

The Public Liability Insurance Act, 1991

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Act 6 of 1991

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The Public Liability Insurance Act, 1991(6 of 1991)

070.

Statement of Objects and Reasons.-The growth of hazardous industries, processes and operations in India has been accompanied by the growing risks from accidents, not only to the workmen employed in such undertakings, but also innocent members of the public who may be in the vicinity. Such accidents lead to death and injury to human beings and other living beings and damage private and public properties. Very often, the majority of the people affected are from the economically weaker sections and suffer great hardships because of delayed relief and compensation. While workers and employees of hazardous installations are protected under separate laws, members of the public are not assured of any relief except through long legal processes. Industrial units seldom have the willingness to readily compensate the victims of accidents and the only remedy now available for the victims is to go through prolonged litigation in a Court of Law. Some units may not have the financial resources to provide even minimum relief.² It is felt essential, therefore, to provide for mandatory public liability insurance for installations handling hazardous substances to provide minimum relief to the victims. Such an insurance, apart from safeguarding the interests of the victims of accidents, would also provide cover and enable the industry to discharge its liability to settle large claims arising out of major accidents. If the objective of providing immediate relief is to be achieved, the mandatory public liability insurance should be on the principle of "no fault" liability as it is limited to only relief on a limited scale. However, availability of immediate relief would not prevent the victims to go to Courts for claiming larger compensation.

Amendment Act 11 of 1992-Statement of Objects and Reasons.-The Public Liability Insurance Act, 1991 was enacted with the object of providing immediate relief to the victims of accidents that might occur while handling hazardous substances. The owner who has control over handling hazardous substances is required under the Act to pay specified amounts to the victims as interim relief based on no fault liability. It is mandatory for every owner handling hazardous substances to take out insurance policies for the

purpose.² The aforesaid Act could not, however, be implemented on account of the insurance companies not agreeing to give insurance policies for unlimited liability of the owners. It was, therefore, felt that the liability of the insurance companies should be limited to the amount of the insurance policy, though the owner's liability shall continue to be unlimited under the Act. It was considered appropriate to create an Environmental Relief Fund with the additional money collected from the owners having control over handling of hazardous substances. This fund would be used to meet the requirement of providing immediate relief to the victims. The minimum and maximum limits of the insurance amount in an insurance policy also needed to be specified for ensuring payment of adequate relief. Certain definitions were also to be suitably modified to make the meaning more explicit. It was felt necessary to prevent any transfer of property by the owner in case he intended to do so for evading his liability to pay compensation.³ To achieve the above objective, the Public Liability Insurance (Amendment) Ordinance, 1992, was promulgated by the President on 31st January, 1992 as the owners handling hazardous substances had to take insurance policies by 31st March, 1992. [22 nd 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. Short title and commencement

(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. Definitions

.In this Act, unless the context otherwise requires, (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;] [Substituted by Act 11 of 1992, Section 2, for Clause (a)(w.r.e.f. 31.1.1992).] (b) Collector means the Collector having jurisdiction over the area in which the accident occurs; (c) handling, in relation to any hazardous substance, means the manufacture, processing, treatment, package, storage, transportation by vehicle, use, collection, destruction, conversion, offering for sale, transfer or the like of such hazardous substance; (d) hazardous substance means any substance or preparation which is defined as hazardous substance under the Environment (Protection) Act, 1986 (29 of 1986), and exceeding such quantity as may be specified, by notification, by the Central Government; (e) insurance means insurance against liability under sub-section (1) of section 3; (f) notification means a notification published in the Official Gazette; (g) [owner means a person who owns, or has control over handling any hazardous substance at the time of accident and includes, [Substituted by Act 11 of 1992, Section 2, for Clause (g)(w.r.e.f. 31.1.1992).] (i) in the case of a firm, any of its partners; (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;] (h) prescribed means prescribed by rules made under this Act; (ha) [Relief Fund means the Environmental Relief

Fund established under section 7-A;] [Inserted by Act 11 of 1992, Section 2 (w.r.e.f. 31.1.1992).](i)rules means rules made under this Act;(j)vehicle means any mode of surface transport other than railways.

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.Explanation. For the purposes of this section,(i)workman has the meaning assigned to it in the Workmens Compensation Act, 1923 (8 of 1923);(ii)injury includes permanent total or permanent partial disability or sickness resulting out of an accident.

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.(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.[(2-A) 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.(2-B) 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.(2-C) Every owner shall also, together with the amount of premium, pay to the insurer, for being credited to the Relief Fund established under section 7-A, such further amount, not exceeding the sum equivalent to the amount of premium, as may be prescribed.(2-D) The insurer shall remit to the authority specified in sub-section (3) of section 7-A the amount received from the owner under sub-section (2-C) 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.] [Inserted by Act 11 of 1992, Section 3 (w.r.e.f. 31.1.1992).](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. 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.

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;(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: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.

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.(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 (2-B) of section 4, shall, within a period of thirty days of the date of announcement of the award, deposit that amount in such manner as the Collector may direct;(b)the Collector shall arrange to pay from the Relief Fund, in terms of such award and in accordance with the scheme made under section 7-A, 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.](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.(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.] [Inserted by Act 11 of 1992, Section 4 (w.r.e.f. 31.1.1992).][7-A. Establishment of Environmental Relief Fund [Inserted by Act 11 of 1992, Section 5 (w.r.e.f. 31.1.1992).](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.(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.] [Substituted by Act 11 of 1992, Section 4, for sub-Section (3) (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.

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.

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.

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 substances. (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. 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 (a) prohibition or regulation of the handling of any hazardous substance; or (b) stoppage or regulation of the supply of electricity, water or any other service.

13. 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. (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. Penalty for contravention of sub-section (1) or sub-section (2) or sub-section (2-A) or sub-section (2-C) of section 4 or failure to comply with directions under section 12

(1)Whoever contravenes any of the provisions of [sub-section (1) or sub-section (2) or sub-section (2-A) or sub-section (2-C)] [Substituted by Act 11 of 1992, Section 6, for " sub-section (1) or sub-section (2)" (w.r.e.f. 31.1.1992).] 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.

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.

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.(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. 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.

18. Cognizance of offences

.No Court shall take cognizance of any offence under this Act except on a complaint made by (a) the Central Government or any authority or officer authorised in this behalf by that Government; or (b) any person who has given notice of not less than sixty days in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

19. 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.

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 (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.

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.

23. Power to make rules

(1)The Central Government may, by notification, make [rules] [See the Public Liability Insurance Rules, 1991.] 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)[the maximum amount for which an insurance policy may be taken out by an owner under sub-section (2-A)of section 4; [Inserted by Act 11 of 1992, Section 7 (w.r.e.f. 31.1.1992).](aa)the amount required to be paid by every owner for being credited to the Relief Fund under sub-section (2-C) 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 (2-D) of section 4;(ac)[] [Clause (a) relettered as Clause (ac) and before Clause (ac) as so relettered, Cls (a) to (ab) inserted by Act 1 of 1992, Section 7 (w.r.e.f. 31.1.1992).] 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 or scheme] [Substituted by Act 11 of 1992, Section 7, for "rule" (w.r.e.f. 31.1.1992).] 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 scheme] [Substituted by Act 11 of 1992, Section 7, for "rule" (w.r.e.f. 31.1.1992).] or both Houses agree that the [rule or scheme] [Substituted by Act 11 of 1992, Section 7, for "rule" (w.r.e.f. 31.1.1992).] should not be made, the [rule or scheme] [Substituted by Act 11 of 1992, Section 7, for "rule" (w.r.e.f. 31.1.1992).] shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that [rule or scheme] [Substituted by Act 11 of 1992, Section 7, for "rule" (w.r.e.f. 31.1.1992).].The ScheduleSee 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 upto 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.