issue of notification.</p>	
<p>10. On receipt of an application under sub-section (1) of section 9,—</p>	<p>Award by Claims Commissioner.</p>
<p>(1) The Claims Commissioner shall, after giving notice of such application to the owner and affording an opportunity of being heard to the parties, dispose of the applications within a period of three months from the date of such receipt and make an award accordingly.</p>	
<p>(2) The Claims Commissioner shall arrange to deliver copies of the award to the parties within a period of fifteen days from the date of pronouncing the award.</p>	
<p>11. The maximum amount of liability with respect of Non-nuclear and Industrial mishap which causes loss of life to a person shall be rupees ten lakh and in case of permanent injury including immediate and long term health impact to a person shall vary from rupees two lakh to five lakh depending upon the nature of such injury.</p>	<p>Limits of Liability.</p>
<p>12. Whoever—</p>	<p>Penalties.</p>
<p>(a) Negligently causes loss of life or personal injury, in any mishap or</p>	
<p>(b) contravenes any provisions of this Act and rules made under it shall be punishable with imprisonment for a term which may extend upto five years or with fine which shall not be less than rupees fifty thousand but which may extend to rupees one lakh, or with both the first offence:</p>	
<p>Provided that if offender fails to pay the penal amount under clause (b) his term of imprisonment shall be extended by another two years:</p>	
<p>Provided further that if second mishap causing death or permanent injury takes place in any non-nuclear Industry by an act of negligence of any person, the operations in that industry shall be stopped forthwith.</p>	
<p>13. Where a contravention under this Act has been committed by a Private sector or Joint venture Industry, the owner, or the majority shareholding person who at the time the offence was committed, was directly in charge of, and was responsible to the conduct of business of the industry shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.</p>	<p>Offences by Industries.</p>
<p>14. Where a contravention under this Act, has been committed by any Department of the Government, the Head of that Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.</p>	<p>Offences by Government Department.</p>
<p>15. (1) The appropriate Government shall by notification in the Official Gazette establish a fund to be known as Non-nuclear Industrial Mishap Relief Fund which shall be utilized for paying in accordance with provisions of this Act relief under the award made by Claims Commissioner.</p>	<p>Non-nuclear Industrial Mishap Relief Fund.</p>
<p>(2) The contribution to the Fund shall be made by the Control and the state Government in such proportions as may be prescribed from time to time.</p>	

(3) The appropriate Government may by notification in Official Gazette, shall specify the authority in which the relief fund shall vest, the manner in which the fund shall be administered and the form and manner in which money shall be drawn from relief fund.

Overriding effects and savings.

16. The provisions of this Act shall have effect notwithstanding anything inconsistent contained herewith in any other law for time being in force on the subject and the provisions of the Act shall be in addition to and not derogation of any other law for the time in force. 5

Power to make rules.

17. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

STATEMENT OF OBJECTS AND REASONS

Non-nuclear industrial mishaps causing injury or danger to life in respect of person's engaged in such sectors or industries are on the rise in the country and the affected people are not adequately covered by relevant laws in respect of such industries, which result into the affected individual's or his/their family/families not getting adequate compensation or the offender getting away with mild charges being made against him or the concerned industry's, management. It is, therefore, need of the hour that law be passed in this regard for stringent punishment and adequate compensation before the situation goes beyond control.

The Public Liability Insurance Act, 1991 was supposed to reflect post-Bhopal concerns. Despite amendments providing for minimal insurance and interim relief, it proved to be a damp squib. Insurance does not reflect claims. The Act is barely used. Therefore, there is a pressing need for a law to ensure all such disasters other than nuclear ones are covered under it and victims are paid adequate and timely compensation.

Hence, this Bill.

PRAKASH JAVADEKAR

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for salary, allowances, etc. payable to Claims Commissioner. Clause 6 provides for payments to persons associated for adjudicating of claims by the Claims Commissioner. Clause 7 provides for wide publicity to be given for inviting application for claims. Clause 11 provides for a compensation of rupees ten lakh in case of death caused by non-nuclear industrial mishaps in the country and compensation to injured person which may vary from rupees two lakh to five lakh depending upon the nature of injuries. Clause 15 provides for establishment of non-nuclear Industrial Mishap Relief Fund.

The Bill, if enacted, will involve recurring as well as non-recurring expenditure from the Consolidated Fund of India though it is very difficult to estimate the expenditure at this juncture.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

RAJYA SABHA

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(Shri Prakash Javadekar, M.P.)