

THE PUBLIC LIABILITY INSURANCE ACT, 1991

1. Short title and commencement.—(1) This Act may be called the Public Liability Insurance Act, 1991.^{tc} "**1. Short title and commencement.**—(1) This Act may be called the Public Liability Insurance Act, 1991."

(2) It shall come into force on such date¹ as the Central Government may, by notification, appoint.^{tc} "(2) It shall come into force on such date¹ as the Central Government may, by notification, appoint."

1. Came into force on 1st April, 1991, *vide* G.S.R. 253, dated 27th March, 1991.

2. Definitions.—In this Act, unless the context otherwise requires,—^{tc} "**2. Definitions.**—In this Act, unless the context otherwise requires,—"

1[(a) "accident" means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance resulting in continuous or 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;]^{tc} " 2[(a) "accident" means an accident involving a fortuitous or sudden or unintended occurrence while handling any hazardous substance resulting in continuous or 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;^{tc} " (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;^{tc} " (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;^{tc} " (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 (1) of section 3;tc " (e) "insurance" means insurance against liability under sub-section (1) of section 3;"

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

1[(g) "owner" means a person who owns, or has control over handling, any hazardous substance at the time of accident and includes—tc " 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 a firm, any of its partners;tc " (i) in the case of a firm, any of its partners;"

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

(iii) in the case of 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;]tc " (iii) in the case of 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;tc " (h) "prescribed" means prescribed by rules made under this Act;"

2[(ha) "Relief Fund" means the Environmental Relief Fund established under section 7A;]tc " 1[(ha) "Relief Fund" means the Environmental Relief Fund established under section 7A;]"

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

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

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

COMMENTStc "COMMENTS"

Clause (e) of section 2 of the Environment (Protection) Act, 1986 (29 of 1986) defines "hazardous substance" as follows:tc "Clause (e) of section 2 of the Environment (Protection) Act, 1986 (29 of 1986) defines "hazardous substance" as follows\:"

(e) "hazardous substance" means any substance or preparation which, by reason of its chemical or physico-chemical properties or handling, is liable to cause harm to human beings, other than living creatures, plants, micro-organism, property or the environment;

1. Subs. by Act 11 of 1992, sec. 2 (w.r.e.f. 31-1-1992).

* For the quantities specified by the Central Government see Appendix I.

2. Ins. by Act 11 of 1992, sec. 2 (w.r.e.f. 31-1-1992).

3. Liability to give relief in certain cases on principle of no fault.—(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. tc "(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,—tc "*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); tc "(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. tc "(ii) "injury" includes permanent total or permanent partial disability or sickness resulting out of an accident."

COMMENTS

Clause (n) of section 2 of the Workmen's Compensation Act, 1923 defines "workman" as follows:—tc "Clause (n) of section 2 of the Workmen's Compensation Act, 1923 defines \"workman\" as follows:—"

(n) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business) who is—

(i) a railway servant as defined in section 3 of the Indian Railways Act, 1890 (9 of 1890), not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or

(ii) employed in any such capacity as is specified in Schedule II,

whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them.

4. Duty of owner to take out insurance policies.—(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: tc "**4. Duty of owner to take out insurance policies.**—(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. tc "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. tc "(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."

1[(2A) No insurance policy taken out or renewed by an owner shall be for an amount less than the amount of the paid-up capital of the undertaking 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.]tc "1[(2A) No insurance policy taken out or renewed by an owner shall be for an amount less than the amount of the paid-up capital of the undertaking 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.—For the purposes of this sub-section, "paid-up capital" 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 contract of insurance.]tc "*Explanation.*—For the purposes of this sub-section, "paid-up capital" 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 contract 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.]tc "(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 sum equivalent to the amount of premium, as may be prescribed.]tc "(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 sum equivalent to the amount of premium, as may be prescribed."

(2D) The insurer shall remit to the authority specified in sub-section (3) of section 7A the amount received from the owner under sub-section (2C) for being credited to the Relief Fund in such manner and within such period as may be prescribed and where the insurer fails to so remit that amount, it shall be recoverable from the insurer as arrears of land revenue or of public demand.]tc "(2D) The insurer shall remit to the authority specified in sub-section (3) of section 7A the amount received from the owner under sub-section (2C) for being credited to the Relief Fund in such manner and within such period as may be prescribed and where the insurer fails to so remit that amount, it shall be recoverable from the 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:—tc "(3) The Central Government may, by notification, exempt from the operation of sub-section (1) any owner, namely\:\—"

- (a) the Central Government;tc " (a) the Central Government;"
- (b) any State Government;tc " (b) any State Government;"
- (c) any corporation owned or controlled by the Central Government or a State Government; ortc " (c) any corporation owned or controlled by the Central Government or a State Government; or"
- (d) any local authority;tc " (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.]tc "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."

COMMENTStc "COMMENTS"

Before handling hazardous substance, every owner of such substance must take out insurance policy and get it renewed within the period of its validity. Any owner who has been handling hazardous substance before 1-4-1991 (the date of commencement of this Act) is expressly required to take out insurance policy within one year from such commencement, *i.e.* till 31-3-1992.tc "Before handling hazardous substance, every owner of such substance must take out insurance policy and get it renewed within the period of its validity. Any owner who has been handling hazardous substance before 1-4-1991 (the date of commencement of this Act) is expressly required to take out insurance policy within one year from such commencement, *i.e.* till 31-3-1992."

Sub-sections (2B), (2C) and (2D) speak of liability and duties of an insurer. Sub-section (3) deals with exemption of any owner from taking out insurance in certain circumstances.tc "Sub-sections (2B), (2C) and (2D) speak of liability and duties of an insurer. Sub-section (3) deals with exemption of any owner from taking out insurance in certain circumstances."

1. Ins. by Act 11 of 1992, sec. 3 (w.r.e.f. 31-1-1992).tc " 1. Ins. by Act 11 of 1992, sec. 3 (w.r.e.f. 31-1-1992)."

5. Verification and publication of accident by Collector.—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.tc "**5. Verification and publication of accident by Collector.**—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."

COMMENTStc "COMMENTS"

Where an accident has occurred at any place within the jurisdiction of the Collector, it shall be his duty to verify the occurrence of accident and to invite applications under section 6(1) by causing publicity.

6. Application for claim for relief.—(1) An application for claim for relief may be made—tc "**6. Application for claim for relief.**—(1) An application for claim for relief may be made—"

- (a) by the person who has sustained the injury;tc " (a) by the person who has sustained the injury;"
- (b) by the owner of the property to which the damage has been caused;tc " (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; ortc " (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:tc " (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 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.^{tc} "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.^{tc} "(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.^{tc} "(3) No application for relief shall be entertained unless it is made within five years of the occurrence of the accident."

COMMENTStc "COMMENTS"

An injured person or his authorised agent; an owner of the property (whose property is damaged) or his authorised agent; the deceased's legal representative; or an agent of the legal practitioner, may make an application for claim for relief under section 3(1) in Form-I prescribed under rule 4 to the Collector, within 5 years of the occurrence of the accident.

7. Award of relief.—(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.^{tc} "**7. Award of relief.**—(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.^{tc} "(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."

1[(3) When an award is made under this section,—^{tc} "1[(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 extent 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;^{tc} " (a) the insurer, who is required to pay any amount in terms of such award and to the extent 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 under section 7A, to the person or persons referred to in sub-section (1) such amount as may be specified in that scheme;^{tc} " (b) the Collector shall arrange to pay from the Relief Fund, in terms of such award and in accordance with the scheme

under section 7A, to the person or persons referred to in sub-section (1) such amount 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.]tc "(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.tc "(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).tc "(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.tc "(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.tc "(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."

2[(8) Where an owner is likely to remove or dispose of his property with the object of evading payment by him of any amount of the award, the Collector 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.]tc "2[(8) Where an owner is likely to remove or dispose of his property with the object of evading payment by him of any amount of the award, the Collector 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.]"

COMMENTS

This section specifies—tc "This section specifies—"

- (i) procedure for inquiry and disposal of an application made under section 6;
- (ii) period for payment of amount;
- (iii) powers of the Collector, while dealing with the application made to him;

- (iv) mode of recovery of amount if in arrears; and
- (v) time for disposal of the claim for relief.

1. Subs. by Act 11 of 1992, sec. 4 (w.r.e.f. 31-1-1992).tc " 1. Subs. by Act 11 of 1992, sec. 4 (w.r.e.f. 31-1-1992)."

2. Ins. by Act 11 of 1992, sec. 4 (w.r.e.f. 31-1-1992).tc " 2. Ins. by Act 11 of 1992, sec. 4 (w.r.e.f. 31-1-1992)."

[7A. Establishment of Environmental Relief Fund.]—(1) The Central Government may, by notification, establish a fund to be known as the Environmental Relief Fund.

(2) The Relief Fund shall be utilised for paying, in accordance with the provisions of this Act and the scheme made under sub-section (3), relief under the award made by the Collector under section 7.tc "(2) The Relief Fund shall be utilised for paying, in accordance with the provisions of this Act and the scheme made under sub-section (3), relief under the award made by the Collector under section 7."

(3) The Central Government may, by notification, make a scheme specifying the authority in which the Relief Fund shall vest, the manner in which the Relief 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 the administration of the Relief Fund and the payment of relief therefrom.]tc "(3) The Central Government may, by notification, make a scheme specifying the authority in which the Relief Fund shall vest, the manner in which the Relief 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 the administration of the Relief Fund and the payment of relief therefrom.]"

COMMENTStc "COMMENTS"

When the Collector makes an award under section 7, the amount of relief shall be paid out of the Environmental Relief Fund established and maintained under this section.

1. Ins. by Act 11 of 1992, sec. 5 (w.r.e.f. 31-1-1992).tc " 1. Ins. by Act 11 of 1992, sec. 5 (w.r.e.f. 31-1-1992)."

8. Provisions as to other right to claim compensation for death, etc.—(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.tc "(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."

COMMENTStc "COMMENTS"

The right to claim relief under section 3(1) is in addition to any other right to claim compensation in respect of death, injury or damages under any other law for the time being in force.tc "The right to claim relief under section 3(1) is in addition to any other right to claim compensation in respect of death, injury or damages under any other law for the time being in force."

Under certain circumstances, the amount of relief paid under this Act shall be liable to deduction.

9. Power to call for information.—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.tc "**9. Power to call for information.**—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."

COMMENTStc "COMMENTS"

The owner shall be bound to submit any information to be required by the person authorised 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.

10. Power of entry and inspection.—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.

COMMENTStc "COMMENTS"

The Central Government may authorise any person to enter and inspect any place, premises or vehicle where hazardous substance is handled at all reasonable time and with necessary assistance.

11. Power of search and seizure.—(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.

(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:tc "(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.tc "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 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." (3) He may, if he has reason to believe that it is expedient 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.

COMMENTS

In exercise of the powers conferred by section 19 of the Act, the Central Government has delegated the powers and functions vested in it under sections 9, 10 and 11 to the State Governments to exercise the same within their respective jurisdiction and to the Central Pollution Control Board for the whole of India, subject to the condition that the Central Government may revoke such delegation of powers in respect of all or any one or more of the State Governments or the Central Pollution Control Board, or may itself invoke the provisions of the above sections of the Act, if in the opinion of the Central Government such course of action is necessary in public interest. [*Vide* S.O. 780(E), dated 15th November, 1991 published in the Gazette of India, Extra., Pt. II, Sec. 3(ii), dated 15th November, 1991, p. 2].

12. Power to give directions.—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. tc "**12. Power to give directions.**—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—tc "*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 tc "(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. tc "(b) stoppage or regulation of the supply of electricity, water or any other service."

COMMENTStc "COMMENTS"

In exercise of the powers conferred by section 19 of the Act, the Central Government has delegated the powers vested in it under section 12 of the Act to the respective State Governments, to exercise the same within their respective jurisdiction subject to the condition that the Central Government may invoke such delegation of powers in respect of all or any one or more of the State Governments or may itself invoke the provisions of above section of the Act, if in the opinion of the Central Government such a course of action is necessary in public interest. [*Vide* S.O. 779(E), dated 15th November, 1991 published in the Gazette of India, Extra., Pt. II, Sec. 3(ii), dated 15th November, 1991, p. 2].

13. Power to make application to Courts for restraining owner from handling hazardous substances.—(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 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. tc "(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; tc "(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. tc "(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. tc "(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."

COMMENTS tc "COMMENTS"

On receipt of an application from the Central Government or the person authorised in this behalf, a Metropolitan Magistrate or a Judicial Magistrate of the First Class can make any order to restrain the owner from handling any hazardous substance in contravention of any of the provisions of this Act; and may recover any expenses incurred under section 13(3)(b) as arrears of land revenue on public demand. tc "On receipt of an application from the Central Government or the person authorised in this behalf, a Metropolitan Magistrate or a Judicial Magistrate of the First Class can make any order to restrain the owner from handling any hazardous substance in contravention of any of the provisions of this Act; and may recover any expenses incurred under section 13(3)(b) as arrears of land revenue on public demand."

* For list of officers authorised by the Central Government see Appendix II.

14. Penalty for contravention of ¹[sub-section (1) or sub-section (2) or sub-section (2A) or sub-section (2C)] of section 4 or failure to comply with directions under section 12.—(1) Whoever contravenes any of the provisions of ¹[sub-section (1) or sub-section (2) or sub-section (2A) or sub-section (2C)] 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 (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.

COMMENTS

An order of release on probation comes into existence after the accused is convicted of the offence; *D.P.O., S. Rly. (in re:)*; AIR 1975 SC 2216.

The age of the accused on the date of conviction is to be seen; *Nawal Singh v. State of Uttar Pradesh*, 1985 FAJ 337.

A revisional court can also pass an order under section 360(4) of the Code of Criminal Procedure, 1973; *Sukchand Harijan v. State of Orissa*, 1983(3) Crimes 47 (Ori).

1. Subs. by Act 11 of 1992, sec. 6, for "sub-section (1) or sub-section (2)" (w.r.e.f. 31-1-1992).

15. Penalty for failure to comply with direction under section 9 or order under section 11 or obstructing any person in discharge of his functions under section 10 or 11.—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. **15. Penalty for failure to comply with direction under section 9 or order under section 11 or obstructing any person in discharge of his functions under section 10 or 11.**—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."

COMMENTS

Non-compliance with the directions under section 9 or order under section 11 or obstructing any person in discharge of his functions under section 10 or 11, is punishable with imprisonment upto three months, or with fine upto ten thousand rupees or with both.

16. Offences by companies.—(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: tc "**16. Offences by companies.**—(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\:"

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. tc "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. tc "(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,—tc "*Explanation.*—For the purposes of this section,—"

(a) "company" means any body corporate and includes a firm or other association of individuals; tc " (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. Offences by Government Departments.—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: tc "**17. Offences by Government Departments.**—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. tc "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."

COMMENTStc "COMMENTS"

If any offence is committed by any Department of Government, the Head of that Department shall be deemed to be guilty and shall be liable to be proceeded against and punished accordingly. If the Head of Department proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission then he shall not be rendered liable.

18. Cognizance of offence.—No court shall take cognizance of any offence under this Act except on a complaint made by—tc "**18. Cognizance of offence.**—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 tc " (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. tc " (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."

COMMENTS

For setting the criminal law in motion, a complaint is to be filed either by the Central Government or by any authority or officer authorised in this behalf. tc "For setting the criminal law in motion, a complaint is to be filed either by the Central Government or by any authority or officer authorised in this behalf."

Subject to a 60 days' notice to the Central Government or to the authorised authority or officer, a private person can also file a complaint. tc "Subject to a 60 days' notice to the Central Government or to the authorised authority or officer, a private person can also file a complaint."

* For list of authorities or officers authorised by the Central Government see Appendix II.

19. Power to delegate.—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. Protection of action taken in good faith.—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. tc "**20. Protection of action taken in good faith.**—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."

COMMENTStc "COMMENTS"

The Government, the person, the officer, the authority or other agency shall be protected from being sued, prosecuted or legally proceeded against for anything in good faith done or intended to be done in pursuance to this Act, rules, orders or directions, etc.

21. Advisory Committee.—(1) The Central Government may, from time to time, constitute an Advisory Committee on the matters relating to the insurance policy under this Act. tc "**21. Advisory Committee.**—(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—tc "(2) The Advisory Committee shall consist of—"

(a) three officers representing the Central Government;tc " (a) three officers representing the Central Government;"

(b) two persons representing the insurers;tc " (b) two persons representing the insurers;"

(c) two persons representing the owners; andtc " (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.tc " (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.

COMMENTStc "COMMENTS"

An Advisory Committee on the matters relating to the insurance policy shall consist of nine members, and the Central Government shall nominate the Chairman from amongst such members.

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

COMMENTStc "COMMENTS"

The provisions of this Act and any rules made thereunder shall override any other law even if there is any inconsistency therein.

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

1[(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 credited, to the Relief Fund under sub-section (2C) of section 4;

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

2[(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 (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 3[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 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 3[rule or scheme] or both Houses agree that the 3[rule or scheme] should not be made, the 3[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 3[rule or scheme].

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1. Ins. by Act 11 of 1992, sec. 7 (w.r.e.f. 31-1-1992).
 2. Clause (a) re-lettered as clause (ac) by Act 11 of 1992, sec. 7 (w.r.e.f. 31-1-1992).
 3. Subs. by Act 11 of 1992, sec. 7, for "rule" (w.r.e.f. 31-1-1992).
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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.