

## The Civil Liability for Nuclear Damage Bill 2009

A

Bill

To provide for civil liability for nuclear damage, appointment of claims Commissioner, establishment of Nuclear Damage Claims Commission and for matters connected therewith or incidental there of

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:

### Chapter 1

Comment [MSOffice1]: SHORT TITLE, EXTENT, APPLICATION AND COMMENCEMENT

#### PRELIMINARY

1. (1) This Act may be called the Civil Liability for Nuclear Damage Act, 2009.

(2) It extends to the whole India.

(3) It also applies to nuclear damage suffered-

(a) in or over the marine areas beyond the territorial waters of India;

(b) in or over the exclusive economic zone of India;

(c) on board or by a ship registered in India;

(d) on board or by an aircraft registered in India;

(e) on or by an artificial island, installation or structure under the jurisdiction of India;

Provided that the Central Government may, by notification, exempt any nuclear installation or small quantity of nuclear material where the risk involved is meagre.

(4) It shall come into force on such date as the Central Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act.

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

(a) "Chairperson" means the Chairperson of the Commission appointed under sub-section (1) of section 19;

(b) "Claims Commissioner" means the Claims Commissioner appointed under sub section (1) section 9;

(c) "Commission" means the Nuclear Damage Claims Commission established under section 18;

(d) "Member" means a Member of the Commission appointed under sub-section (1) of section 19;

(e) "notification" means a notification published in the Official Gazette and the term "notify" shall be construed accordingly;

(f) “nuclear damage” means-

(i) loss of life or personal injury to a person; or

(ii) loss of, or damage to, property;

and includes each of the following to the extent notified by the Central Government-

(iii) any economic loss, arising from the loss or damage referred to in clauses (i) or (ii) and not included in the claims made under those clauses, if incurred by a person entitled to claim such loss or damage;

(iv) costs of measures of reinstatement of impaired environment, unless such impairment is insignificant, if such measures are actually taken or to be taken and not included in the claims made under clause (ii);

(v) loss of income deriving from an economic interest in any use or enjoyment of the environment, incurred as a result of a significant impairment of that environment, and not included in the claims under clause(ii);

(vi) the costs of preventive measures, and further loss or damage caused by such measures;

(vii) any other economic loss, other than the one caused by impairment of the environment, in so far as it is permitted by the general law on civil liability in force in India and not claimed under any such law;

Provided that in the case of sub-clauses (i) to (v) and (vii) above, to the extent such loss or damage arises out of, or results from, ionizing radiation emitted by any source of radiation inside a nuclear installation, or emitted from nuclear fuel or radioactive products or waste in, or of, nuclear material coming from, originating in, or sent to, a nuclear installation, whether so arising from the radioactive properties of such matter, or from a combination of radioactive properties with toxic, explosive or other hazardous properties of such matter.

Explanation – For the purpose of this clause, “prevent measures” means any reasonable measures taken by a person with approval of the Central Government after a nuclear incident has occurred to prevent or minimize nuclear damage.

(g) “nuclear fuel” means any material which is capable of producing energy by a self-sustaining chain process of nuclear fission;

(h) “nuclear incident” means any occurrence or series of occurrences having the same origin which causes nuclear damage or, but only with respect to preventive measures, creates a grave and imminent threat of causing such damage.

(i) “nuclear installation” means –

(A) any nuclear reactor other than one with which a means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose;

(B) any facility using nuclear fuel, for the production of nuclear material, or any facility for the processing of nuclear material, including re-processing or irradiated nuclear fuel; and

(C) any facility where nuclear material is stored, other than storage, incidental to the carriage of such material.

Explanation – For the purpose of this clause, several nuclear installation of one operator which are located at the same site shall be considered as a single nuclear installation.

(j) “nuclear material” means and includes-

(i) nuclear fuel, other than natural uranium or depleted uranium, capable of producing energy by a self-sustaining chain process of nuclear fission outside a nuclear reactor, either by itself or in combination with some other material; and

(ii) radioactive product or waste;

(k) “nuclear reactor” means any structure containing fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons;

(l) “operator” in relation to a nuclear installation means the person designated as the operator of that installation;

(m) “prescribed” means prescribed by rules made under this Act;

(n) “radioactive product and wastes” means any radioactive material produced in, or any material made radioactive by exposure to, the radiation incidental to the production or utilization of nuclear fuel, but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose.

(o) “Special Drawing Rights” means Special Drawing rights as determined by the International Monetary Fund.

## Chapter II

### LIABILITY FOR NUCLEAR DAMAGE

3. (1) On the occurrence of a nuclear incident, the Central Government shall, within a period of thirty days from the date of such occurrence, notify the incident.

(2) Before issuing a notification under sub-section (1) the Central Government shall take into consideration the gravity and treat due to such nuclear incident and where the risk involved is meagre, the provisions of sub-section (1) shall not be applicable.

4. (1) The operator of the nuclear installation shall be liable for nuclear damage caused by a nuclear incident notified under sub-section (1) of section 3-

(a) in that nuclear installation: or

**Comment [MSOffice2]:** CENTRAL GOVERNMENT TO NOTIFY NUCLEAR INCIDENT

(b) involving nuclear material coming from, or originating in, that nuclear installation and occurring before-

(i) the liability for nuclear incident involving such nuclear material has been assumed, pursuant to a written agreement by another operator; or

(ii) another operator has taken charge of such nuclear material;

(iii) the person duly authorised to operate a nuclear reactor has taken charge of such nuclear material intended to be used in that reactor with which means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose; or

(iv) such nuclear materials has been unloaded from the means of transport by which it was sent to a person within the territory of a foreign State; or

(c) involving nuclear material sent to that nuclear installation and occurring after-

(i) the liability for nuclear incident involving such nuclear material has been transferred to that operator, pursuant to a written agreement by the operator of another nuclear installation; or

(ii) that operator has taken charge of such nuclear material; or

(iii) that operator has taken charge of such nuclear material from a person operating a nuclear reactor with which a means of transport is equipped for use a source of power, whether for propulsion thereof or for any other purpose; or

(iv) such nuclear material has been loaded, with the written consent of that operator, on the means of transport by which it is to be carried from the territory of a foreign State.

(2) Where more than one operator is liable for nuclear damage, the liability of the operators so involved shall, in so far as the damage attributable to each operator is not separable be joint and several;

Provided that the total liability of such operators shall not exceed the extent of liability specified under sub-section (2)of section 6.

(3) Where several nuclear installations of one and the same operator are involved in a nuclear incident, such operator shall, in respect of each such nuclear installation, be liable to the extent of liability specified under sub-section of section 6.

Explanation – For the purposes of this section

- (a) where nuclear damage is caused by a nuclear incident occurring in a nuclear installation on account of temporary storage of material in-transit in such installation, the person responsible for transit of such material shall be deemed to be the operator;
- (b) where a nuclear damage is caused as a result of nuclear incident during the transportation of nuclear material, the consignor shall be deemed to be the operator;
- (c) where any written agreement has been entered into between the the consignor and the consignee or as the case may be, the consignor and the carrier of nuclear material, the person liable under such agreement shall be deemed to be the operator;

(d) where both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or jointly by a nuclear incident and one or more other occurrences such other damage shall to the extent it is not separable front the nuclear damage, be deemed to be a nuclear damage caused by such nuclear incident.

5. (1) An operator shall not be liable for any nuclear damage-

(a) if such damage is caused by a nuclear incident directly due to-

(i) a grave natural disaster of an exceptional character; or

(ii) an act of armed conflict, hostility, civil war, insurrection or terrorism;

(b) caused to-

(i) his own nuclear installation or any other nuclear installation including a nuclear installation under construction on the site where such installation is located or to any property on that site which is used or to be used in connection with any such installation; or

(ii) the means of carriage or to the place where the nuclear material is stored, if the nuclear incident occurs in the course of the carriage of nuclear material, or while the material is in storage incidental to its carriage.

(2) Where any nuclear damage is suffered by a person on account of his own negligence or from his own acts or from his own acts of commission or omission, the operator shall not be liable to such person.

6. (1) The maximum amount of liability in respect of each nuclear incident shall be the rupee equivalent of three hundred million Special Drawing Rights.

(2) The liability of an operator for each nuclear incident shall be rupees three hundred crores:

Provided that the Central Government may, having regard to the extent of risk involved in a nuclear installation by notification, either increase or decrease the amount of liability of the operator;

Provided further that where the amount of liability is decreased, it shall not be less than rupees one hundred crore;

Provided also that the amount of liability is decreased, it shall not include any interest or cost of proceedings.

7. (1) The Central Government shall be liable for nuclear damage in respect of a nuclear incident-

(a) where liability exceeds the amount of liability of an operator specified under sub-section of section 6;

(b) occurring in a nuclear installation owned by it; and

(c) occurring on account of causes specified in clause of subsection (1) of section 5.

**Comment [MSOffice3]:** OPERATOR NOT LIABLE IN CERTAIN CIRCUMSTANCES

**Comment [MSOffice4]:** LIABILITY OF CENTRAL GOVT.

8. (1) The operator shall, before he begins operation of his nuclear installation, take out insurance policy or such other financial security, covering his liability under sub-section (2) of section 6, in such manner as may be prescribed.

**Comment [MSOffice5]:** OPERATOR WILL MAINTAIN INSURANCE OR FINANCIAL SECURITIES

(2) The operator shall from time to time renew the insurance policy or other financial security referred to in sub-section (1), before the expiry of the period of validity thereof.

(3) The provisions of sub-section (1) and (2) shall not apply to a nuclear installation owned by the Central Government.

### Chapter III

#### Claims Commissioner

9. The Central Government shall, by notification, appoint one or more Claims Commissioners for such area, as may be specified in that notification, for the purpose of adjudicating upon claims for compensation in respect of nuclear damage.

**Comment [MSOffice6]:** APPOINTMENT OF CLAIMS COMMISSIONER

10. A person shall not be qualified for appointment as a Claims Commissioner unless he-

**Comment [MSOffice7]:** QUALIFICATION FOR APPOINTMENT AS CLAIMS COMMISSIONER

(a) is, has been or qualified to be a District Judge; or

(b) is or has been in the service of the Central Government and has held the post of the Director to the Government of India or any other equivalent post in the Central government for a period of not less than five years and possesses knowledge in nuclear liability law.

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

**Comment [MSOffice8]:** SALARY , ALLOWANCES AND OTHER TERMS AND CONDITIONS OF SERVICE OF CLAIMS COMMISSIONER

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

**Comment [MSOffice9]:** PROCEDURE AND POWERS OF CLAIMS

(2) For the purpose of holding enquiry, the Claims Commissioner may associate with him such persons and in such manner as may be prescribed.

(3) Where any person is associated under sub-section (2), he shall be paid such remuneration as may be prescribed.

(4) The Claims Commissioner shall, for the purposes of discharging his functions under this Act, have all the powers of civil court for the purpose of taking evidence on oath, enforcing attendance of witnesses, compelling the discovery and production of documents and other material objects and for such other purposes as may be prescribed.

(5) The Claims Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

**Chapter IV**  
**Claims and Awards**

13. After the notification of nuclear incident under section 3, the Claims Commissioner, having jurisdiction over area, shall cause wide publicity to be given, in such manner as he deems fit, for inviting applications for claiming compensation for nuclear damage.

**Comment [MSOffice10]:** INVITING APPLICATIONS FOR CLAIMS

14. (1) An application for compensation in respect of nuclear damage may be made by-

- (a) a person who has sustained injury; or
- (b) the owner of the property to which damage has been caused; or
- (c) the legal representatives of the deceased; or
- (d) any urgent duly authorised by such person or owner or legal representatives.

(2) Every application under sub-section (1) shall be made in such form, containing such particulars and accompanied by such documents, as may be prescribed.

(3) Subject to the provisions of section 17, every application under sub-section (1) shall be made within a period of three years from the date of knowledge of nuclear damage by the person suffering such damage.

15. (1) On receipt of an application under sub-section (2) of section 14, the Claims Commissioner shall after giving notice of such application to the operator and affording an opportunity of being heard to parties, dispose of the application within a period of three months from the date of such receipt and make an award accordingly.

**Comment [MSOffice11]:** AWARDS BY CLAIMS COMMISSIONER

(2) Where an operator is likely to remove or dispose off his property with the object of evading payment by him of the amount of the award, the Claims Commissioner 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, grant a temporary injunction to restrain such act.

(3) The Claims Commissioner shall arrange to deliver copies of the award to the parties within a period of fifteen days from the date of the award.

**Comment [MSOffice12]:** 5 OF 1908

(4) Every award made under sub-section (1) shall be final.

16. The operator of a nuclear installation shall have a right of recourse where-

**Comment [MSOffice13]:** OPERATOR'S RIGHT OF RECOURSE

- (a) such right is expressly provided for in a contract in writing;
- (b) the nuclear incident has resulted from the wilful act or gross negligence on the part of the supplier of the material, equipment or services, or of his employee;
- (c) the nuclear incident has resulted from the act of commission or omission of a person done with the intent to cause nuclear damage.

17. The right to claim compensation for any nuclear damage caused by a nuclear incident involving nuclear material which, prior to such nuclear incident shall extinguish if such claim is not made within a period of ten years from the date of incident notified under section 3:

**Comment [MSOffice14]:** EXTINCTION OF RIGHT TO CLAIM

Provided that where a nuclear damage is caused by a nuclear incident involving nuclear material which, prior to such nuclear incident, had been stolen, lost, jettisoned or abandoned, the said period of ten years shall be computed from the date of such nuclear incident, but, in no case, it shall exceed a period of twenty years from the date of such theft, loss, jettison or abandonment.

## Chapter V

### Nuclear Damage Claims Commission

18. Where having regard to injury or damage caused by a nuclear incident, the Central Government is of the opinion that the amount of compensation may exceed the limit specified under sub-section (2) of section 6, or it is in the public interest, to provide special measures for speedy adjudication of claims for compensation, it may by notification, establish a Nuclear Damage Claims Commission.

**Comment [MSOffice15]:** ESTABLISHMENT OF NUCLEAR DAMAGE CLAIMS COMMISSION

19. (1) The Commission shall consist of a Chairperson and such other Members, not exceeding six, as the Central Government may by notification, appoint.

**Comment [MSOffice16]:** COMPOSITION OF COMMISSION

(2) The Chairperson and the Members of the Commission shall be appointed by the Central Government on the recommendations of a Committee consisting of-

(a) Cabinet Secretary – Chairman

(b) Secretary, Department of Atomic energy – Member

(c) Secretary, Ministry of Law and Justice – Member

(3) A person shall not be qualified for appointment as the Chairperson of the Commission unless he has attained the age of fifty-five years and is or has been or qualified to be a Judge of a High Court.

(4) A person shall not be qualified for appointment as a Member unless he has attained the age of fifty-five years, and-

(a) has held or is holding or qualified to hold the post of Additional Secretary to the Government of India or any other equivalent post in the Central Government and possesses special knowledge in nuclear liability law; or

(b) has been Claims Commissioner for five years.

20. (1) The Chairperson or a Member, as the case may be, shall hold office as such for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

**Comment [MSOffice17]:** TERM OF OFFICE

Provided that no person shall hold office as such Chairperson or Member after he has attained the age of sixty-seven years.



21. The salaries and allowances payable to and other terms and conditions of service, including pension, gratuity and other retirement benefits, of the Chairperson and other Members shall be such as may be prescribed:

**Comment [MSOffice18]:** SALERIES AND ALLOWANCES AND OTHER TERMS AND CONDITIONS OF SERVICE OF CHAIRPERSON AND MEMBERS

Provided that both the salary and allowances the other terms and conditions of service of the Chairperson or other Members shall be varied to his disadvantage after his appointment.

22. If, for reasons other than temporary absence, any vacancy occurs in the office of the Chairperson or Member, as the case may be, the Central Government shall appoint another person in accordance with the provisions of this Act to fill such vacancy and the proceedings may be continued before the Commission from the stage at which it was, before the vacancy is filled.

**Comment [MSOffice19]:** FILLING UP OF VACCANCIES

23. (1) The Chairperson or a Member may, by a notice in writing his hand addressed to the Central Government, resign his office:

**Comment [MSOffice20]:** RESIGNATION AND RENEWAL

Provided that the Chairperson or the Member shall, unless he is permitted by the Central Government to relinquish his office soon or, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as MISSING TEXT enters upon his office or until the expiry of his term of office MISSING TEXT is earlier.

(2) The Central Government shall remove from office the Chairperson or a Member who-

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no Member shall be removed under clause (d) or clause (e) unless he has been given an opportunity of being heard in the matter.

24. A person, who immediately before the date of assuming office as a Chairperson or a Member, was in service of the Government, shall be deemed to have retired from service on the date on which he enters upon office as such, but his subsequent service as the Chairperson or a Member shall be reckoned as continuing approved service counting for pension in service counting for pension in service to which he belonged.

**Comment [MSOffice21]:** CHAIRPERSON OR MEMBER DEEMED TO RETIRE FROM SERVICE

25. If a person who immediately before the date of assuming office as the Chairperson or a Member was in receipt of or being eligible so to do, has opted to draw a pension, other than a disability or wound pension, in respect of any previous service under the Central Government, his salary in respect of service as the Chairperson or a Member shall be reduced-

**Comment [MSOffice22]:** SUSPENSION OF PENSION

(a) by the amount of that pension; and

(b) if he had, before assuming office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

26. No person shall, while holding office as a Chairperson or a Member, act as an Arbitrator in any matter.

**Comment [MSOffice23]:** PROHIBITION OF ACTING AS ARBITRATOR

27. On ceasing to hold office, the Chairperson or a Member shall not appear, act or plead before the Commission.

**Comment [MSOffice24]:** PROHIBITION OF PRACTICE

28. The Chairperson shall have the power of superintendence in the general administration of the Commission and exercise such powers as may be prescribed.

**Comment [MSOffice25]:** POWERS OF CHAIRPERSON

29. (1) The Central Government shall provide the commission with such officers and other employees as it may deem fit.

**Comment [MSOffice26]:** OFFICERS AND OTHER EMPLOYEES OF THE COMMISSION

(2) The salaries and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission shall be such as may be prescribed.

30. (1) The Commission shall have original jurisdiction to adjudicate upon every application for compensation filed before it under subsection (2) of section 14 or transferred to it under section 31 as the case may be.

**Comment [MSOffice27]:** PROCEDURE AND POWERS OF COMMISSION

(2) Upon transfer of causes to the Commission under section 31, the Commission shall hear such applications de novo.

(3) The Chairperson may constitute benches comprising of not more than three Members of the Commission for the purpose of hearing of claims and any decision thereon shall be rendered by a majority of the Members hearing such claims.

(4) The Commission shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles, of natural justice and subject to the other provisions of the Act and of any rules made thereunder the Commission shall have the power to regulate its own procedure including the places and the times at which it shall have its settings.

(5) MISSING TEXT

(a)

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits.

(6) The commission shall, after giving notice of application to the operator and after affording an opportunity of being heard to practice dispose of such application within a period of three months from the date of such receipt and make an award accordingly.

(7) Where an operator is likely to remove or dispose off his property with the object of evading payment by him of the amount of the award the commission 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, grant a temporary injunction to restrain such act.

(8) The Commission shall arrange to deliver copies of the award to the parties concerned within a period of fifteen days from the date of such award.

(9) Every award made under sub-section (6) shall be final thereof to the Central Government which shall cause the same to be laid before each House of Parliament.

31. Every application for compensation pending before the Claims Commissioner immediately before the date of establishment of the Commission under section 19 shall stand transferred on that date to the Commission.

**Comment [MSOffice28]:** TRANSFER OF PENDING CASES TO COMMISSION

32. Every proceeding before the Claims Commissioner or the Commission under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of, and for the purposes of section 196 of the Indian Penal Code.

**Comment [MSOffice29]:** PROCEEDINGS BEFORE CLAIMS COMMISSIONER

33. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Claims Commissioner or the Commission, as the case may be, is empowered to adjudicate under this Act and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

**Comment [MSOffice30]:** EXCLUSION OF JURISDICTION OF CIVIL COURTS

34. (1) MISSING TEXT

(a)

(b) the operator shall, subject to the maximum liability specified under sub-section (2) of section 6, deposit the remaining amount by which such award exceeds the amount deposited under clause (a).

(2) Where any person referred to in sub-section (1) fails to deposit the amount of award within the period specified in the award, such amount shall be recoverable from such person as arrears of land revenue.

(3) The amount deposited under sub-section (1) shall be disbursed to such person as may be specified in the award within a period of fifteen days from the date of such deposit.

35. The commission shall prepare, in such form and at such time in each financial year, as may be prescribed, an annual report giving full account of its activities during that financial year and submit a copy thereof to the central government which shall cause the same to be laid before each House of Parliament.

## Chapter VI

### Miscellaneous

36. (1) Whoever-

**Comment [MSOffice31]:** OFFENCES AND PENALTIES

(a) contravenes any rule made or any direction issued under this Act; or

(b) fails to comply with the provisions of section 8; or

(c) fails to deposit the amount under section 34;

shall be punishable with imprisonment for a term which may extend to five years or with fine or both.

(2) Whoever fails to comply with any direction issued under section 40 or obstructs any authority or person is punishable under this act with imprisonment and jail term which may extend to one year or fine or with both.

37. (1) Where an 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:

**Comment [MSOffice32]:** OFFENCES BY COMPANIES

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under 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 any 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 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 firm, means a partner in the firm.

38. Where an offence under this Act has been committed by any Department of the 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:

**Comment [MSOffice33]:** OFFENCES BY GOVERNMENT DEPARTMENTS

Provided that nothing contained in this section shall render such Head of 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.

39. No court shall take cognizance of any offence under this Act, except on a complaint made by the Central Government or any authority or office authorised in this behalf by that Government.

**Comment [MSOffice34]:** COGNIZANCE OF OFFENCES

40. The Central Government may, in exercise of its powers and performance of its functions under this Act, issue such directions, as it may deem fit, for the purposes of this Act, to any operator, person, officer, authority or body such operator, officer, authority or body shall be bound to comply with such directions.

**Comment [MSOffice35]:** POWER TO GIVE DIRECTIONS

41. The Central Government may call for such information from an operator as it may deem necessary.

**Comment [MSOffice36]:** POWER TO CALL FOR INFORMATION

42. No suit, prosecution or other legal proceedings shall lie against the Government or the person, officer or authority in respect of anything done by it or him in good faith in pursuance of this Act or of any rule or order made or direction issued, **thereunder**.

**Comment [MSOffice37]:** PROTECTION OF ACTION TAKEN IN GOOD FAITH

43. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the **difficulty**:

**Comment [MSOffice38]:** POWER TO REMOVE DIFFICULTIES

Provided that no order shall be made under this section after expiry of three years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made be laid before each House of Parliament.

44. (1) The Central Government may, by notification, make rules for carrying out purpose of this **Act**.

**Comment [MSOffice39]:** POWER TO MAKE RULES

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for-

- (a) the other financial security and the manner thereof under sub-section (1) of section 8;
- (b) the salary and allowances payable to and other terms and conditions of service of Claims Commissioner under section 11;
- (c) the procedure to be followed by Claims Commissioner under the sub-section (3) of section 12;
- (d) the person to be associated by Claims Commissioner and the manner thereof, under sub-section (2) of section 12;
- (e) the remunerations of associated person under sub-section (3) of section 12;
- (f) the other purposes for which Claims Commissioner shall be deemed to be Civil Court under sub-section (4) of section 12;
- (g) the form of application, the particulars it shall contain and the documents it shall accompany under sub-section (2) of section 14;
- (h) the salaries and allowances payable to and other terms and conditions of service of Chairperson and other Members under section 12;
- (i) the powers of Chairperson under section 28;
- (j) the salaries and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission, under sub-section (2) of section 29;
- (k) the form and the time for preparing annual report by Commission under section 35.

(3) Every rule made under this Act by the Central Government 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 successive sessions aforesaid, both Houses agree in

making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

