

Tamil Nadu Nuclear Installations (Regulation of Buildings and Use of Land) Act, 1978

TAMILNADU

India

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Act 16 of 1978

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Tamil Nadu Nuclear Installations (Regulation of Buildings and Use of Land) Act, 1978(Tamil Nadu Act 16 of 1978)Statement of Objects and Reasons - Tamil Nadu Nuclear Installations (Regulation of Buildings and Use of Land) Act, 1978 (Tamil Nadu Act 16 of 1978). - Consequent on the location of the Atomic Power Station at Kalpakkam near Mahablipuram in Chengalpattu district, it has been considered necessary to restrict or arrest the further growth of population in and around the area of the Reactor site, with a view to avert serious damage to persons and property in the event of any nuclear accident. Therefore, it has been decided to undertake separate legislation for controlling the erection or re-erection of buildings and the use of land in any nuclear installation area. The proposed Act will apply to the Kalpakkam nuclear installation area in the first instance and can be extended to any other nuclear installation area notified by the Government.2. The Bill seeks to give effect to the above decision.Published in Part IV - Section 1, page 73 of the Tamil Nadu Government Gazette Extraordinary, dated the 29th December 1977.Received the assent of the Governor on the 17th March 1978 and published in Part-IV - Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated 21st March 1978.An Act to provide for the control of the construction of buildings and the use of land in the neighbourhood of any nuclear installation in the State of Tamil Nadu.Be it enacted by the Legislature of the State of Tamil Nadu in the Twenty-eighth Year of the Republic of India as follows : -

1. Short title, extent and commencement.

(1)This Act may be called the Tamil Nadu Nuclear Installations (Regulation of Buildings and Use of Land) Act, 1978.(2)It extends to the whole of the State of Tamil Nadu.(3)It shall come into force in respect of a nuclear installation and the area within 4.8 kilometers from any portion of the boundary of any such nuclear installation on such date as the Government may, by notification, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, -(1)"building" includes -(a)a house, out-house, stable, cattle-shed, cow-house, latrine, godown, shed, hut, wall (other than a boundary wall not exceeding eight feet in height), roofed enclosure and any other such structure, whether wholly or partially constructed of masonry, bricks, mud, wood, metal or any other material whatsoever;(b)a structure on wheels or simply resting on the ground without foundation; and(c)a tent, van and any other structure used for human habitation or used for keeping or storing any article or goods;(2)a person shall be deemed "to re-erect a building", if he -(a)makes any material alteration to, or enlargement of, building, or(b)converts into a dwelling place any building not originally constructed for that purpose, or(c)converts into two or more dwelling places a building originally constructed as a single dwelling place, or(d)converts two or more dwelling places into a large number of such places, or(e)converts into a factory, workshop or godown or into a stable, cattle-shed or cow-house any building originally constructed as a dwelling place, or(f)makes any alteration which is likely to affect pre-judicially the stability or safety of a building, or the condition of building in respect of its drainage, sanitation or hygiene, or(g)makes any alteration to a building which increases or diminishes its height or the area covered by it or the cubic capacity thereof, or which reduces the cubic capacity of any room therein;(3)"exclusion area", in relation to a nuclear installation, means such area, within 1.6 kilometers from any portion of the boundary of such installation, as may be specified by the Government by notification;(4)"Government" means the State Government;(5)"nuclear installation" means the atomic power stations at Kalpakkam in the Chingleput district and includes the Reactor Research Centre and Centralised Waste Management Facility at Kalpakkam and any other place notified by the Government in this behalf wherein other facilities connected with research and development in nuclear energy in Kalpakkam are provided or any other nuclear installation notified in the Tamil Nadu Government Gazette by the Government in this behalf;(6)"nuclear installation area", in relation to a nuclear installation, means the exclusion area and the sterilised area in relation to such nuclear installation;(7)"nuclear installation local authority", in relation to any nuclear installation and nuclear installation area, means the nuclear installation local authority constituted under section 3 for the nuclear installation and having jurisdiction under this Act over the nuclear installation area;(8)"sterilised area", in relation to nuclear installation, means such area within 4.8 kilometers from any portion of the boundary of such nuclear installation, as may be specified by the Government by notification, but not including the exclusion area.

3. Constitution of nuclear installation local authority.

(1)For every nuclear installation, the Government shall, by notification, constitute a nuclear installation local authority for the purpose of controlling the erection or re-erection of buildings and the use of land in the nuclear installation area.(2)The notification under sub-section (1) shall specify, -(i)the date on which it shall take effect;(ii)the name of the nuclear installation local authority;(iii)the persons who shall be its members; and(iv)the term of office of its members of other than the ex-officio members, if any.(3)The Government shall appoint one of the members of the nuclear installation local authority to be its Chairman and another member to be its Secretary.

4. Bar of application of certain Acts.

(1)The Government may, by notification, direct that the provisions of the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act of V of 1920) the [Tamil Nadu Panchayats Act, 1958 (Tamil Nadu act XXXV of 1958)] [See now the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994).], the Tamil Nadu Public Health Act, 1939 (Tamil Nadu Act III of 1939) or any other enactment for the time being in force in the State of Tamil Nadu and relating to public health or local self government shall not apply to the nuclear installation area or shall apply thereto only to such extent and subject to such modification and restrictions as may be specified in such notification.(2)In particular, the notification under sub-section (1) may authorise the nuclear installation local authority or its Chairman or Secretary to perform any duty or exercise any power assigned to a municipal council, a panchayat union council or a panchayat, or to its Chairman or Panchayat or to any authority or officer under the provisions of the Act so applied, subject to such control as may be specified in such notification.

5. Prohibition of use of land, etc., in exclusion area except for certain purposes.

- No person other than the Government or the Central Government or any local authority shall use or cause to be used any land in the exclusion area for any purpose including agricultural purpose, or carry out any agricultural, building, engineering, mining or other operation in or over or under any land in such area or make any material change in the use of any building or land in such area:Provided that no local authority shall use or cause to be used any land in the exclusion area for any purpose including agricultural purpose or carry out any agricultural, building, engineering, mining or of the operation in or over or under any land in such area or make any material change in the use of any building or land in such area without the prior approval of the nuclear installation local authority:Provided further that the continuance of the use of any building or land for the purpose and to the extent for which it was being used on the date on which such area is notified as exclusion area under clause (3) of section 2 may be permitted by the nuclear installation local authority by general or special order for such period and upon such terms and conditions as may be prescribed.

6. Prohibition of erection or re-erection of building, etc., without license.

- No person other than the Government or the Central Government or any local authority shall
-(a)erect or re-erect a building on any land; or(b)put to use any agricultural and to any non-agricultural purpose; or(c)carry out any engineering, mining or other operation on any land; within the sterilised area without a licence of the nuclear installation local authority and except in accordance with the terms and conditions specified in such licence:Provided that no local authority shall erect or re-erect building on any land or put to use any agricultural land to non-agricultural purpose or carry out any engineering, mining or other operations on any land within the sterilised area without the prior approval of the nuclear installation local authority.

7. Application for licence.

(1)An application for a licence under section 6 shall be in such form, contain such particulars and be accompanied by such plans and fee as may be prescribed.(2)The applicant shall also furnish to the nuclear installation local authority any further information or plans which it may require, within such time as may be fixed by it.

8. Grant of licence.

(1)On receipt of an application under section 7, the nuclear installation local authority may grant a licence subject to such terms and conditions as it may think fit to impose or refuse to grant the licence:Provided that the licence shall not be refused unless the applicant has been given an opportunity of making his representations.(2)In particular and without prejudice to the generality of the provisions of sub-section (1), the nuclear installation local authority may, in granting a licence under sub-section (1) for the erection or re-erection of a building impose conditions in respect of all or any of the following matters, namely : -(a)the free passage or way to be left in front of the building;(b)the open space to be left about the building to secure free circulation of air and the prevention of fire and to facilitate scavenging;(c)the ventilation of the building, the minimum cubic area of the room and the number and height of the storeys of which the building may consist;(d)the provision and position of drain, latrines, urinals, and cess-polls or other receptacles for rubbish or filth;(e)the level and width of the foundation, the level of the lowest floor, and the stability of the structure;(f)the line of frontage, with neighbouring buildings if the building abuts on a street;(g)the means of egress from the building in case of fire;(h)the materials to be used for, and the method of construction of, external and partition walls, rooms, floors, fire-places and chimneys;(i)the height and slope of the roof above the upper most floor on which human beings are to live or cooking is to be done; and(j)any other matter affecting the ventilation and sanitation of the building.(3)In granting or refusing to grant a licence under sub-section (1), the nuclear installation local authority shall have regard to the following matters, namely : -(a)the possibility of the erection or re-erection of building, the non-agricultural purpose which the land is to be used or the carrying out of any engineering, mining or other operation, -(i)creating unfavourable conditions in the environment of the nuclear installation resulting in accidental release of radioactivity into the atmosphere; or(ii)resulting in consequent growth of population around the nuclear installation; and(b)such other matters as may be prescribed.(4)The licence granted under sub-section (1) for the erection or re-erection of a building shall specify the purpose for which the building is to be used.

9. Power to cancel or suspend licence.

(1)The nuclear installation local authority may, at any time, cancel or suspend any licence granted under section 8, if -(a)such licence has been obtained by fraud, misrepresentation or suppression of material particulars; or(b)the holder of the licence has contravened any of the provisions of this Act or any rules made thereunder or any of the terms or conditions subject to which the licence was granted.(2)Before cancelling or suspending the licence under sub-section (1), the nuclear installation local authority shall give the holder of the licence an opportunity of making his representations.

10. Lapse of licence.

- Every licence granted under section 8 shall be valid for a period of one year from the date on which it is granted and if the erection or re-erection of the building or the user of agricultural and for non-agricultural purpose, or the engineering, mining or other operation for which the licence is granted, is not commenced within the said period, it shall not be commenced thereafter unless the nuclear installation local authority on application made therefor has extended the period.

11. Penalties.

(1)Whoever contravenes the provisions of section 5 shall be punishable with fine which may extend to five thousand rupees.(2)Whoever, within the sterilised area, begins, continues or completes the erection or re-erection of a building, or puts to use any agricultural land to non-agricultural purpose or carries out any engineering, mining or other operation -(a)without licence; or(b)without complying with any of the terms or conditions of the licence; or(c)when a licence has been refused; or(d)after the licence granted has ceased to be available by virtue of section 10,shall be punishable with fine which may extend to five thousand rupees.(3)Whoever, within the sterilised area -(a)uses any building erected or re-erected for a purpose other than that specified in the licence;(b)puts to use any agricultural land to non-agricultural purpose other than the purpose for which the use of the land was permitted under the licence, shall be punishable with fine which may extend to five thousand rupees.

12. Penalty for subsequent offence.

- Whoever, after having been convicted of an offence under this Act, continues to commit such offence, shall be punishable with fine which may extend to one hundred rupees for each day after the previous date of conviction during which he continues so to offend.

13. Offences by companies.

(1)If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was 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.(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 offence has been committed with the consent or connivance of, or is attributed to, any neglect on the part of, any director, manager, secretary or other officer the company, such director, manager, secretary or other officer shall also 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 anybody corporate and includes a firm, society or other association of individuals, and(b)"director",

in relation to, -(i) a firm means a partner in the firm, (ii) a society or of the association of individuals, means the person who is entrusted under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

14. Power to stop work.

(1) The nuclear installation local authority may, at any time by notice in writing, direct the owner, lessee or occupier of any land in the nuclear installation area -(a) to stop the user of any building or land for any purpose; or (b) to stop the erection or re-erection of any building on such land; or (c) to alter or demolish within such time as may be specified in the notice, any building or any part thereof; or (d) to stop the user of any agricultural land for non-agricultural purpose; or (e) to stop the building, engineering, mining or other operation, if in the opinion of such authority the user of the building or land, the erection or re-erection of the building or part thereof or the user of any agricultural land for non-agricultural purpose or the carrying out of the building, engineering, mining or other operation is in contravention of any of the provisions of this Act, the rules made thereunder or of the terms and conditions subject to which any licence or permission is granted under this Act. (2) If any direction given under sub-section (1) is not complied with, within the time specified therefor in the notice, the nuclear installation local authority may have such direction carried into effect at its cost and have the amount thereof recovered from the defaulter as if it were an arrear of land revenue.

15. Appeal.

(1) Any person aggrieved by -(a) any order or decision of the nuclear installation local authority under this Act; or (b) any direction issued under section 14, may appeal to the District Collector within such time and in such manner as may be prescribed: Provided that the District Collector may, in his discretion, allow further time not exceeding one month for the filing of such appeal, if he is satisfied that the appellant had sufficient cause for not filing the appeal in time. (2) On receipt of an appeal under sub-section (1), the District Collector shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible. (3) The District Collector may stay the operation of the order or decision or direction of the nuclear installation local authority, pending the exercise of his powers under this section.

16. Revision.

(1) The Government may, either suo motu or on application made by any person aggrieved by any order, decision or direction of the nuclear installation local authority or the District Collector, call for and examine the record of and proceeding under this Act to satisfy themselves as to the regularity of such proceeding or the correctness, legality or propriety of an order or decision made or direction issued therein and if, in any case, it appears to the Government that any such order, decision or direction should be modified, annulled, reversed or remitted for re-consideration, they may pass orders accordingly: Provided that where under this Act an appeal lies and no appeal is preferred, no application by way of revision shall be entertained at the instance of the person who could have appealed. (2) No order under sub-section (1) shall be made to the prejudice of any person

unless he has had a reasonable opportunity of making his representation.(3)The Government may stay the operation of any such order, decision or direction pending the exercise of their power under sub-section (1) in respect thereof.(4)Every application to the Government for the exercise of their powers under this section shall be made within two months from the date on which the order, decision or direction to which the application relates was communicated to the applicant:Provided that the Government may, in their discretion, allow further time not exceeding one month for the making of any such application if they are satisfied that the applicant had sufficient cause for not making the application in time.

17. Bar of compensation.

- No compensation shall be claimed by any person for any damage or loss sustained by him in consequence of -(a)the refusal to grant any licence or permission by the nuclear installation local authority; or(b)any condition subject to which any such licence or permission is granted; or(c)any direction issued under section 14; or(d)any order passed by the District Collector under section 15 or by the Government under section 16; or(e)the operation of any of the provisions of this Act or the rules made thereunder.

18. Civil Courts not to decide questions under this Act.

- No Civil Court shall have jurisdiction including jurisdiction under section 6 of the Specific Relief Act, 1973 (Central Act 47 of 1963) to decide or deal with any question which is by or under this Act required to be decided or dealt with by any authority or officer mentioned in this Act.

19. Finality of orders passed under this Act.

(1)Any order passed or decision taken by any authority or officer in respect of matters to be determined for the purposes of this Act shall, subject only to appeal or revision, if any, provided under this Act, be final.(2)No such order or decision shall be liable to be questioned in any Court of law.

20. Act to override other laws.

(1)The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other Act, law, custom, usage or contract.(2)Save as otherwise provided in sub-section (1), the provisions of this Act shall be in addition to, and not in derogation of, any other Act.

21. Power to make rules.

(1)The Government may make rules to carry 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)all matters expressly required or allowed by this Act to be

prescribed;(b)the rules of business of the nuclear installation local authority;(c)the form of application for licence and the information and plan to be furnished either along with such application or subsequently;(d)the matters that the nuclear installation local authority should take into consideration while granting permission under the proviso to section 5 or while granting or refusing a licence under section 8;(e)the time within which and the manner in which appeal under section 15 may be preferred; and(f)the fees which may be charged in respect of any application made, appeal preferred, or proceeding taken, under this Act.(3)(a)All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.(b)All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.(4)Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of [the Legislative Assembly] [Substituted for the words 'both Houses of the Legislature' by the Tamil Nadu Adaptation of Laws and Order, 1987.] and if, before the expiry of the session in which it is so placed or the next session, [the Legislative Assembly agrees] [Substituted for the words 'both Houses agree' by the Tamil Nadu Adaptation of Laws and Order, 1987.] in making any modification in any such rule or notification or [the Legislative Assembly agrees] [Substituted for the words 'both Houses agree' by the Tamil Nadu Adaptation of Laws and Order, 1987.] that the rule or notification should not be made or issued, the rule or notification 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 annulment shall be without prejudice to the validity of anything previously done under that rule or notification.