



PARLIAMENT OF INDIA

RAJYA SABHA

221

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON SCIENCE & TECHNOLOGY, ENVIRONMENT & FORESTS

TWO HUNDRED AND TWENTY FIRST REPORT ON THE NUCLEAR SAFETY REGULATORY AUTHORITY BILL, 2011

(PRESENTED TO HON'BLE CHAIRMAN, RAJYA SABHA ON 6TH MARCH, 2012)
(FORWARDED TO HON'BLE SPEAKER ON 6TH MARCH, 2012)

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C O N T E N T S

	PAGES
1. COMPOSITION OF THE COMMITTEE	(i)-(ii)
2. PREFACE	(iii)
3. REPORT OF THE COMMITTEE	
4. ANNEXURE	
5. *MINUTES OF THE MEETINGS OF THE COMMITTEE	

* Minutes will be appended with printing stage.

**MEMBERS OF THE DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON SCIENCE & TECHNOLOGY,
ENVIRONMENT & FORESTS (2012-113)**

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RAJYA SABHA

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3. Shri Anil H. Lad
4. Shri Rajiv Pratap Rudy
5. Dr. Chandan Mitra
6. Shri Saman Pathak
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 17. Shri S.S. Ramasubbu
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 20. Shri Cosme Francisco Caitano Sardinha
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 22. Dr. Rajan Sushant
 23. Shri Pradeep Tamta
 24. Shri Mansukhbhai Dhanjibhai Vasava
 25. Shri Akhilesh Yadav
 26. Prof. (Dr.) Ranjan Prasad Yadav
 27. Shri Kristapa Nimmala
 28. Vacant
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 30. Vacant
 31. Vacant
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PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Science & Technology, Environment & Forests, having been authorized by the Committee to present the Report on its behalf, present this Two Hundred and Twenty First Report on The Nuclear Safety Regulatory Authority Bill, 2011.

2. In its meetings held on 16th November, 2011 and 5th, 6th and 16th January and 14th February 2012; the Committee heard the views of the Secretary, Department of Atomic Energy and various experts on "The Nuclear Safety Regulatory Authority Bill, 2011". The Committee took up clause-by-clause consideration of the said Bill on 16th January, 2012.

3. The Committee expresses its thanks to the Officers of the Department and experts for rendering their valuable views/clarifications sought by the Committee.

4. In its meeting held on 5th March, 2012, the Committee considered the draft report and adopted the same.

NEW DELHI:
5th March, 2012

Dr. T. Subbarami Reddy
Chairman,
Department-related Parliamentary Standing Committee
on Science & Technology, Environment & Forests

REPORT ON THE NUCLEAR SAFETY REGULATORY AUTHORITY BILL, 2011

Nuclear technology, indeed, is a double edged sword. While, it has tremendous potential of providing energy sustainability on the one hand, it also carries with it danger of causing devastating and catastrophic effect on the people and the environment. Chernobyl incident in Russia, 3 Mile accident in USA and more recently the Fukushima incident in Japan are burning examples of the disastrous consequences that unintended nuclear incident can cause. This is the reason why this technology has to be utilised not only with utmost caution and care but also only when it is absolutely necessary and inevitable. It is in this context that the concept of a regulatory authority separate and independent from the proponents and promoters of the atomic energy, has emerged.

2. Evolution of the concept of a regulatory authority in India started with setting up of a safety committee during the commissioning of Tarapur Atomic Power Station in 1969. This Committee was set up to advise on matter relating to safety and to give clearance for the first criticality and subsequent power operations of the Station. Later on, a Design and Operations Review Committee, was constituted to independently monitor the safety aspects of Tarapur Atomic Power Station operations. Thereafter, a Safety Review Committee was set up by the Deptt. of Atomic Energy on February 3, 1972 to advise on safety matters related to commissioning and operations of Unit-I of

Rajasthan Atomic Power Station, consisting of experts drawn from the Deptt. of Atomic Energy. However, on December 2, 1975, the Safety Review Committee was reconstituted to deal with major safety policies and issues in all the Units under the Deptt. of Atomic Energy. On July 23, 1979, a Committee was constituted with Dr. M.D. Karkhanawala as Chairman and Shri S.D. Soman as the Member Secretary to study the terms of reference of the Safety Review Committee, its functions, the modalities of reporting by the Units, as well as, the impediments faced by the Committee. This Committee was reconstituted on February 18, 1980 with Shri V.N. Meckoni as the Chairman and Shri S.D. Soman as the Member Secretary. The Committee submitted its report titled 'Reorganisation of Regulatory and Safety Functions' in February, 1981. The Committee recommended creation of Atomic Energy Regulatory Board (AERB) to specify safety standards and help Deptt. of Atomic Energy frame rules and regulations to enforce regulatory and safety requirements envisaged under the Atomic Energy Act, 1962. The Committee had also recommended that AERB should be made a statutory body to give it a legal status.

3. Accordingly, Atomic Energy Regulatory Board was constituted in 1983 by a notification issued under the Atomic Energy Act, 1962 which reports to the Atomic Energy Commission. The Govt. has, now with a view to preserve the functional independence of the regulatory board and to give it a statutory status, brought the Nuclear Safety Regulatory Authority Bill.

4. The Chairman, Rajya Sabha, in consultation with the Hon'ble Speaker, Lok Sabha, referred* 'The Nuclear Safety Regulatory Authority Bill, 2011'(Annexure-I) as introduced in Lok Sabha on 7th September, 2011 and pending therein, to the Standing Committee on Science & Technology, Environment & Forests for examination and report.

5. The Committee held its first meeting on the 16th November, 2011, for a preliminary discussion on the various provisions of the Bill with the Secretary and other senior officials of the Department of Atomic Energy. Besides, the Committee held three more meetings on the 5th, 6th & 16th January and 14th February, 2012 to hear various experts, organizations, Secretary of the Deptt. of Atomic Energy and National Security Advisor on the various aspects of the Bill.

6. In view of the wider ramification of the Bill, the Committee issued a Press Release in the national dailies and other regional newspapers on the 1st October, 2011, inviting memoranda containing suggestions/ views/ comments of experts/ institutions/ organizations interested in the subject matter of the Bill. In response to the Press Release, the Committee received seven memoranda on the Bill, which were examined and forwarded to the Department of Atomic Energy for their comments/observations. Prof. M.S. Swaminathan, M.P. and a Member of the Department-related Parliamentary Standing Committee on Science & Technology, Environment & Forests, also gave his detailed comments/suggestions on the Bill and the comments of the Department of Atomic Energy were also obtained on them.

7. The Committee also heard the views of experts drawn from various fields namely, Dr. G.Balachandran, Consulting Fellow, Institute for Defence Studies and Analyses, New Delhi; Shri L.V. Krishnan, Former Director, Safety Group, Indira Gandhi Centre for Atomic Research, Kalpakam; Shri M.R.Madhavan, Head, PRS Legislative;

* Rajya Sabha Parliamentary Bulletin Part-II dated 16th September, 2011

Shri Prabir Purkayastha, Delhi Science Forum; Dr. D.N. Sharma, President, Indian Association of Radiation Protection, Mumbai; Dr. A. Gopalakrishnan, Former Chairman, Atomic Energy Regulatory Board and Shri Shivshankar Menon, National Security Advisor.

8. The Committee took up clause-by-clause consideration of the Bill at its meeting held on the 16th January, 2012. The Committee considered the draft Report at its meeting held on the 31st January, 2012. Subsequently, the Committee decided to hear the views of Dr. A. Gopalakrishnan, Former Chairman, Atomic Energy Regulatory Board and Shri Shivshankar Menon, National Security Advisor. The Committee heard their views on 14th February, 2012. The Committee finally considered the draft report at its meeting held on the 5th March, 2012 and adopted it by broad consensus. The two Members namely, Dr. Anup Kumar Saha and Shri Saman Pathak, however, submitted identical minute of dissent which has been appended to the report as Appendix-I.

9. Salient features of the Bill

9.1 The salient features of the Bill are as follows:

- i) Establishment of a Council for Nuclear Safety with the Prime Minister of India as its Chairperson and the Union Ministers in Charge of the Ministries of Environment and Forest, External Affairs, Home Affairs, Science and Technology and any other minister nominated by the Central Government as its Members, the Cabinet Secretary and the Chairman, Atomic Energy Commission as Ex-officio Members of the Council and such number of eminent experts as may be nominated by the Central Govt. to the Council as Members.
- ii) Establishment of an Authority to be called the Nuclear Safety Regulatory Authority consisting of a Chairperson, 2 whole-time Members and part-time Members not exceeding four. The Chairperson and the Members of the Authority shall be persons of outstanding ability, impeccable integrity and having distinguished professional record and experience.
- iii) The Chairperson and Members of the Authority shall be selected by Search Committees constituted by the Council of Nuclear Safety and appointed by the Central Government. Chairperson of the Authority, however, shall be a Member of the Search Committee constituted for the appointment of Members.
- iv) The term of the office of Chairperson and other Members shall be three years and they shall be eligible for reappointment for a further period of three years.
- v) The Authority shall *inter-alia* devise and implement policies and programmes for radiation safety and nuclear safety, ensure high quality of safety management at all places, where nuclear and radiation related activities are carried out and ensure transparency by systematic public outreach on matters related to nuclear safety.
- vi) The Bill empowers the Central Government, to exempt from the jurisdiction of the Authority, for the purposes of national defence and security, any nuclear material, radioactive material, facilities, premises, activities and the assets and areas associated therewith and, establish by order, in writing, one or more

- regulatory bodies and demarcate the responsibility thereof to discharge the functions which but for such exemption were within the jurisdiction of the Authority.
- vii) Establishment of an Appellate Authority (to be constituted by the Council), as and when required, to hear the appeals from the orders of the Authority. The Chairperson of the Appellate Authority shall be a person who is, or has been a judge of the Supreme Court or Chief Justice of a High Court. The Appellate Authority shall have not more than two members who shall be eminent scientist(s) holding or having held the post of Secretary or equivalent to the Govt. of India in a Ministry or Department or an institution dealing with Science and Technology.
 - viii) Provision of penalty of imprisonment for a term which may extend upto five years, or fine, or both for the offences arising out of contravention of the provisions of the Act, the rules and regulations made thereunder, and the orders passed under the Act.
 - ix) Bar of jurisdiction of the Civil Courts in the matters within the jurisdiction of the Authority or other regulatory bodies under the Act.
 - x) The Atomic Energy Regulatory Board shall stand dissolved on and from the date of establishment of the Authority. The Chairman and Members of Atomic Energy Regulatory Board shall be transferred as such to function as Chairperson and Members under the Act and be deemed to be the Chairperson and Members of the Authority under the Act until the Chairperson and Members of the Authority are appointed in accordance with the provisions of the Act.

10. OBSERVATIONS / RECOMMENDATIONS

Clause-wise observations/ recommendations of the Committee are as follows:-

10.1 It has been provided in Clause 1(3) of the Bill that the Nuclear Safety Regulatory Authority Act, 2011 shall come into force on such date as the Central Govt. may by notification appoint and different dates may be appointed for different provisions of this Act. The Committee, while appreciating that considering the nature of its various provisions, such flexibility may be necessary, however, felt that such open ended discretion to enforce the various provisions of the Act may not be desirable and an upper limit may be prescribed for enforcement of all the provisions of the Act. When the Committee enquired about the rationale behind this provision and desired to know as to whether an upper limit of 120 days or 180 days could be laid in the Act to ensure that various provisions of the Bill are enforced in a time bound manner, the Department of Atomic Energy replied that this is a standard Clause incorporated in many other legislations. The Central Govt. would require time to frame the rules which would be highly technical in nature and also to establish the machinery to give effect to the provisions of the Act. Therefore, stipulating a time limit of 120 or 180 days may not be feasible in this case.

10.2 The Committee feels that the logic given by the Department is not convincing and it is advisable to fix the upper limit of 120 days or 180 days in the Act for enforcement of all the provisions of the Act. Such a provision exists in the Right to Information Act. This will ensure that various Authorities/ bodies envisaged in the Bill are established in a time bound manner. {Clause 1(3)}

10.3 Some of the experts who appeared before the Committee expressed several reservations on establishment, composition and functions of the Council of Nuclear Safety as provided in Clause 5 of the Bill. While some experts were of the view that there was no need for a Council of Nuclear Safety, others were of the view that the Chairman of the Atomic Energy Commission should not be included in the Council as Ex-officio Member. A view was also expressed that the Defence Minister should also be included in the Council.

10.4 The Committee feels that the composition of the Council is fairly large with Prime Minister as Chairperson and 6 Union Ministers as Members, two Ex-officio Members and such number of eminent experts as nominated by the Central Govt. as Members. The argument of the Atomic Energy for having such a large Council is that broad-basing is necessary in view of multi-disciplinary nature of the subject of nuclear safety.

10.5 The Committee is of the view that in order to make the functioning of the Council more effective, the number of Members of the Council needs to be restricted to a reasonable limit. For this purpose, the field, which has been left wide open for inclusion of as many number of eminent experts as nominated by the Central Govt. to be Members of the Council, needs to be restricted by imposing an upper limit of five on the number of Experts who could be nominated by the Central Govt. This may be done by inserting – ‘not exceeding five’ in Clause 5(j) of the Bill at the appropriate place.{Clause 5}

10.6 Clause 9 of the Bill provides that the Nuclear Safety Regulatory Authority shall consist of a Chairperson, two whole time and part time Members not exceeding four. Thus, while the number of whole time Members including Chairperson comes to three, the number of part-time Members could be four. If this is read with Clause 15(3) of the Bill which provides that all questions which come up before any meeting of the Authority shall be decided by a majority vote of the Members present and voting, it becomes evident that the part-time Members may have a decisive say on the issues to be decided by the Authority by virtue of their number being more than the whole-time Members.

10.7 When the Committee desired to know the reasons for keeping the number of full time Members less than the part time Members, the Deptt. of Atomic Energy replied that the group of three full time Members including the Chairperson would also be responsible for dealing with day to day functions of the Authority, the four part time Members representing different disciplines relevant to the functions of the Authority would contribute their expertise and take equal responsibility in the decision making process. The Secretary, Deptt. of Atomic Energy further added that though they would be part time Members of the Authority, they would be permanent Faculties/ Directors drawn from prominent institutions like IIT or CSIR, etc. Thus, they would contribute

their expertise and take equal responsibility in the decision making process of the Authority. **The Committee accepts the reasoning given by the Deptt. and feels that the number of part time Members as provided in the Bill may be retained.**

10.8 **The Committee, however, expresses its reservation over the nomenclature – ‘Part-time Members’ as it does not seem appropriate and in keeping with the dignity of the Nuclear Safety Regulatory Authority.**

10.9 Secretary, Department of Atomic Energy while clarifying the issue stated that the provision for part-time Members in the Authority had been made keeping in view the expected workload on the Authority based on the practical experience. While full-time Members of the Authority shall be salaried employees of the Authority, part-time Members would be not so. The provision of part-time Members had also been made with view to extract impartial and expert advice.

10.10 **The Committee feels that the Authority may not require 7 whole-time Members but to call a Member of the Authority a part-time Member does not look dignified. The Committee, therefore, recommends that the nomenclature ‘Part-time Members’ as provided in Clause 9(1) (iii) may be suitably changed to a more dignified nomenclature. {Clause 9}**

10.11 Clause 10(1) of the Bill provides that the Council shall constitute a Search Committee for the selection of Chairperson and another Search Committee for the Members of the Authority. It further provides that the Chairperson and Members of the Search Committee shall be from amongst persons of eminence having knowledge and experience in the field of science, engineering and technology. **The Committee finds that the number of Members of the Search Committee which is proposed to be constituted for the selection of Chairperson and Members of the Authority has not been specified. The Committee feels that the number of Members of the search committee which is going to play a vital role in the scheme of the things of the Bill should not be left open to interpretation or discretion. The Committee, therefore, recommends that the composition of the search Committee should be clearly specified. {Clause 10}**

10.12 Clause 11(1) of the Bill provides that the Chairperson and other Members of the Authority shall hold office for a term of three years and shall be eligible for reappointment for a further period of three years. The Committee feels that the provision as contained in the Bill does not specify as to how many times, reappointment for a further period of three years is permissible under this provision. In case, the provision is to be used to grant repeated extensions, at the discretion of Govt., it may impinge on the functional autonomy of the Authority. When the Committee enquired from the Secretary, Deptt. of Atomic Energy, about the justification of inclusion of such a provision in the Bill, he stated that normally not more than two terms were given. When he was asked whether it would be desirable to modify the provision by adding – ‘not exceeding two terms’, he did not seem to agree to the suggestion. He explained that a Member can become a Chairperson. He further stated that normally respect was given to age and experience. **The Committee, however, does not agree with the explanation given by the Secretary and recommends that it should be clarified in the Bill that**

Chairperson and the Members of the Authority shall be eligible for reappointment for not more than one term of three years.{Clause 11}

10.13 Clause 20(2) (h) provides that the Authority shall specify by regulations *inter-alia*, hours of work, minimum leave and requirements of periodical medical examination of employees. Some of the Experts who deposed before the Committee were of the view that these were archaic provisions and were no more in existence and hence these should be deleted from the Bill. **The Committee feels that with the advancement in the technology for monitoring exposure to radiation level of the employees, there is no need for a regulatory authority to specify hours of work, minimum leave, etc. When the Committee sought the comments of the Deptt. of Atomic Energy on this issue, it was stated that the Deptt. did not have any views against the suggestion of deleting these provisions from Clause 20(2)(h). The Committee recommends that they may be deleted, being neither necessary nor desirable. {Clause 20(2)(h)}**

10.14 Clause 20(2)(q) provides that the Authority shall discharge its functions and powers in a manner consistent with the international obligations of India. **The Committee is of the view that while international obligations existing on the date the Authority is established may, be respected, but after establishment of the Authority, before undertaking any international obligations on any aspect within the jurisdiction of the Authority, the Authority shall be consulted and its views taken into account. {Clause 20(2)(q)}**

10.15 The Committee finds that Clause 21 of the Bill provides that the Authority while discharging its powers and functions shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality. The Committee fails to understand the rationality of such a provision being included in the Bill. The proposed Authority is contemplated to be the highest regulatory authority in the country consisting of persons of outstanding ability, impeccable integrity and standing, having distinguished professional record to be empanelled by Search Committees set up by the Council of Nuclear Safety headed by the Prime Minister. If the creditability of persons with such an exalted, lofty and high stature is looked askance at and it is apprehended that they could be indecent or immoral, is something very surprising. **The Committee is of the opinion that Clause 21 is not at all relevant in the context of this Bill and hence may be deleted. The Committee also recommends that identical words appearing in Clause 42(1) of the Bill may also be reconsidered by Govt. Alternatively, the Committee recommends insertion of following proviso to Clause 21 and 42(1):-**

Provided that nothing contained in this Clause shall be construed to empower the Central Government to interfere with the exercise by the Authority of its powers and functions under this Act. {Clause 21 & 42(1)}

10.16 Clause 24 provides that the Authority may delegate such of its powers and functions as it may deem necessary to a State Govt. or such officer or authority subordinate to State Govt. When the Committee enquired as to how a highly specialized job which the Authority was supposed to discharge could be delegated to a State Govt. or such officer or Authority subordinate to State Govt., the Department of Atomic Energy

informed the Committee that the Authority, in exercise of the powers delegated to it, would be under the statutory obligation to ensure that sub-delegation was in accordance with the object and purposes of the Act. The Committee is not satisfied with the explanation given by the Deptt. and feels that the powers and functions of the Authority which are of highly technical and specialized nature having direct bearing on the safety and security of the public and the environment, should not be delegated to the Generalists. **The Committee, therefore, recommends that the Bill may specify that the delegation of powers and functions by the Authority, shall be made only to such officers or authorities of the State Govt. as have necessary competence to efficiently and effectively perform the delegated functions. {Clause 24}**

10.17 The Central Govt. may establish one or more regulatory bodies as provided in the Clause 25(2) of the Bill. The word 'may' leaves scope of discretion to establish or not to establish regulatory bodies even where exemption from jurisdiction of the Authority has been made under Clause 25(1) of the Bill. The Committee feels that such a discretion is not justified as threat to public safety from nuclear material and facilities exempted from the purview of the Authority is as serious as from the ones within the purview of the Authority and as such there is an equal sense of urgency and necessity to regulate them too. The Committee further noted that in situations of extreme emergency, recourse to Clause 27 was possible. The Deptt. of Atomic Energy clarified that purpose of Clause 25 was precisely to ensure that material, facilities, premises and activities exempted from NSRA could be regulated to ensure that the use of radiation and atomic energy was safe. **The reply lacks conviction and determination and the Committee, therefore, recommends that it should be mandatory for the Central Govt. to bring the facilities and activities exempted under Clause 25(1) of this Bill on grounds of the national defence and security from the purview of the Authority under one or other regulatory body to ensure that sufficient safeguards are put in place to assure citizens of nuclear safety and radiation safety. {Clause 25}**

10.18 Clause 25(2) provides that the Central Government may by order establish one or more Regulatory Bodies for regulating the material, facilities, activities, premises, assets and areas, etc. exempted from the jurisdiction of the authority for national defence and security purposes. The Committee finds that the number of such Regulatory Bodies to be established by Government has not been specified in the Bill leaving a scope of establishment of as many Regulatory Bodies as desired by the Government. The Committee feels that there is hardly a need for creating a number of other Regulatory Bodies as it would unnecessarily burden the public exchequer. Ideally one or two other Regulatory Bodies may be sufficient for the purpose. When asked to comment on this issue, the Department of Atomic Energy clarified that at the moment the only other regulatory body for nuclear safety is that which has been established for strategic activities for which reason an enabling provision was envisaged in the legislation. Secretary, Department of Atomic Energy categorically asserted that there could not be umpteen numbers of Bodies. **The Committee is satisfied with the clarifications given by the Secretary and is of the opinion that the existing provision may be retained in the Bill.**

10.19 Clause 35(1) provides that the Council shall, as and when, required constitute an Appellate Authority to hear appeals from any Order or decision passed by the Authority.

Some of the experts who appeared before the Committee felt that there was no need for an Appellate Authority to examine a decision taken by a body of experts on nuclear safety. These experts were of the view that the Appellate Authority only dilutes the authority of the regulator, i.e., NSRA. They further pleaded that the option of invoking writ jurisdiction of the High Court or the Supreme Court was always open for the person aggrieved by the orders of NSRA. The Committee, however, concurs with the views of the Deptt. that the Appellate Authority provides a statutory mechanism for redressal to the persons aggrieved by the orders of NSRA and it does not dilute the powers of the NSRA. **The Committee feels that the provision for an Appellate Authority consisting of a judge of Supreme Court or the Chief Justice of a High Court and two eminent scientists as Members would be an appropriate forum to hear the appeals of the aggrieved persons. The Committee, therefore, is of the view, that the existing Clause of the Bill may be retained.**

10.20 The Committee deliberated in detail on Clause 35(4)(a) which provides that a person shall not be qualified for appointment as the Chairperson of the Appellate Authority unless he is or has been a judge of the Supreme Court or the Chief Justice of a High Court. A view was expressed that a judge need not be the Chairperson of the Appellate Authority particularly when a decision has to be taken on a scientific matter in the light of scientific facts. **However, in view of the fact that the Appellate Authority will be a quasi-judicial body superior to the Authority and final view, if so agitated, on an order of the Appellate Authority shall ultimately lie with superior courts only, the Committee is of the opinion that the existing provision may be retained. {Clause 35(4)(a)}**

10.21 Clause 35(4)(b) provides that a person shall not be qualified for appointment as a Member of the Appellate Authority unless he is an eminent scientist and has held the post of Secretary to the Govt. of India or any equivalent post in the Central Govt. Some of the Experts felt that the eligibility condition for the membership of the Appellate Authority is very restrictive as not many scientists hold the post of the Secretary to the Govt. of India or equivalent and it appears tailor made to suit the interest of bureaucrats and to obviate inclusion of eminent scientists in the Appellate Authority. It was, therefore, suggested that the eligibility condition needs to be sufficiently broad based so as to facilitate participation of those eminent scientists who have not held the post of Secretary to the Govt. of India or equivalent. The Deptt. of Atomic Energy expressed the view that considering the status of the Authority and demand of high-level expertise, it was desirable that a Member of the Appellate Authority was an eminent scientist of the rank of Secretary to Govt. of India. Suitable incumbents from amongst the serving and retired Secretaries and equivalent positions, Directors of IITs, IISc, NISER, IISER and Vice-Chancellors of Universities could be inducted into the Appellate Authority. The Committee was given to understand that Directors of IITs, even though they get the pay equivalent to the Secretaries to Govt. of India, are not treated as equivalent to Secretaries. Similarly, Vice-Chancellors of Universities also do not hold that rank. **On the more, the Committee feels that there might be many more eminent scientists who would not have held the high posts mentioned above and the eligibility conditions as prescribed would deprive them of being included as Members of the Appellate Authority. The Committee, therefore, recommends that there is a need to broad base the eligibility criteria prescribed for being a Member of the Appellate**

Authority and the Govt. should suitably amend the provision in the light of the observations of the Committee. {Clause 35(4)(b)}

10.22 The Committee notes that Clause 35(1) provides that the Appellate Authority is to be constituted 'as and when required'. It, therefore, appears that the Appellate Authority shall be an ad-hoc body constituted only after an appeal has been preferred. On the other hand, the Clause 35(5) provides that the Central Government or any person aggrieved by an order of the Appellate Authority may file an appeal 'before the Appellate Authority' within a period of thirty days from the date of such order. These two clauses viz. Clause 35(1) and 35(5) appear to be incongruous in as much as if an Appellate Authority is not in existence permanently, how a person aggrieved from an order of the Authority can file an appeal 'before the Appellate Authority'. The use of the word 'before the Appellate Authority' suggests permanent existence of the Appellate Authority whereas the words occurring in Clause 35(1) 'as and when required' suggest that the Appellate Authority is only an ad-hoc body. **The Committee, therefore, recommends that this incongruity between the aforesaid two clauses needs to be reconciled. {Clause 35(5)}**

10.23 The Committee finds that under Clause 35(7), it has been provided that every appeal shall be heard and disposed of as expeditiously as possible, within a period of 90 days from the date of its filing. The Committee finds that provision of a watertight deadline of 90 days for disposal of appeal does not seem to be a feasible proposition, particularly, in the light of the fact that the Appellate Authority is contemplated to be an ad-hoc body – 'to be constituted as and when required' and selection of Chairperson and Members of the Appellate Authority is to be made in consultation with Chief Justice of India or his nominee. **The Committee expresses its serious apprehensions that the appellate authority will get constituted and the Appeal decided within 90 days and as such the appeal is most likely to abate and this will defeat the very purpose of making provisions relating to the Appellate Authority. The Committee is, therefore, of the opinion that the rigidity of 90 days needs to be made flexible to avoid appeal from abating and the word 'preferably' may be added before the words 'within a period of 90 days'. The Govt. may also enhance the period in which appeal is to be decided to make it more realistic. {Clause 35(7)}**

10.24 The Committee finds that while Clauses 36 to 39 under Chapter 9 make detailed provisions regarding finance, accounts and audit of the Nuclear Safety Regulatory Authority, no such provision has been made in respect of the Council, Other Regulatory Bodies and the Appellate Authority while these bodies are also sought to be created by or under the same statute. The Committee fails to comprehend the manner in which the activities of these bodies being created by or under the statute shall be financed, their accounts maintained and audit of their expenses done. In response to queries on these issues the Deptt. of Atomic Energy advanced the argument that provision regarding finance, accounts and audit in respect of the Council and Other Regulatory Bodies would be taken care by the Central Govt. as they would be part of the Central Govt. **The Committee is constrained to observe that the Deptt. has not given serious thought on the issues raised by the Committee and has given a very casual reply. While it has not bothered at all to address the issue of finances, accounts, etc. of the Appellate Authority, it has also failed to clarify as to how the Council which is a creation of this Bill would be treated as part of the Central Govt. The Committee, therefore, recommends that the Deptt. of Atomic Energy should seek legal opinion in the matter in order to ascertain if separate provisions are required for the purpose.**

10.25 The Committee feels that efficacy and success of a Nuclear Safety Regulatory Authority can be gauged on four core values, i.e., competence, independence, stringency and transparency. The current Bill while by and large seems to meet the three criteria but it lacks somewhat on the count of independence. **The Committee finds that there are certain Clauses in the Bill viz. Clause 14(1) (Removal of Chairperson and Members of the Authority), Clause 42 (Directions by the Central Govt. to the Authority) and Clause 48 (Power of Central Govt. to supersede the Authority), which may impinge on functional autonomy of the Authority. The Committee is, therefore, of the view that the Deptt. should explore the possibilities of making the Regulatory Authority more independent and autonomous not only to carryout its functions effectively but also to enjoy credibility among the public and the trust of the people. {Clause 14(1), Clause 42, Clause 48}**

10.26 The Committee deliberated on the provisions contained in Clause 47 and felt that a large number of cases were already pending in lower courts and they might not find enough time to take cognizance of the offence punishable under this Act. When the Committee enquired from the Secretary, Deptt. of Atomic Energy if it would be possible to set up separate courts, designated as special courts to try cases arising out of this Act, he said that the Deptt. would take opinion of the Law Ministry in the matter. **The Committee is, therefore, of the view that the Deptt. should give a serious thought on the observations of the Committee. {Clause 47}**

10.27 The Committee also takes a serious objection on the provision made in Clause 51(1) which requires that the Authority, may, with previous approval of the Central Govt. make regulations to carryout the provisions of the Act. **The Committee sees no rationale in Authority seeking previous approval of the Central Govt. for making regulations for purposes specified in the Bill, particularly, as in no case these regulations can be inconsistent with the provisions of this Act or the Rules made thereunder. The Committee, therefore, is of the opinion that Govt. should re-look into this provision. {Clause 51(1)}**

ANNEXURE

THE NUCLEAR SAFETY REGULATORY AUTHORITY BILL, 2011

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, extent and commencement.
2. Definitions.
3. Act not to prejudice national sovereignty, etc.

CHAPTER II

PROHIBITION OF CERTAIN ACTIVITIES WITHOUT CONSENT

4. Prohibition of certain activities without consent.

CHAPTER III

COUNCIL OF NUCLEAR SAFETY

5. Establishment of Council of Nuclear Safety.
6. Meeting of Council.
7. Powers and functions of Council.

CHAPTER IV

ESTABLISHMENT OF NUCLEAR SAFETY REGULATORY AUTHORITY

8. Establishment of Authority.
9. Composition of Authority.
10. Constitution of Search Committees.
11. Term of office and other conditions of service of Chairperson and Members.
12. Financial and administrative powers of Chairperson.
13. Restriction on Chairperson or Members on employment after of cessation of office.
14. Removal of Chairperson and Members.
15. Meetings of Authority.
16. Vacancies, etc., not to invalidate proceedings of Authority.
17. Secretary and other officers and employees of Authority.
18. Transfer of assets, liabilities, etc., of Atomic Energy Regulatory Board and saving of its action, etc.
19. Jurisdiction of Authority.

CHAPTER V

POWERS AND FUNCTIONS OF AUTHORITY

20. Functions of Authority.
21. Authority to act in interest of sovereignty and integrity of India.
22. Power of Authority to give directions to owner of radioactive material, etc.
23. Administration of Factories Act, 1948.
24. Delegation of powers.

TO BE INTRODUCED IN LOK SABHA

Bill No. 76 of 2011

AS INTRODUCED IN LOK SABHA

CHAPTER VI

ESTABLISHMENT OF OTHER REGULATORY BODIES

CLAUSES

25. Establishment of regulatory bodies.
26. Prohibition of disclosure of information.
27. Power of Central Government to carry out certain functions itself.

CHAPTER VII

GRANT OF CONSENT

28. Procedure for grant of consent for carrying out activities related to nuclear material, etc.
29. Suspension and cancellation of consent.
30. Responsibilities of grantee of consent.
31. Power of Authority to call for information, conduct investigations, etc.
32. Power of Authority to issue certain directions.
33. Powers of inspection, search and seizure.
34. Review of order of Authority.

CHAPTER VIII

APPEAL

35. Appellate Authority.

CHAPTER IX

FINANCE, ACCOUNTS AND AUDIT

36. Budget.
37. Grants by Central Government.
38. Annual statement of accounts.
39. Furnishing of returns, etc., to Central Government.

CHAPTER X

OFFENCES AND PENALTIES

40. Offences and penalties.
41. Offences by Companies, etc.

CHAPTER XI

MISCELLANEOUS

42. Directions by Central Government.
43. Members, officers and employees of Authority to be public servants.

44. Bar of jurisdiction.
45. Obligations as to fidelity and secrecy.
46. Protection of action taken in good faith.
47. Cognizance of offence.
48. Power of Central Government to supersede Authority.
49. Application of other laws not barred.
50. Power to make rules.
51. Power to make regulations.
52. Rules and regulations to be laid before Parliament.
53. Amendment of certain enactments.
54. Power to remove difficulties.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

(ii)

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THE NUCLEAR SAFETY REGULATORY AUTHORITY BILL, 2011

A

BILL

to establish an Authority and such other regulatory bodies for regulation of radiation safety or nuclear safety and achieving highest standards of such safety based on scientific approach, operating experience and best practices followed by nuclear industry and to ensure that the use of radiation and atomic energy in all its applications is safe for the health of the radiation workers, members of the public and the environment and also to establish a Council of Nuclear Safety to oversee and review the policies relating to radiation safety and nuclear safety and to provide for matters connected therewith or incidental thereto.

WHEREAS India has excellent record in nuclear safety and radiation safety;

AND WHEREAS the Central Government intends to promote nuclear energy to meet shortfall in total energy requirement of the country;

AND WHEREAS such excellent safety record in nuclear safety and radiation safety is required to be sustained for growth in the nuclear energy sector;

NOW, THEREFORE, it has been considered necessary and expedient to establish regulators to ensure continued excellence in nuclear safety and radiation safety in all applications of radiation and atomic energy on a large scale.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Nuclear Safety Regulatory Authority Act, 2011.

(2) It extends to the whole of India.

Short title,
extent and
commencement.

TO BE INTRODUCED IN LOK SABHA

Bill No. 76 of 2011

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AS INTRODUCED IN LOK SABHA

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

2. (1) In this Act, unless the context otherwise requires,—

(a) “Appellate Authority” means an authority constituted by the Council of Nuclear Safety under sub-section (1) of section 35;

(b) “Atomic Energy Regulatory Board” means the Board constituted *vide* notification of the Government of India in the Department of Atomic Energy number S.O. 4772, dated the 15th November, 1983;

(c) “Authority” means the Nuclear Safety Regulatory Authority established under sub-section (1) of section 8;

- (d) “Chairperson” means the Chairperson of the Authority appointed under sub-section (1) of section 9;
- (e) “consent” means a written permission including a licence, authorisation, registration or approval of the Authority under this Act;
- (f) “Council” means the Council of Nuclear Safety established under section 5;
- (g) “Member” means a Member of the Authority appointed under sub-section (1) of section 9 and includes the Chairperson;
- (h) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly;
- (i) “prescribed” means prescribed by rules made under this Act;
- (j) “radiation worker” means any person who is occupationally exposed to radiation;
- (k) “regulations” means regulations made by the Authority under this Act.
- (2) The words and expressions used and not defined in this Act, but defined in the Atomic Energy Act, 1962 shall have the meanings respectively assigned to them in that Act.

3. (1) Nothing contained in this Act shall be construed as to require or permit any person to do or to refrain from doing anything which the Central Government may, by notification, declare to be prejudicial to the national defence and security.

(2) A declaration made under sub-section (1) shall be conclusive and not be called in question before any court of law.

CHAPTER II

PROHIBITION OF CERTAIN ACTIVITIES WITHOUT CONSENT

4. No person shall carry out any activity falling within the jurisdiction of the Authority without obtaining the written consent under section 28.

Explanation.—For the purpose of this section and section 28, the term “activity” includes production, storage, disposal, transport (within India or outside India), transfer by sale or otherwise, import, export and use of any nuclear material, radioactive material or any other substance, or equipment used for production or use of radiation or atomic energy.

Definitions.
33 of 1962.
Act not to
prejudice
national
sovereignty,
etc.

Prohibition
of certain
activities
without
consent.

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CHAPTER III

COUNCIL OF NUCLEAR SAFETY

5. The Central Government shall, by notification, establish a Council to be called the Council of Nuclear Safety consisting of —

- (a) the Prime Minister of India as its Chairperson;
- (b) Union Minister In-Charge of the Ministry of Environment and Forest—Member;
- (c) Union Minister In-Charge of the Ministry of External Affairs—Member;
- (d) Union Minister In-Charge of the Ministry of Health—Member;
- (e) Union Minister In-Charge of the Ministry of Home Affairs—Member;
- (f) Union Minister In-Charge of the Ministry of Science and Technology—

Member;

(g) any other Union Minister to be nominated by the Central Government—

Member;

(h) Cabinet Secretary – Member, *ex officio*;

(i) Chairman, Atomic Energy Commission—Member, *ex officio*;

(j) such number of eminent experts as may be nominated by the Central Government—Members.

6. The Council shall meet at such places and intervals as may be necessary and shall regulate its own procedure for its meetings.

7. The Council shall oversee and review the policies with respect to radiation safety, nuclear safety and other matters connected therewith or incidental thereto and for this purpose, it shall have a Secretary to assist it.

CHAPTER IV

ESTABLISHMENT OF NUCLEAR SAFETY REGULATORY AUTHORITY

8. (1) The Central Government shall, by notification, establish an Authority to be called as the Nuclear Safety Regulatory Authority, to exercise the powers conferred on and perform the functions assigned to it by or under this Act.

Explanation.—For the removal of doubts, it is hereby clarified that notwithstanding anything contained in section 7, the Authority shall be autonomous in the exercise of its powers and functions under this Act.

(2) The Authority established under sub-section (1) shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) **The head office of the Authority shall be at such place as the Central Government may notify.**

(4) **The Authority may, with the prior approval of the Central Government, establish its offices at such other places as may be considered necessary.**

9. (1) The Authority shall consist of—

(i) **a Chairperson;**

(ii) **two whole-time Members; and**

(iii) **part-time Members not exceeding four,**

to be appointed by the Central Government on the recommendations of the Search Committees constituted under section 10 .

Establishment
of Council of
Nuclear
Safety.
Meetings of
Council.
Powers and
functions of
Council.
Establishment
of Authority.
Composition
of Authority.

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(2) A person shall be eligible to be appointed as the Chairperson of the Authority, if such person—

(a) is a citizen of India;

(b) is of outstanding ability, impeccable integrity and standing and having distinguished professional record and experience of at least twenty-five years in Government, industry, academic institutions or national laboratories and is an expert

in one or more disciplines or areas of nuclear science and technology, nuclear safety and regulation, operation and design of nuclear power plants and fuel cycle facilities, radiation safety, nuclear medicine, radiation therapy, radiation applications, industrial and chemical plant safety, earth science, environmental science and engineering, power plant engineering or materials science and engineering or such other discipline or areas which may, in the opinion of the Central Government, be relevant.

(3) A person shall be eligible to be appointed as the Member of the Authority, if such person—

(a) is a citizen of India;

(b) is of outstanding ability, impeccable integrity and standing and having distinguished professional record and experience of at least twenty years in Government, industry, academic institutions or national laboratories and is an expert in one or more disciplines or areas of nuclear science and technology, nuclear safety and regulation, operation and design of nuclear power plants and fuel cycle facilities, radiation safety, nuclear medicine, radiation therapy, radiation applications, industrial and chemical plant safety, earth science, environmental science and engineering, power plant engineering or materials science and engineering or such other discipline or areas which may, in the opinion of the Central Government, be relevant.

10. (1) The Council shall constitute a Search Committee for the selection of Chairperson and another Search Committee for the selection of Members of the Authority: Provided that the Chairperson and members of the Search Committee shall be from amongst persons of eminence having knowledge and experience in the field of science, engineering and technology:

Provided that the Chairperson of the Authority shall be a Member of the Search Committee constituted for the appointment of Members.

(2) The Central Government shall, within a period of three months from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or completion of the term of the Chairperson or Member, make a reference to the Search Committee for filling up the vacancy.

(3) No appointment of the Chairperson or Member shall be invalid merely by the reason of any vacancy in the Search Committees.

(4) The term of the Search Committees and the manner of search of panel of names for making recommendations for appointment of Chairperson or Member shall be such as may be specified by the Council.

(5) Subject to the provisions of sub-sections (1) to (4), the Search Committee shall regulate its own procedure.

(6) Before appointing any person as the Chairperson or Member of the Authority, the Central Government shall satisfy itself that such person does not have any financial or other interest as is likely to affect prejudicially his functions.

11. (1) The Chairperson and other Members shall hold office for a term of three years from the date on which they enter upon their offices, and shall be eligible for reappointment for a further period of three years:

Provided that the Chairperson shall not hold office as such after he has attained the age of seventy years and a whole-time Member shall not hold office as such after he has attained the age of sixty-five years.

Constitution
of Search
Committees.
Term of
office and
other
conditions of
service of
Chairperson
and Members.

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(2) Any person holding any office (whether as an employee or an officer or a director or managing director or secretary or manager or in any other capacity) under the Central Government or State Government or in a company (including a Government Company referred to in section 617 of the Companies Act, 1956) or in any other institution, organisation, society or University or Board, shall, on his selection as the Chairperson or a whole-time Member, be required to seek retirement or resign from the services of such Central or State Government or company or institution or organisation or society or University or Board, as the case may be, before accepting the employment as such Chairperson or as the case may be, the Member.

(3) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed:

Provided that the salary, allowances and other terms and conditions of service of the Chairperson or a Member shall not be varied to his disadvantage after his appointment.

(4) Notwithstanding anything contained in sub-section (1), the Chairperson or Member may—

(a) relinquish his office by giving in writing to the Central Government a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 14.

12. The Chairperson shall be the Chief Executive Officer of the Authority and shall exercise such financial and administrative powers as may be prescribed:

Provided that the Chairperson shall have authority to delegate such of the financial and administrative powers as he may think fit to any whole-time Member or an officer of the Authority subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

13. (1) The Chairperson or a whole-time Member, ceasing to hold office as such, shall not accept any employment with,—

(a) any person who has been granted consent for any activity under this Act;

or

(b) any person who has been associated with the person referred to in clause

(a); or

(c) any person who has been connected with the management or administration of the person referred to in clause (a) or clause (b).

(2) The Chairperson or a Member, ceasing to hold office as such shall not,—

(a) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or the Member, before cessation of his office, had acted for, or provided advice to, the Authority; or

(b) give advice to any person (including his client, business associate or employer) using information which was obtained in his capacity as the Chairperson or a Member and being not available or cannot be made available to the public; or

(c) enter into a contract of service with, or accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such, without the approval of the Central Government.

Financial and
administrative
powers of
Chairperson.
Restriction
on
Chairperson
or Members
on
employment
after
cessation of

office.

1 of 1956.

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(3) Save as otherwise provided in this Act or any other law for the time being in force, the Chairperson and Members shall not communicate during holding of office as such or thereafter or reveal to any person any matter which has been brought under his consideration or known to him while acting as such.

14. (1) Notwithstanding anything contained in section 10, the Central Government may, by order, remove from office, the Chairperson or any Member, if he—

(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 Chairperson or Member; or

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

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

(2) The Chairperson or any Member shall not be removed under clauses (d) and (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

15. (1) The Authority shall meet at such times and places, and observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meeting) as may be specified by regulations.

(2) Where the Chairperson is unable to attend a meeting of the Authority for any reason, the senior most whole-time Member shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority vote of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the senior most whole-time Member presiding, shall have a second or casting vote.

16. No act or proceeding of the Authority shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person as a Member of the Authority;

or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

17. (1) The Authority may appoint a Secretary and such number of other officers, employees, consultants or experts, as it considers necessary, for the efficient discharge of its functions and exercise of its powers under this Act:

Provided that no appointment of officers or employees shall be made unless prior written approval of the Central Government has been obtained by the Authority for creation of posts therefor.

Provided further that the Central Government may, on the establishment of the Authority, provide by order, such number of officers, employees, consultants or experts till such time the Authority appoints its secretary and such number of other officers, employees, consultants or experts and such officers, employees, consultants or experts shall be deemed to be on deputation or short term contract, on such terms and conditions, as it may specify.

(2) The salaries, allowances and pensions payable to, and other terms and conditions of service of the officers, other employees of the Authority, shall be such as may be specified by the regulations.

Removal of

Chairperson
and Members.
Meetings of
Authority.
Vacancies,
etc., not to
invalidate
proceedings
of Authority.
Secretary and
other officers
and
employees of
Authority.

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18. (1) On and from the establishment of the Authority—

(a) the Atomic Energy Regulatory Board shall stand dissolved;

(b) all sums of money due to the Atomic Energy Regulatory Board immediately before that day shall be deemed to be due to the Authority;

(c) all suits and other legal proceedings instituted or which could have been instituted by or against the Atomic Energy Regulatory Board immediately before that day may be continued or may be instituted by or against the Authority;

(d) anything done or any action taken by the Atomic Energy Regulatory Board shall be deemed to have been done or taken under corresponding provisions of this Act.

(2) The Chairman and Members of the Atomic Energy Regulatory Board shall be transferred as such to function as Chairperson and Members under this Act and be deemed to be the Chairperson and Members of the Authority under this Act until the Chairperson and Members of the Authority are appointed in accordance with the provisions of this Act.

(3) On and from the date of the commencement of this Act, every officer and employee holding a post in the Atomic Energy Regulatory Board before that date, shall hold the post in the Authority by the same tenure, and upon the same terms and conditions of service including remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such post as if this Act had not been passed and shall continue to do so as an officer or employee, as the case may be, of the Authority for a period of three years from the date of the commencement of this Act, unless he, within the said period of three years, opts not to be an employee of the Authority or until his tenure, remuneration or other terms and conditions of service are duly altered by the regulations.

(4) Every person, who opts not to be an employee of the Authority within the period so specified, shall be governed by the rules and orders as are applicable to the Central Government officers and employees of equivalent rank.

(5) Subject to the provisions of this section, the tenure, remuneration and other terms and conditions of service including pension of any employee of the Authority shall not be altered to his disadvantage without the previous approval of the Central Government.

(6) After the dissolution of the Atomic Energy Regulatory Board under clause (a) of sub-section (1), such of the functions and powers of that Board as are vested in the Authority under this Act shall be carried out by the Authority after such dissolution.

19. Save as otherwise provided in sections 25 and 27, the jurisdiction of the Authority shall extend to all areas to which this Act is applicable and activities relating to production, development or use of atomic energy and radiation in all its applications, or transport (within India or outside India), transfer by sale or otherwise, import, export or storage or disposal of nuclear and radioactive material.

CHAPTER V

POWERS AND FUNCTIONS OF THE AUTHORITY

20. (1) The Authority shall, subject to the provisions of this Act and the rules and regulations made thereunder, take measures, within its jurisdiction, to ensure that the use of radiation and atomic energy is safe for the health of the radiation workers, members of the public and the environment.

Explanation.—For the removal of doubts, it is hereby declared that the functions of the Authority shall be confined only to ensure the radiation safety and nuclear safety during activities relating to production, storage, disposal, transport, transfer by sale or otherwise,

Transfer of
assets,
liabilities,
etc., of
Atomic
Energy
Regulatory
Board and
saving of its
action, etc.
Jurisdiction of
Authority.
Functions of
Authority.

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import, export and use of any nuclear material, radioactive material or any other substance, or equipment, and physical security of nuclear material, radioactive material, and radiation and nuclear facilities, and in no case shall extend to the functions or any other matter which the Central Government is required to discharge under the Atomic Energy Act, 1962.

(2) Without prejudice to the generality of foregoing provisions, and the measures referred to in sub-section (1), the Authority shall —

(a) devise and implement policies and programmes for radiation safety and nuclear safety to ensure that use of atomic energy or radiation in all its applications is safe for, the health of radiation workers and members of public, and the environment;

(b) ensure high quality of safety management at all places where nuclear and radiation related activities are carried out;

(c) ensure transparency by systematic public outreach on matters relating to nuclear safety without disclosing sensitive information and compromising confidentiality of commercially sensitive information of technology holders.

Explanation.—For the purpose of this clause, the expression “sensitive information” means information pertaining to—

(i) physical security of nuclear material and facilities, or

(ii) reprocessing of spent fuel, enrichment of fissile material or heavy water production technologies;

(iii) any information under section 26 which has been accessed by the Authority or has come to its knowledge or made available to it in the discharge of its functions;

(d) strive to be a knowledge organisation with state of the art scientific capabilities in the domain of its responsibilities, arrange for and conduct research in areas relevant to its functions and develop linkages with technical support organisations;

(e) interact with other bodies and international organisations engaged in activities relevant to the functions of the Authority including nuclear and radiation safety, physical security of nuclear material and facilities, transportation of nuclear and radioactive materials and nuclear and radiation safety and regulation:

Provided that the Authority shall not interact with such bodies and international organisations outside India without the prior approval of the Central Government;

(f) advise the Central Government with respect to—

(i) safety of public and the environment;

(ii) measures to implement and coordinate a nationwide programme for environmental surveillance to check any harmful build up of radioactivity in the environment;

(iii) measures to ensure establishment and maintenance of appropriate mechanisms and plans for preparedness in response to nuclear and radiation emergencies;

(g) notify the limits of radiation exposure to radiation workers and the members of the public;

(h) specify by regulations, the requisite qualification, the training required to the persons for employment at premises or places where at any activity relating to 33 of 1962.

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production, storage, disposal, transport and use of any nuclear material, radioactive material or any other substance or equipment used for production, or use of atomic energy is carried out, and specify hours of work, minimum leave and requirements of periodical medical examination of such employees;

(i) specify by regulations the requirement of approval to, or licensing of, the persons referred to in clause (h);

(j) establish an appropriate regulatory mechanism which shall provide for issue of consents, monitoring of compliances, inspections and enforcement;

(k) develop and notify the standards and codes, and develop and publish other supporting documents for safety in design, siting, construction, commissioning, operation, quality assurance, decommissioning, storage, transportation and other activities related to plants, facilities, nuclear and radioactive wastes, radiation sources and radioactive materials;

(l) issue, renew, modify, suspend and revoke consents with specified conditions for conduct of any activity which come under its jurisdiction for the production, storage, disposal, transport (within and outside India), transfer by sale or otherwise, import, export and use of any nuclear material, radioactive material or any other substance, or equipment used for production, or use of atomic energy;

(m) levy fee, by regulation, for issue, modification and renewal of consents;

(n) take such measures as to enforce compliance of the provisions of the Act by the holder of the consent;

(o) notify measures for physical security within the area of main plant boundary, physical protection of nuclear and radioactive materials under storage as well as transport (within and outside India), and nuclear and radiation facilities;

(p) engage with the consent of Head of concerned bodies, the institutions, laboratories, agencies, technical support organisations, industries, individual experts and professionals of integrity and outstanding ability, who have expertise in scientific, technical, sociological, legal and such other disciplines related to nuclear, radiation and industrial safety to assist the Authority in the discharge of its functions;

(q) discharge its functions and powers in a manner consistent with the international obligations of India;

(r) apprise, from time to time, the National Disaster Management Authority established under section 3 of the Disaster Management Act, 2005 regarding nuclear safety and radiation safety measures and management of disaster arising from nuclear incident notified under section 3 of the Civil Liability for Nuclear Damage Act, 2010

and coordinate with the said Authority in the case of such disaster;
(s) notify nuclear incident as required by section 3 of the Civil Liability for Nuclear Damage Act, 2010.

(3) The Authority may, for reasons to be recorded in writing, exempt, by notification, subject to such conditions as may be specified by it in the notification, any radioactive material, any class or classes of radioactive material or any radiation generating plant from the applicability of any of the provisions of the safety related regulations or orders issued under this Act.

21. The Authority, while discharging its powers and functions, shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

Authority to
act in interest
of
sovereignty
and integrity
of India.

53 of 2005.

38 of 2010.

38 of 2010.

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22. Without prejudice to any provisions of this Act, the Authority may—

(a) direct any owner of, or holder of the consent or any person dealing with radioactive material, radiation source or facility to hand it over to the Central Government if, in the opinion of the Authority, continuation of such material or facility under the control of its owner or the holder of the consent or any such person is detrimental to the safety and physical security of such material or facility, or has a potential to be detrimental to the safety of public or the environment;

(b) advise the Central Government to take control of the radioactive material or radiation source if owner thereof cannot be identified.

23. (1) Notwithstanding anything contained in the Factories Act, 1948, the Authority and other regulatory bodies shall, subject to the rules made under this Act, administer the said Act, and do all things for the enforcement of its provisions, including the appointment of inspecting staff, in any factory engaged in the development, production and use of radiation and atomic energy or any facility engaged in research and development activities related to radiation or atomic energy, and owned or administered by the Central Government or any other authority or corporation established by it or a Government company under the jurisdiction of the Authority or the regulatory bodies, as the case may be.

(2) No authority under the Factories Act, 1948 shall have jurisdiction in respect of functions referred to in sub-section (1).

24. The Authority may, by general or special order in writing, delegate to the Chairperson or any Member or officer of the Authority or a State Government or such officer or authority subordinate to the State Government, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to make regulations under section 52), as it may deem necessary.

CHAPTER VI

ESTABLISHMENT OF OTHER REGULATORY BODIES

25. (1) Notwithstanding anything contained in this Act, the Central Government may, for the purposes of national defence and security, exempt,—

(a) any nuclear material, radioactive material, facilities, premises and activities;

(b) the premises, assets and areas associated with material and activities referred to in clause (a), from the jurisdiction of the Authority.

(2) The Central Government may, for the purposes of regulating the material, facilities,

activities referred to in clause (a) or premises, assets and areas referred to in clause (b) of sub-section (1), by order, in writing establish one or more regulatory bodies and demarcate responsibility thereof to discharge one or more of the functions in respect thereof which otherwise before such exemption were within the jurisdiction of the Authority and such functions amongst other things shall include to—

(i) ensure that the use of radiation and atomic energy is safe for the radiation workers, the members of the public and the environment;

(ii) report to that Government release of radiation or radioactive material exceeding specified limits from facilities under its jurisdiction into any area falling within the jurisdiction of the Authority.

(3) The Central Government may, by notification, specify that the provisions of this Act shall, subject to such modifications or conditions or adaptation as it may specify, apply to such regulatory bodies.

Power of
Authority to
give
directions to
owner of
radioactive
material, etc.
Administration
of Factories
Act, 1948.
63 of 1948.
Delegation of
powers.
Establishment
of regulatory
bodies.
63 of 1948.

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26. (1) Save as otherwise provided in this Act, the regulatory bodies referred to in sub-section (2) of section 25 shall not disclose to any person the information relating to the activities falling under their jurisdiction.

(2) No Chairperson or Member or officer or other employees or consultant or expert shall, either during his employment with such regulatory bodies or after cessation of such employment, disclose any confidential information relating to activities falling under the jurisdiction of regulatory bodies.

27. Notwithstanding anything contained in this Act or any other law for the time being in force, the Central Government may, for the purposes of national defence and security, by order, exempt any area, nuclear material, radioactive material, nuclear facility or plant from jurisdiction of the Authority or other regulatory bodies under this Act and carry out those functions itself in relation thereto, which, but for such exemption, would have been carried out by the Authority or other regulatory bodies under this Act.

CHAPTER VII

GRANT OF CONSENT

28. (1) Every person shall, for carrying out any activity falling under the jurisdiction of the Authority relating to production, storage, disposal, transport (within and outside India), transfer by sale or otherwise, import, export and use of any nuclear material, radioactive material or any other substance, or equipment used for production, or use of radiation or atomic energy, obtain the consent of the Authority and for that purpose, submit an application in such form and manner, along with such fee and accompanied by such documents and information as may be specified by the regulations.

(2) On receipt of the application under sub-section (1), the Authority shall undertake

an evaluation of the application based on the practices and requirements of codes and standards developed by it.

(3) The Authority, on completion of evaluation under sub-section (2), shall—

(a) if it is of the opinion that the activity for which the consent has been sought fulfils all the requirements for the grant of consent, it may, by an order in writing, grant consent for such period and with or without condition for such activity;

(b) if it is of the opinion that the activity for which consent has been sought does not fulfil all the requirements for the grant of consent, it may, by an order in writing, refuse to grant consent;

(c) if the Authority has reasonable grounds to believe that the person may not comply with the conditions which may be imposed under clause (a) in respect of the consent, it may by an order in writing, refuse to grant consent for the proposed activity.

(4) Where the Authority refuses to grant the consent referred to in clause (c) of sub-section (3), it shall record the reasons for such decision and furnish a copy thereof to the applicant.

29. (1) The Authority may cancel consent granted under section 28 on any one or more of the following grounds, namely:—

(a) the grantee of consent has violated any of the terms and conditions of consent; or

(b) the grantee of consent has violated any provision of this Act; or

(c) the grantee of consent has, subsequent to the grant of consent, been convicted by a court in India for any offence under this Act; or

Prohibition
of disclosure
of
information.

Power of
Central
Government
to carry out
certain
functions
itself.

Procedure for
grant of
consent for
carrying out
activities
related to
nuclear
material, etc.

Suspension
and
cancellation
of consent.

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(d) the consent has been obtained on misrepresentation, or suppression of any material fact.

(2) Where the Authority, for reasons to be recorded in writing, is satisfied that, pending the consideration of question of cancelling consent on any of the grounds mentioned in sub-section (1) it is necessary so to do, it may, by order in writing, suspend the consent so granted and require the grantee to show cause, within fifteen days from the date of receipt of such order, as to why the consent should not be cancelled.

30. Every person who has been granted consent shall be responsible for safety and physical security of radiation and nuclear facility and radioactive and nuclear material

contained therein.

31. (1) Where the Authority considers it expedient so to do, it may by order in writing,—

(a) call upon any owner or any person in charge of or managing director, director, secretary or other officer of radiation or nuclear facility at any time to furnish in writing such information or explanation relating to its activities as the Authority may require to carry out its functions under this Act; or

(b) appoint one or more persons to make an inquiry in relation to the affairs of any radiation or nuclear facility; and

(c) direct any of its officers or employees to inspect the books or other documents of any radiation or nuclear facility.

(2) Where any inquiry in relation to the affairs of any person referred to in clause (a) of sub-section (1) has been undertaken under that sub-section,—

(a) every owner or managing director or director, manager, secretary or other officer, if such person referred to in clause (a) of sub-section (1) is a company; or

(b) every partner, manager, secretary or other officer, if such person referred to in clause (a) of sub-section (1) is a firm; or

(c) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a) and (b) of subsection (1),

shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subjectmatter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him within such time as may be specified.

(3) Every person referred to in clause (a) of sub-section (1) shall maintain such records or other documents as may be prescribed.

32. The Authority may, for the purpose of discharge of its functions under this Act issue such directions, to the persons who have been granted consent under this Act, as it may consider necessary.

33. (1) The Authority or any other officer specially authorised by it in this behalf may carry out such inspection or inquiry as may be necessary, enter any building or place where the Authority has reason to believe that any document or object relating to the subject matter of the inquiry may be found, and may seize any such document or object subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 in so far as they may be applicable.

Responsibilities
of grantee of
consent.

Power of
Authority to
call for
information,
conduct
investigations,
etc.

Power of
Authority to
issue certain
directions.

Powers of
inspection,
search and
seizure.

2 of 1974.

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(2) For the purpose of sub-section (1), the Authority shall have power of access to—

(a) premises and places, vehicle, vessel or aircraft where radiation is present or used or proposed to be used; and

(b) documents, drawings, photographs, plans, models or any other form which relates to or represents or illustrates any existing or proposed plant, used or proposed to be used for the purpose of producing, developing or using atomic energy or radiation.

34. (1) Any person aggrieved by an order made by the Authority under sections 28 and 29 may file an application to the Authority for review of that order within a period of thirty days from the date of such order:

Provided that the Authority may entertain such application after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that notwithstanding the filing of an application under this section, the aggrieved person shall abide by the order in question, unless it has been stayed by a subsequent order of the Authority in writing.

(2) Every application for review under sub-section (1) shall clearly state the ground or grounds on which a review is sought.

(3) An application for review filed before the Authority shall be heard and disposed of as expeditiously as possible and endeavour shall be made to finally dispose of the application within a period of ninety days from the date of its filing.

CHAPTER VIII

APPEAL

35. (1) The Council shall, as and when required, constitute, by notification, an Appellate Authority for the purpose of this Act, to hear appeals from any order or decision passed by the Authority under section 28 or section 29 or under sub-section (3) of section 34, as the case may be.

(2) The Appellate Authority constituted under sub-section (1) shall consist of a Chairperson and not more than two Members to be appointed by notification, by the Council.

(3) The selection of the Chairperson and Members of the Appellate Authority shall be made by the Council in consultation with the Chief Justice of India or his nominee.

(4) A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Authority unless he—

(a) in the case of Chairperson, is, or has been, a Judge of the Supreme Court, or the Chief Justice of a High Court;

(b) in the case of a Member, is an eminent scientist and has held the post of Secretary to the Government of India or any equivalent post in the Department of the Central Government in the Ministries or Departments or an institution administered by that Government dealing with science and technology.

(5) The Central Government or any person aggrieved by an order referred to in sub-section (1) may file an appeal before the Appellate Authority within a period of thirty days from the date of such order:

Provided that the Authority may entertain such appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal within that period.

Review of
order of
Authority.
Appellate
Authority.

(6) The appeal shall be filed in such manner and accompanied by such fees as may be prescribed.

(7) Every appeal shall be heard and disposed of as expeditiously as possible, within a period of ninety days from the date of its filing.

CHAPTER IX

FINANCE, ACCOUNTS AND AUDIT

36. The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same to the Central Government.

37. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to be paid.

38. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

(3) The Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights, privileges and Authority in connection with such audit, as the Comptroller and Auditor-General of India generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

39. (1) The Authority shall furnish to the Central Government, at such time and in such form and the manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may, from time to time, require.

(2) The Authority shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER X

OFFENCES AND PANALTIES

40. Whoever—

(a) discloses any information prohibited under section 26; or

(b) contravenes any condition subject to which a consent is granted under section 28; or

(c) contravenes any order made under section 31; or

Budget.

Grants by

Central

Government.

Annual

statement of

accounts.

Furnishing of

returns, etc.,

to Central

Government.

Offences and

penalties.

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(d) obstruct any person authorised by the Authority under section 33 in the exercise of the powers under that section; or

(e) contravenes any rule or regulation made under this Act or any requirement, prohibition or restriction imposed under any such rule or regulation; or

(f) fails to comply with any direction, order or decision of the Authority or other regulatory bodies under this Act,

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

41. (1) Where an offence under this Act has been committed by 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 had 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 or employees of the company such director, manager, secretary or other officer or employees shall also be deemed to be guilty of the 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 or any other juridical person; and

(b) “director” means a whole-time director in the company and in relation to a firm, means a partner in the firm.

CHAPTER XI

MISCELLANEOUS

42. (1) The Central Government may, from time to time, issue to the Authority or other regulatory bodies, such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in the public interest.

(2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this section.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

43. The Chairperson, Members, Secretary, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Offences by
companies,
etc.

Directions by
Central
Government.

Members,
officers and
employees of
Authority to
be public

servants.

45 of 1860.

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44. No civil court shall have jurisdiction in respect of any matter which the Authority or other regulatory bodies are empowered by or under this Act to determine.

45. Every Chairperson, Member, adviser, consultant, Secretary, officer or any other employee of the Authority or other regulatory bodies shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule.

46. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any Member, officer or other employees thereof for anything which is in good faith done or intended to be done under this Act or the rules and regulations made thereunder.

47. No court inferior to the Chief Judicial Magistrate shall take cognizance of an offence punishable under this Act, except upon a complaint in writing made by—

(i) the Authority or any officer of the Authority duly authorised by it where the offence relates to an act falling within the jurisdiction of the Authority;

(ii) the Central Government or any officer of that Government duly authorised by it in respect of any other offence.

48. (1) If, at any time, the Central Government is of opinion—

(a) that the Authority has acted in a manner inconsistent with the provisions of this Act or rules and regulations made thereunder; or

(b) that on account of circumstances beyond the control of the Authority, it is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(c) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default, the financial position of the Authority has suffered or the administration of any radiation or nuclear installation has deteriorated; or

(d) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable opportunity to the Authority to show cause as to why it should not be superseded, and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-section (3), be exercised and discharged by the Central Government or such authority or person as the Central Government may specify in this behalf;

Bar of

jurisdiction.

Obligations as

to fidelity and

secrecy.

Protection of

action taken

in good faith.
Cognizance
of offence.
Power of
Central
Government
to supersede
Authority.

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(c) all properties owned or controlled by the Authority shall, until it is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) re-constitute the Authority by fresh appointment and in such case the Chairperson and other Members who vacated their offices under clause (a) of subsection (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

49. (1) The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

(2) Nothing in this Act shall affect the provisions of the Atomic Energy Act, 1962 and save and except as otherwise provided, the provisions of this Act shall be in addition to and not in derogation of that Act.

50. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions 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 salaries and allowances payable to and the other terms and conditions of service of Chairperson and Members under sub-section (3) of section 11;

(b) the financial and administrative powers to be exercised by the Chairperson under section 12;

(c) the manner of maintaining books of account and other documents under sub-section (3) of section 31;

(d) the manner and fees for filing appeal under sub-section (6) of section 35;

(e) the form and time for preparing the budget under section 36;

(f) the form for annual statement of accounts under section 38;

(g) the form and manner of furnishing returns under sub-section (1) of section 39;

(h) the form and time for preparing the annual report under sub-section (2) of section 39;

(i) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

51. (1) The Authority may, by notification in the Official Gazette, and with the previous approval of the Central Government, make regulations, not inconsistent with this Act, and the rules made thereunder, to carry out the provisions of this Act.

Application
of other laws
not barred.

Power to
make rules.
Power to
make
regulations.
33 of 1962.

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(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the time, place, procedure for transaction of business and the quorum of the Authority under sub-section (1) of section 15;

(b) the salaries, allowances and pensions payable to, and other terms and conditions of service of the officers and other employees of the Authority under sub-section (2) of section 17;

(c) the requisite qualifications and training required to persons under clause (h) of sub-section (2) of section 20;

(d) the requirement of approval to, or the licensing of, persons under clause (i) of sub-section (2) of section 20;

(e) levy of fee for issue, modification and renewal of consent under clause (l) of sub-section (2) of section 20;

(f) the form and manner of application for consent, the fee and documents and information to accompany it under sub-section (1) of section 28;

(g) any other matter which is required to be, or may be, specified by regulations.

52. Every rule and every regulation 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 regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 regulation.

53. The enactments specified in the Second Schedule to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Authority.

54. (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 may appear to it to be necessary for removing the difficulty:

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

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

Rules and
regulations to
be laid before
Parliament.
Amendment
of certain
enactments.
Power to
remove
difficulties.

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THE FIRST SCHEDULE

(See section 45)

I,....., do hereby declare that I will faithfully, truly and to the best of my skill and ability, execute and perform the duties required of me as the Chairperson, Member, or officer or other employee of the Authority which properly relate to the office or position held by me in relation to the Nuclear Safety Regulatory Authority.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Authority or to the affairs of any person having any dealing with the said Authority, nor will I allow any such person to inspect or have access to any books or documents belonging to or in possession of the said Authority and relating to the business of the said Authority or the business of any person having any dealing with the said Authority.

(Signature)

Signed before me

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THE SECOND SCHEDULE

(See section 53)

PART I

AMENDMENTS TO THE ATOMIC ENERGY ACT, 1962

(33 OF 1962)

1. For section 16, the following section shall be substituted, namely:—

“16. The Central Government may, subject to such rules as may be made in this behalf and by order, prohibit the manufacture, possession, transfer by sale or otherwise, export or import of any radioactive material, except under a licence granted by it.”.

2. In section 17, the following proviso shall be inserted, namely:—

“Provided that nothing contained in this section shall apply on or after the commencement of the Nuclear Safety Regulatory Authority Act, 2011.”.

3. In section 23, the following proviso shall be inserted, namely:—

“Provided that nothing contained in this section shall apply on or after the commencement of the Nuclear Safety Regulatory Authority Act, 2011.”.

4. In section 26, in sub-section (1), in clause (a), for the words and figures “section 8, 14 or 17”, the words and figures “section 8 or 14” shall be substituted.

5. In section 30,—

(a) in sub-section (2), in clause (i), the words “use or disposal” shall be omitted;

(b) in clause (j), the following proviso shall be inserted, namely:—

“Provided that nothing contained in this clause shall apply on or after the commencement of the Nuclear Safety Regulatory Authority Act, 2011.”.

PART II

AMENDMENTS TO THE RIGHT TO INFORMATION ACT, 2005

(22 OF 2005)

1. In section 8, in sub-section (1), after clause (c), the following clause shall be inserted, namely:—

“(ca) information referred to in clause (c) of sub-section (2) of section 20 of the Nuclear Safety Regulatory Authority Act, 2011”.

2. In the Second Schedule, after item 7, the following item shall be inserted, namely:—

“7A. The Regulatory Bodies established under sub-section (2) of section 25 of the Nuclear Safety Regulatory Authority Act, 2011.”.

PART III

AMENDMENT TO THE DISASTER MANAGEMENT ACT, 2005

(53 OF 2005)

In section 6, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The National Authority, while laying down the policies, plans and guidelines for disaster management for ensuring timely and effective response to disaster, shall have due

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Substitution
of new
section for
section 16.
Control over
radioactive
material.

Amendment
of section 17.

Amendment
of section 23.

Amendment
of section 26.

Amendment
of section 30.

Amendment
of section 8.

Amendment
of Second
Schedule.

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regard to the safety requirements laid down and regulations made by the Nuclear Safety Regulatory Authority under the Nuclear Safety Regulatory Authority Act, 2011 and coordinate with such Authority in the case of a disaster resulting from a nuclear incident notified under section 3 of the Civil Liability for Nuclear Damage Act, 2010.”.

PART IV

AMENDMENT TO THE CIVIL LIABILITY FOR NUCLEAR DAMAGE ACT, 2010

(38 OF 2010)

For section 3, the following section shall be substituted, namely:—

“3. (1) The Nuclear Safety Regulatory Authority established under the Nuclear Safety Regulatory Authority Act, 2011 shall, within a period of fifteen days from the date of occurrence of a nuclear incident, notify such nuclear incident:

Provided that where the Nuclear Safety Regulatory Authority is satisfied that the gravity of threat and risk involved in a nuclear incident is insignificant, it shall not be required to notify such nuclear incident.

(2) The Nuclear Safety Regulatory Authority shall, immediately after the notification under sub-section (1) is issued, cause wide publicity to be given to the occurrence of such nuclear incident, in such manner as it may deem fit.”.

38 of 2010.

Nuclear
Safety
Regulatory
Authority to
notify nuclear
incident.

Substitution
of new
section for
section 3.

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STATEMENT OF OBJECTS AND REASONS

The Atomic Energy Act, 1962 was enacted, after repealing the Atomic Energy Act, 1948, to provide for a legal framework for the development, control and use of atomic energy for the welfare of the people of India and for other peaceful purposes.

2. The Atomic Energy Regulatory Board was constituted by a notification issued under the Atomic Energy Act, 1962 to carry out certain regulatory and safety functions for

administering nuclear and radiation safety in the facilities under its jurisdiction. The said Board is also vested with powers for regulating radiation safety in radiation facilities relating to medicine, industry and research and for enforcement of the Factories Act, 1948 in respect of installations under its jurisdiction. The said Board has functional independence and reports to the Atomic Energy Commission.

3. The Fukushima incident in Japan has led to worldwide concerns and apprehension on safety issues relating to nuclear power. The Government of India attaches highest importance to nuclear safety and considers it expedient to establish statutory regulatory bodies to further strengthen regulation of radiation and nuclear safety in the country. Hon'ble Prime Minister has made a statement on the floor of the Lok Sabha on 14th March, 2011 and assured that India's nuclear safety regulatory framework would be strengthened.

4. It is, therefore, considered necessary to establish a legal framework for regulation of radiation safety and nuclear safety to achieve highest standards of such safety based on scientific approach, operating experience and best practices followed by nuclear industry and to ensure that the use of radiation and atomic energy in all its applications is safe for the health of the radiation workers, members of the public and the environment.

5. The Bill, *inter alia*, seeks—

(a) to provide for the establishment of the Council of Nuclear Safety to oversee and review the policies with respect to radiation safety, nuclear safety and other matters;

(b) to provide for the establishment of the Nuclear Safety Regulatory Authority to ensure that the use of radiation and atomic energy is safe for the health of the radiation workers, members of the public and the environment;

(c) to provide for the establishment of other regulatory bodies for the purpose of national defence and security;

(d) to prohibit certain activities without the consent of the Nuclear Safety Regulatory Authority and provide for the procedure for grant of consent to persons carrying out the activities falling under the jurisdiction of such Authority;

(e) to provide for the suspension and cancellation of consent by the Nuclear Safety Regulatory Authority and also for review of orders passed by it;

(f) to empower the Council of Nuclear Safety to constitute an Appellate Authority with Chairperson who is a Judge of the Supreme Court or Chief Justice of a High Court and two other Members who are eminent scientists in the field of nuclear or atomic energy;

(g) to enable the Central Government or any person aggrieved by the order of the Nuclear Safety Regulatory Authority to file an appeal to the Appellate Authority;

(h) to provide for the offences and penalties for contraventions of the provisions of the Act;

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(i) to empower the Central Government to supersede the Nuclear Safety Regulatory Authority under the circumstances specified in the Act;

(j) to provide for certain amendments in the Atomic Energy Act, 1962; the Right to Information Act, 2005; the Disaster Management Act, 2005; and the Civil Liability for Nuclear Damage Act, 2010.

6. The Bill seeks to achieve the above objects.

7. The Notes on Clauses explains the various provisions contained in the Bill.

NEW DELHI;

The 5th September, 2011. V. NARAYANASAMY.

Notes on clauses

Clause 1.— This clause, *inter alia*, seeks to extend the provisions of the Bill to the whole of India.

Clause 2.— This clause defines various expressions used in the Bill.

Clause 3.— This clause provides that the Act not to prejudice national sovereignty, etc. Sub-clause (1) of the said clause provides that nothing in the Act shall be construed as to require or permit any person to do or to refrain from doing anything which the Central Government may declare to be prejudicial to the national defence and security. Sub-clause (2) of the said clause provides that a declaration so made shall be conclusive and not be

called in question before any court of law.

Clause 4.— This clause provides for prohibition of certain activities without consent. The said clause prohibits carrying out of any activity related to nuclear material, etc., falling within the jurisdiction of the Nuclear Safety Regulatory Authority without obtaining its written consent. Further, it explains the expression ‘activity’.

Clause 5. — This clause provides for establishment of Council of Nuclear Safety. The said clause empowers the Central Government to establish a ‘Council of Nuclear Safety’ consisting of Prime Minister as its Chairperson and the Union Ministers for Environment and Forests, External Affairs, Health and Family Welfare, Home Affairs, Science and Technology, any other Union Minister to be nominated by Central Government, the Cabinet Secretary, the Chairman, Atomic Energy Commission, as its *ex officio* Members and such number of eminent experts as may be nominated by the Central Government also as its Members.

Clause 6.— This clause provides for meetings of Council. The said clause provides that the Council shall meet at such places and intervals as may be necessary and to regulate its own procedure for its meetings.

Clause 7.— This clause provides for powers and functions of Council. The said clause provides that the Council shall oversee and review the policies with respect to radiation safety, nuclear safety and other matters connected therewith or incidental thereto and for this purpose, it shall have a Secretary to assist it.

Clause 8.— This clause provides for establishment of Nuclear Safety Regulatory Authority. The sub-clause (1) of the said clause empowers the Central Government to establish an Authority to be called as the Nuclear Safety Regulatory Authority to exercise the powers conferred on and perform the functions assigned to it by or under the Act. The explanation to it clarifies that notwithstanding anything contained in section 7, the Authority shall be autonomous in the exercise of its powers and functions under the Act. Sub-clause (2) of the said clause provides that the Authority shall be a body corporate. Sub-clause (3) of the said clause provides that the head office of the said Authority shall be at such places as the Central Government may notify. Sub-clause (4) of the said clause provides that the Authority may, with the prior approval of the Central Government, establish its offices at such other places as may be considered necessary.

Clause 9.— This clause provides for composition of Nuclear Safety Regulatory Authority. Sub-clause (1) of the said clause provides that the Authority shall consist of a Chairperson, two whole-time Members and part-time Members not exceeding four to be appointed by the Central Government on the recommendations of the Search Committees constituted for the purpose.

Sub-clause (2) of the said clause provides that a person shall not be qualified for appointment as Chairperson of the Authority unless he is an Indian citizen and of outstanding ability, impeccable integrity and standing and having distinguished professional record and

24
25

experience of at least twenty-five years in Government, industry, academic institutions or national laboratories and is an expert in one or more disciplines or areas of nuclear science and technology, nuclear safety and regulation, operation and design of nuclear power plants and fuel cycle facilities, radiation safety, nuclear medicine, radiation therapy, radiation applications, industrial and chemical plant safety, earth science, environmental science and engineering, power plant engineering or materials science and engineering or such other discipline or areas which may in the opinion of the Central Government be relevant.

Sub-clause (3) of the said Act provides that a person shall not be qualified for appointment as Member of the Authority unless he is a citizen of India and of outstanding ability, impeccable integrity and standing and having distinguished professional record and experience of at least twenty years in Government, industry, academic institutions or national laboratories and is an expert in one or more disciplines or areas of nuclear science and technology, nuclear safety and regulation, operation and design of nuclear power plants and fuel cycle facilities, radiation safety, nuclear medicine, radiation therapy, radiation applications, industrial and chemical plant safety, earth science, environmental science and engineering, power plant engineering or materials science and engineering or such other discipline or areas which may in the opinion of the Central Government, be relevant.

Clause 10.— This clause provides for constitution of Search Committees. Sub-clause

(1) of the said clause empowers the Council to Constitute a Search Committee for the selection of Chairperson and another Search Committee for the selection of Members of the Authority. However, the said clause provides that the Chairperson and members of the such committees shall be amongst persons of eminence having knowledge and experience in the field of science, engineering and technology and that the Chairperson of the Authority shall be a Member of the Search Committee constituted for the appointment of Members. Sub-clause (2) of the said clause provides that the Central Government shall, within a period of three months from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or completion of the term of the Chairperson or Member, make a reference to the Search Committee for filling up the vacancy. Sub-clause (3) of the said clause provides that no appointment of the Chairperson or Member shall be invalid merely by the reason of any vacancy in the Search Committees. Sub-clause (4) of the said clause provides that the term of the Search Committees and the manner of search of panel of names for making recommendations for appointment of Chairperson or Member shall be such as may be specified by the Council. Sub-clause (5) of the said clause provides that the Search Committee shall regulate its own procedure. Sub-clause (6) of the said clause provides that before appointing any person as the Chairperson or Member of the Authority, the Central Government shall satisfy itself that such person does not have any financial or other interest as is likely to affect prejudicially his functions.

Clause 11.— This clause provides for the term of office and other conditions of service of Chairperson and Members. Sub-clause (1) of the said clause provides that the Chairperson and Members of the Authority shall hold office for a term of three years from the date on which they enter upon their offices and shall be eligible for reappointment for a further period of three years. However, the Chairperson shall not hold office as such after he has attained age of seventy years and a whole-time Member shall not hold office as such after he has attained the age of sixty-five years.

Sub-clause (2) of the said clause provides that any person holding any office (whether as an employee or an officer or a director or managing director or secretary or manager or in any other capacity) under the Central Government or State Government or in a company (including an Government company referred to in section 617 of the Companies Act, 1956) or in any other institution, organization, society or university or Board shall on his selection as the Chairperson or a whole-time Member be required to seek retirement or resign from the services of such Central or State Government or company or institution or organisation or society or University or Board, as the case may be, before accepting the employment as such Chairperson or as the case may be, the Member.

26

Sub-clause (3) of the said clause provides that the salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and Members shall be as such as may be prescribed. However, the salary, allowances and other terms and conditions of service of the Chairperson or a Member shall not be varied to his disadvantage after his appointment. Subclause (4) of the said clause provides that the Chairperson or Member may relinquish his office by giving in writing to the Central Government a notice of not less than three months or be removed from his office in accordance with provisions of section 14 of the Act.

Clause 12.— This clause provides for the financial and administrative powers of Chairperson. The said clause provides that the Chairperson shall be the Chief Executive Officer of the Authority and shall exercise such financial and administrative powers as may be prescribed. However, the Chairperson shall have authority to delegate financial and administrative powers to any whole-time Member or an officer of the authority subject to the condition that such Member or officer shall while exercising such delegated powers continue to act under the direction, control and supervision of the Chairperson.

Clause 13.— This clause provides for certain restrictions on Chairperson or Members of the Authority on their employment after cessation of office.

Clause 14.— This clause provides for removal of Chairperson and Members. The said clause provides that the Central Government may, by order, remove from office the Chairperson or any Member of the Authority under the circumstances specified therein.

Clause 15.— This clause provides for meeting of Authority. The said clause provides that the Authority shall meet at such times and places, and observe such rules of procedure

in regard to the transaction of business at its meetings (including quorum at such meeting) as may be specified by regulations.

Clause 16.— This clause provides for vacancies, etc., not to invalidate proceedings of Authority. The said clause provides that no act or proceeding of the Authority shall be invalidated merely by reason of any vacancy in or any defect in the constitution of the Authority or any defect in the appointment of a person as a Member of the Authority or any irregularity in the procedure of the Authority not affecting the merits of the case.

Clause 17.— This clause provides for appointment of Secretary and such other number of other officers, employees, consultants or experts as the Authority considers necessary for the efficient discharge of its functions and exercise of its powers under the Act. However, no appointment of officers or employees shall be made unless prior written approval of the Central Government has been obtained by the Authority for creation of posts therefor. However no appointment of officers or employees shall be made unless prior written approval of the Central Government has been obtained by the Authority for creation of posts therefor. Sub-clause (2) of this clause provides that the salaries, allowances and pensions payable to, and other terms and conditions of service of the officers, other employees of the Authority shall be such as may be specified by the regulations.

Clause 18.— This clause provides for transfer of assets, liabilities, etc., of the Atomic Energy Regulatory Board and saving of its actions, etc. The said clause provides that the said Board shall stand dissolved on establishment of the Nuclear Safety Regulatory Authority and that all sums of money due to the Board immediately before that date shall be deemed to be due to the Authority and that all suits and other legal proceedings instituted or which could have been instituted by or against the Board may be continued or may be instituted by or against the Authority.

Sub-clause (2) of this clause provides that the Chairman and Members of the Board shall be transferred as such to function as Chairperson and Members under the Act and be deemed to be the Chairperson and Members of the Authority under the Act until the Chairperson and Members of the Authority are appointed in accordance with the provisions of the Act.

Sub-clause (3) of this clause provides that every officer and employee holding a post in Board shall hold the post in the Authority by the same tenure, and upon the same terms

27

and conditions of service including remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such post as if the Act had not been passed and shall continue to do so as an officer or employee of the Authority for a period of three years unless he within three years opts not to be an employee of the Authority or until his tenure, remuneration or other terms and conditions of service are altered by the regulations.

Sub-clause (4) of this clause provides that every person who opts not to be an employee of the Authority shall be governed by the rules and orders as are applicable to the Central Government officers and employees of equivalent rank. Sub-clause (5) of this clause provides that the tenure, remuneration and other terms and conditions of service including pension of any employee of the Authority shall not be altered to his disadvantage without the previous approval of the Central Government. Sub-clause (6) of this clause provides that after the dissolution of the Board such of the functions and powers of Board as are vested in the Authority shall be carried out by the Authority after such dissolution.

Clause 19.— This clause provides for jurisdiction of Authority. The said clause provides that save as otherwise provided in sections 25 and 27, the jurisdiction of the Authority shall extend to all areas to which this Act is applicable and activities relating to production, development or use of atomic energy and radiation in all its applications, or transport (within India or outside India), transfer by sale or otherwise, import, export or storage or disposal of nuclear and radioactive material.

Clause 20.— This clause provides for functions of Authority. Sub-section (1) of this clause provides that the Authority shall, subject to the provisions of this Act and the rules and regulations made thereunder, take measures, within its jurisdiction, to ensure that the use of radiation and atomic energy is safe for the health of the radiation workers, members of the public and the environment. *Explanation* to this sub-clause clarifies that the functions of the Authority shall be confined only to ensure the radiation safety and nuclear safety during activities relating to production, storage, disposal, transport, transfer by sale or

otherwise, import, export and use of any nuclear material, radioactive material or any other substance or equipment, and physical security of nuclear material, radioactive material, and radiation and nuclear facilities and in no case shall extend to the functions or any other matter which the Central Government is required to discharge under the Atomic Energy Act, 1962.

Sub-clause (2) of this clause provides that the Authority shall also carry out other functions which *inter alia* includes (a) devise and implement policies and programmes for radiation safety and nuclear safety to ensure that use of atomic energy or radiation in all its applications is safe for, the health of radiation workers and members of public, and the environment; (b) ensure high quality of safety management at all places where nuclear and radiation related activities are carried out; (c) ensure transparency by systematic public outreach on matters relating to nuclear safety without disclosing sensitive information and compromising confidentiality of commercially sensitive information of technology holders. Further, it explains the expression “sensitive information” to mean information pertaining to (i) physical security of nuclear material and facilities, or (ii) reprocessing of spent fuel, enrichment of fissile material or heavy water production technologies; (iii) any information under section 26 which has been accessed by the Authority or has come to its knowledge or made available to it in the discharge of its functions; (d) strive to be a knowledge organisation with state of the art scientific capabilities in the domain of its responsibilities, arrange for and conduct research in areas relevant to its functions and develop linkages with technical support organisations. (e) interact with other bodies and international organisations engaged in activities relevant to the functions of the Authority including nuclear and radiation safety, physical security of nuclear material and facilities, transportation of nuclear and radioactive materials and nuclear and radiation safety and regulation. However, provided that the Authority shall not interact with such bodies and international organizations outside India without the prior approval of the Central Government; (f) advise the Central Government with respect to – (i) safety of public and the environment; (ii) measures to implement and

28

co-ordinate a nationwide programme for environmental surveillance to check any harmful build up of radioactivity in the environment; (iii) measures to ensure establishment and maintenance of appropriate mechanisms and plans for preparedness in response to nuclear and radiation emergencies; (g) notify the limits of radiation exposure to radiation workers and the members of the public; (h) specify by regulations, the requisite qualification, the training required to the persons for employment at premises or places where at any activity relating to production, storage, disposal, transport and use of any nuclear material, radioactive material or any other substance or equipment used for production, or use of atomic energy is carried out, and specify hours of work, minimum leave and requirements of periodical medical examination of such employees; (i) specify by regulations the requirement of approval to, or licensing of, the persons referred to in clause (h); (j) establish an appropriate regulatory mechanism which shall provide for issue of consents, monitoring of compliances, inspections and enforcement; (k) develop and notify the standards and codes, and develop and publish other supporting documents for safety in design, siting, construction, commissioning, operation, quality assurance, decommissioning, storage, transportation and other activities related to plants, facilities, nuclear and radioactive wastes, radiation sources and radioactive materials; (l) issue, renew, modify, suspend and revoke consents with specified conditions for conduct of any activity which come under its jurisdiction for the production, storage, disposal, transport (within and outside India), transfer by sale or otherwise, import, export and use of any nuclear material, radioactive material or any other substance, or equipment used for production, or use of atomic energy; (m) levy fee, by regulation, for issue, modification and renewal of consents; (n) take such measures as to enforce compliance of the provisions of the Act by the holder of the consent; (o) notify measures for physical security within the area of main plant boundary, physical protection of nuclear and radioactive materials under storage as well as transport (within and outside India), and nuclear and radiation facilities; (p) engage with the consent of Head of concerned bodies, the institutions, laboratories, agencies, technical support organisations, industries, individual experts and professionals of integrity and outstanding ability, who have expertise in scientific, technical, sociological, legal and such other disciplines related to nuclear, radiation and industrial safety to assist the Authority in the discharge of its functions; (q) discharge its functions and powers in a

manner consistent with the international obligations of India; (r) apprise, from time to time, the National Disaster Management Authority established under section 3 of the Disaster Management Act, 2005 regarding nuclear safety and radiation safety measures and management of disaster arising from nuclear incident notified under section 3 of the Civil Liability for Nuclear Damage Act, 2010 and coordinate with the said Authority in the case of such disaster; (s) notify nuclear incident as required by section 3 of the Civil Liability for Nuclear Damage Act, 2010.

Sub-clause (3) of this clause provides that the Authority may, for reasons to be recorded in writing, exempt, by notification, subject to such conditions as may be specified by it in the notification, any radioactive material, any class or classes of radioactive material or any radiation generating plant from the applicability of any of the provisions of the safety related regulations or orders issued under this Act.

Clause 21.— This clause provides for Authority to Act in interest of sovereignty and integrity of India. The said clause provides that the Authority while discharging its powers and functions, shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

Clause 22.—This clause provides for power of Authority to give directions to owner of radioactive material, etc. The said clause empowers the Authority to direct any owner or holder of the consent or any person dealing with radioactive material, radiation source or facility to hand it over to the Central Government if in the opinion of the Authority, continuation of such material or facility under the control of its owner or the holder of the consent or any such person is detrimental to the safety and physical security of such material or facility or has a potential to be detrimental to the safety of public or the environment. It also provides that the Authority may advise the Central Government to take control of the radioactive material or radiation source if owner thereof cannot be identified.

29

Clause 23.— This clause provides for administration of Factories Act, 1948. The said clause provides that notwithstanding anything contained in the Factories Act, 1948, the Authority and other regulatory bodies shall, subject to the rules made under the Act, administer the Factories Act, 1948, and do all things for the enforcement of its provisions, including the appointment of inspecting staff, in any factory engaged in the development, production and use of radiation and atomic energy, or any facility engaged in research and development activities related to radiation or atomic energy, and owned or administered by the Central Government or any other authority or corporation established by it or a Government company under the jurisdiction of the Authority or the regulatory bodies, as the case may be. It further provides that no authority under the Factories Act, 1948 shall have jurisdiction in respect of the above functions.

Clause 24.—This clause provides for delegation of powers. The said clause provides that the Authority may delegate to the Chairperson or any Member or officer of the Authority or a State Government or such officer or authority subordinate to the State Government such of its powers and functions under the Act (except the power to make regulations under section 51), as it may deem necessary.

Clause 25.—This clause provides for establishment of regulatory bodies. Sub-clause (1) of the said clause provides that the Central Government may, for the purposes of national defence and security, exempt any nuclear material, radioactive material, facilities, premises and activities, the premises, assets and areas associated with material and activities from the jurisdiction of the Authority.

Sub-clause (2) of this clause provides that the Central Government may, for the purposes of regulating the material, facilities, activities referred to in clause (a) or premises, assets and areas referred to in clause (b) of sub-section (1), by order, in writing establish one or more regulatory bodies and demarcate responsibility thereof to discharge one or more of the functions in respect thereof which otherwise before such exemption were within the jurisdiction of the Authority and such functions amongst other things shall include to (i) ensure that the use of radiation and atomic energy is safe for the radiation workers, the members of the public and the environment; (ii) report to that Government release of radiation or radioactive material exceeding specified limits from facilities under its jurisdiction into any area falling within the jurisdiction of the Authority.

Sub-clause (3) of this clause provides that the Central Government may specify that

the provisions of the Act shall subject to such modifications or conditions or adaptation as it may specify, apply to such regulatory bodies.

Clause 26.—This clause provides for prohibition of disclosure of information. Subclause (1) of this clause provides that save as otherwise provided in the Act, the regulatory bodies established under sub-section (2) of section 25 of the Act shall not disclose to any person the information relating to the activities falling under their jurisdiction. Sub-clause (2) of this clause provides that no Chairperson or Member or officer or other employees or consultant or expert shall, either during his employment with such regulatory bodies or after cessation of such employment, disclose any confidential information relating to activities falling under the jurisdiction of regulatory bodies.

Clause 27.—This clause provides for power of Central Government to carry out certain functions itself. The said clause provides that notwithstanding anything contained in this Act or any other law for the time being in force, the Central Government may for the purpose of national defence and security by order exempt any area, nuclear material, radioactive material, nuclear facility or plant from jurisdiction of the Authority or other regulatory bodies under the Act and carry out those functions itself in relation thereto which but for such exemption would have been carried out by the Authority or other regulatory bodies under the Act.

Clause 28.—This clause provides procedure for grant of consent for carrying out activities related to nuclear material, etc. Sub-clause (1) of this clause provides that every 30

person shall, for carrying out activity falling under the jurisdiction of the Authority relating to production, storage, disposal, transport (within and outside India), transfer by sale or otherwise, import, export and use of any nuclear material, radioactive material or any other substance, or equipment, etc., obtain the consent of the Authority and for that purpose submit an application in the prescribed form and manner along with such fee and accompanied by such documents and information as may be specified by regulations. This clause also provides the procedure for grant or refusal of consent.

Clause 29.—This clause provides for suspension and cancellation of consent. This clause provides the grounds and procedure for revocation of consent granted under section 28 of the Act. It also stipulates that where the Authority is satisfied that pending the consideration of question of cancelling consent, it may suspend the consent and require the grantee to show-cause as to why the consent should not be cancelled.

Clause 30.—This clause provides for responsibilities of grantee of consent. The said clause provides that every person who has been granted consent shall be responsible for safety and physical security of radiation and nuclear facility and radioactive and nuclear material contained therein.

Clause 31.—This clause provides for power of Authority to call for information, conduct investigation, etc. Sub-clause (1) of the said clause provides that where the Authority considers it expedient so to do, it may by order in writing, (a) call upon any owner or any person in charge of or managing director, director, secretary or other officer of radiation or nuclear facility at any time to furnish in writing such information or explanation relating to its activities as the Authority may require to carry out its functions under this Act; or (b) appoint one or more persons to make an inquiry in relation to the affairs of any radiation or nuclear facility; and (c) direct any of its officers or employees to inspect the books or other documents of any radiation or nuclear facility.

Sub-clause (2) of the said clause provided that where any inquiry in relation to the affairs of any person referred to in clause (a) of sub-section (1) has been undertaken under that sub-section, (a) every owner or managing director or director, manager, secretary or other officer, if such person referred to in clause (a) of sub-section (1) is a company; or (b) every partner, manager, secretary or other officer, if such person referred to in clause (a) of sub-section (1) is a firm; or (c) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a) and (b) of sub-section (1), shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him within such time as may be specified. Sub-clause (3) of the said clause provides that every person

referred to in clause (a) of sub-section (1) shall maintain such records or other documents as may be prescribed.

Clause 32.—This clause provides for power of Authority to issue certain directions. The said clause provides that the Authority may, for the purpose of discharge of its functions under this Act, issue directions to the persons who have been granted consent under the Act, as it may consider necessary.

Clause 33.—This clause provides for powers of inspection, search and seizure. Subclause (1) of this clause provides that the Authority or any other officer specially authorised by it in this behalf may carry out such inspection or inquiry as may be necessary, enter any building or place where the Authority has reason to believe that any document or object relating to the subject matter of the inquiry may be found, and may seize any such document or object subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 in so far as they may be applicable.

31

Sub-clause (2) of this clause provides that the Authority shall have power of access to premises and places, vehicle, vessel or aircraft where radiation is present or used or proposed to be used; and documents, drawings, photographs, plans, models or any other form which relates to or represents or illustrates any existing or proposed plant, used or proposed to be used for the purpose of producing, developing or using atomic energy or radiation.

Clause 34.—This clause provides for review of order of Authority. The said clause provides that any person aggrieved by an order made by the Authority under sections 28 and 29 may file an application to the Authority for review of that order within a period of thirty days from the date of such order. However, the Authority may entertain such application after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period. Further, notwithstanding the filing of an application under this section, the aggrieved person shall abide by the order in question, unless it has been stayed by a subsequent order of the Authority in writing.

Sub-clause (2) of the said clause provides that every application for review under subsection (1) shall clearly state the ground or grounds on which a review is sought.

Sub-clause (3) of the said clause provides that an application for review filed before the Authority shall be heard and disposed of as expeditiously as possible and endeavour shall be made to finally dispose of the application within a period of ninety days from the date of its filing.

Clause 35.—This clause provides for Appellate Authority. Sub-clause (1) of this clause provides that the Council of Nuclear Safety shall, as and when required, constitute by notification, an Appellate Authority to hear appeals from any order or decision passed by the Authority under section 28 or 29 or under sub-section (3) of section 34 as the case may be.

Sub-clause (2) of this clause provides that the Appellate Authority shall consist of a Chairperson and not more than two Members. Sub-clause (3) of this clause provides that the selection of the Chairperson and Members of the Appellate Authority shall be made by the Council in consultation with the Chief Justice of India or his nominee.

Sub-clause (4) of this clause provides that a person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Authority unless he in the case of Chairperson is or has been a judge of the Supreme Court or the Chief Justice of a High Court and in case of a Member, is an eminent scientist and has held the post of Secretary to the Government of India or any equivalent post in the Department of the Central Government in the Ministries or Departments or an institution administered by that Government dealing with science and technology.

Sub-clause (5) of this clause provides that the Central Government or any person aggrieved by an order referred to in sub-section (1) may file an appeal before the Appellate Authority within a period of thirty days from the date of such order. However, the Authority may entertain such appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal within that period. Sub-clause (6) of this clause provides for the manner of filing appeal and the fees. Sub-clause (7) thereof provides that every appeal shall be heard and disposed of as expeditiously as possible within a period of ninety days from the date its filing.

Clause 36.—This clause provides for budget. The said clause provides that the Authority shall prepare budget in each financial year for the next financial year showing the

estimated receipts and expenditure of the Authority and forward the same to the Central Government.

Clause 37.—This clause provides for grants by Central Government. The said clause provides that the Central Government may after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to be paid.

32

Clause 38.—This clause provides for annual statement of accounts. Sub-clause (1) of the said clause provides that the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. Sub-clause (2) of the said clause provides that the accounts of the Authority shall be audited by him at such intervals as may be specified by him.

Sub-clause (3) of the said clause provides that the Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights, privileges and Authority in connection with such audit, as the Comptroller and Auditor-General of India generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority. Sub-clause (4) of the said clause provides that the accounts of the Authority, as certified by Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

Clause 39.—This clause provides for furnishing of returns, etc., to the Central Government. Sub-clause (1) of the said clause provides that the Authority shall furnish to the Central Government, at such time and in such form and the manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may, from time to time, require. Sub-clause (2) of the said clause provides that the Authority shall also prepare once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government. Sub-clause (3) of the said clause provides that a copy of the report shall be laid by the Central Government before each House of Parliament.

Clause 40.—This clause provides for offences and penalties. The said clause provides that whoever discloses any information prohibited under section 26, contravenes any condition subject to which a consent is granted under section 28, contravenes any order made under section 31, obstructs any person authorised by the Authority under section 33 in the exercise of the powers under that section, contravenes any rule or regulation made under the Act or any requirement, prohibition or restriction imposed under any such rule or regulation or fails to comply with any direction, order or decision of the Authority or other regulatory bodies under the Act, shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

Clause 41.—This clause provides for offences by companies. Sub-clause (1) of the said clause provides that where an offence under the Act has been committed by 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. However, nothing contained in the section shall render any such person 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. Sub-clause (2) of the said clause provides that notwithstanding anything contained in sub-clause (1), where an offence under the Act has been committed with the consent or connivance of, or attributable to any neglect on the part of, any director, manager, secretary or other officer or employees shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. The explanation to the clause clarifies and explains the terms ‘company’ and ‘director’.

Clause 42.—This clause provides for directions by Central Government. Sub-clause (1) of the said clause provides that the Central Government may, from time to time, issue to the Authority or other regulatory bodies, such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in public interest.

Sub-clause (2) of the said clause provides that without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time. However, the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this section. Sub-clause (3) of the said clause provides that the decision of the Central Government whether a question is one of policy or not shall be final.

Clause 43.—This clause provides for Members, officers and employees of Authority to be public servants. It provides that the Chairperson, Members, Secretary, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of the Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 44.—This clause provides for bar of jurisdiction. The said clause provides that no civil court shall have jurisdiction in respect of any matter which the Authority or other regulatory bodies are empowered by or under the Act to determine.

Clause 45.—This clause provides for obligations as to fidelity and secrecy. The said clause provides that every Chairperson, Member, adviser, consultant, Secretary, officer or any other employee of the Authority or other regulatory bodies shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule.

Clause 46.—This clause provides for protection of action taken in good faith. It provides that no suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any Member, officer or other employees thereof for anything which is in good faith done or intended to be done under the Act or the rules and regulations made thereunder.

Clause 47.—This clause provides for cognizance of offence. The said clause provides that no Court inferior to the Chief Judicial Magistrate shall take cognizance of an offence under the Act except upon a complaint in writing made by the Authority or any officer of the Authority duly authorised by it where the offence relates to an act falling within the jurisdiction of the Authority or the Central Government or any officer of that Government duly authorised by it in respect of any other offence.

Clause 48.—This clause provides for power of Central Government to supersede Authority. Sub-clause (1) of the said clause provides that the Central Government may, by notification, supersede the authority for such period not exceeding six months, extendable for a further term not exceeding six months, in certain circumstances such as (a) that the Authority has acted in a manner inconsistent with the provisions of this Act or rules and regulations made thereunder; or (b) that on account of circumstances beyond the control of the Authority, it is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or (c) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default, the financial position of the Authority has suffered or the administration of any radiation or nuclear installation has deteriorated; or (d) that circumstances exist which render it necessary in the public interest so to do. However, only after giving reasonable

34

opportunity to the Authority to show cause as to why it should not be superseded and considering explanations and objections, if any of the Authority.

Sub-clause (2) of the said clause provides that on supersession of the Authority, the Chairperson and other Members shall vacate their offices and all powers, functions and duties of the Authority be exercised and discharged by the Central Government or such authority or persons as the Central Government may specify in this behalf.

It also provides that all properties owned or controlled by the Authority shall, until it

is reconstituted, vest in the Central Government.

Sub-clause (3) of the said clause provides that on the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may (a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or (b) re-constitute the Authority by fresh appointment and in such case the Chairperson and other Members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment. However, the Central Government may, at any time before the expiration of the period of supersession, whether as specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

Sub-clause (4) of the said clause provides that the Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Clause 49.—This clause provides that application of other laws not barred. The said clause provides that the Act shall be in addition to and not in derogation of, the provisions of any other law for the time being in force. It further states that nothing in the Act shall affect the provisions of the Atomic Energy Act, 1962 and save and except as otherwise provided, the provision of the Act shall be in addition to and not in derogation of that Act.

Clause 50.—This clause confers upon the Central Government the power to make rules for carrying out the provisions of the Act. Sub-clause (2) of this clause enumerates the various matters in respect of which such rules may be made the matters specified in the said clause.

Clause 51.—This clause confers upon the Authority the power to make regulations consistent with the Act and the rules made thereunder to carry out the provisions of the Act. Sub-clause (2) of this clause enumerates the various matters in respect of which such regulations may be made by the Authority.

Clause 52.—This clause provides that every rule and regulations made under the Act shall be laid before each House of Parliament.

Clause 53.—This clause provides for amendment to certain enactments. It provides that the specified in the Second Schedule to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Authority.

Clause 54.—This clause provides for power to remove difficulties. The said clause provides that if any difficulty arises in giving effect to the provisions of the Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of the Act, as appear to it to be necessary for removing the difficulty. However, no such order can be made under this section after expiry of three years from the date of commencement of the Act. It further provides that every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament. The First Schedule to the Bill sets out the form of making declaration of fidelity and secrecy.

35

Part-I of the Second Schedule provides for amendments to the Atomic Energy Act, 1962, Part-II thereof provides for amendments to the Right to Information Act, 2005, Part-III thereof provides for amendments to the Disaster Management Act, 2005 and Part-IV thereof provides for amendment to the Civil Liability for Nuclear Damage Act, 2010.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 8 of the Bill provides for the establishment of an Authority to be called the Nuclear Safety Regulatory Authority by the Central Government. Sub-clause (3) thereof provides that the head office of the Authority shall be at such place as the Central Government may consider necessary. Sub-clause (4) thereof enables the Authority to establish, with prior approval of the Central Government, its offices at such other places as may be considered necessary.

2. Sub-clause (1) of clause 9 of the Bill provides that the Authority shall consist of a Chairperson, two whole-time Members and part-time Members not exceeding four to be appointed by the Central Government. Sub-clause (3) of clause 11 of the Bill provides that the Chairperson and Members of the Authority shall be entitled to such salary and allowances and other terms and conditions of service as may be specified by rules made by the Central

Government.

3. Sub-clause (1) of clause 17 provides that the Authority may appoint a Secretary and such number of other officers, employees, consultants or experts as it considers necessary for the efficient discharge of its functions and exercise of its powers. Sub-clause (2) thereof provides that the salaries, allowances and pensions payable to and other terms and conditions of service of the officers and other employees of the Authority shall be such as may be specified by regulations.

4. Clause 18 of the Bill provides that on and from the establishment of the Authority, the existing Atomic Energy Regulatory Board shall stand dissolved and the Chairman and Members of the said Board shall stand transferred to the Authority to function as its Chairperson and Members until the Chairperson and Members of the Authority are appointed in accordance with the provisions of the Bill. Further, sub-clause (3) thereof provides that on and from the date of commencement of the Act, every officer and employee holding a post in the Atomic Energy Regulatory Board before that date shall hold the post in the Authority by the same tenure and upon the same terms and conditions of service for a period of three years from the date of the commencement of this Act. Therefore, there may not be any immediate significant increase in the financial implication on constitution of the Authority or in the near future.

5. Sub-clause (2) of clause 25 of the Bill provides that the Central Government may, by an order in writing, establish one or more regulatory bodies.

6. Sub-clause (1) of clause 35 of the Bill empowers the Council to constitute an Appellate Authority to hear appeals. Sub-clause (2) thereof provides that the Appellate Authority shall consist of a Chairperson and not more than two Members.

7. Clause 37 of the Bill provides that the Central Government may, after due appropriation made by Parliament by law in this behalf make to the Authority grants of such sums of money as are required to be paid.

8. It is estimated that during the financial year 2012-2013 a sum of rupees thirty-seven crores may be required for the establishment of the Authority. In addition, it is estimated that during the Twelfth Plan, a sum of rupees one hundred and sixty-four crores may be required for expanding and strengthening the activities of the Authority. The said expenditure will be borne out of the usual budget grants of the Department of Atomic Energy.

9. It is not practicable to make an exact estimate of the expenditure both recurring and non-recurring at this stage as the exact structure of the Council, other regulatory bodies and the Appellate Authority would emerge later.

36

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 51 of the Bill confers power upon the Central Government to make rules for carrying out the provisions of the Act. The matters in respect of which such rules may be made relate *inter alia* to (a) the salaries and allowances payable to and the other terms and conditions of service of Chairperson and Members under sub-section (3) of section 11; (b) the financial and administrative powers to be exercised by the Chairperson under section 12; (c) the manner of maintaining books of account and other documents under subsection (3) of section 31; (d) the manner and fees for filing appeal under sub-section (6) of section 35; (e) the form and time for preparing the budget under section 36; (f) the form for annual statement of accounts under section 38; (g) the form and manner of furnishing returns under sub-section (1) of section 39; (h) the form and time for preparing the annual report under sub-section (2) of section 39; (i) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

2. Clause 52 of the Bill confers power upon the Nuclear Safety Regulatory Authority to make, with the previous approval of the Central Government, regulations consistent with the Act and the rules made thereunder to carry out the provisions of the Act. The matters in respect of which such regulations may be made relate *inter alia* to (a) the time, place, procedure for transaction of business and the quorum of the Authority under sub-section (1) of section 15; (b) the salaries, allowances and pensions payable to, and other terms and conditions of service of the officers and other employees of the Authority under subsection (2) of section 17; (c) the requisite qualifications and training required to persons under clause (h) of sub-section (2) of section 20; (d) the requirement of approval to, or the licensing of, persons under clause (i) of sub-section (2) of section 20; (e) levy of fee for

issue, modification and renewal of consent under clause (l) of sub-section (2) of section 20; (f) the form and manner of application for consent, the fee and documents and information to accompany it under sub-section (1) of section 28; and (g) any other matter which is required to be, or may be, specified by regulations.

3. The rules made by the Central Government and the regulations made by the Nuclear Safety Regulatory Authority shall be laid as soon as may be, after they are made, before each House of Parliament.

4. The matters in respect of which rules and regulations may be made or notification issued are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself.

5. The delegation of legislative power is, therefore, of a normal character.

37

ANNEXURE

EXTRACTS FROM THE ATOMIC ENERGY ACT, 1962

(33 OF 1962)

* * * * *

16. The Central Government may prohibit the manufacture, possession, use, transfer by sale or otherwise, export and import and in an emergency, transport and disposal, of any radioactive substances without its written consent.

* * * * *

26. (1) All offences under this Act shall be cognizable under the Code of Criminal Procedure, 1898, but no action shall be taken in respect of any person for any offence under this Act except on the basis of a written complaint made—

(a) in respect of contravention of section 8, 14 or 17 or any rule or order made thereunder, by the person authorised to exercise powers of entry and inspection;

* * * * *

30. (1) * * * * *

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

* * * * *

(i) regulating the manufacture, custody, transport, transfer, sale, export, import, use or disposal of any radioactive substance;

* * * * *

EXTRACT FROM THE CIVIL LIABILITY FOR NUCLEAR DAMAGE ACT, 2010

(38 OF 2010)

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CHAPTER II

LIABILITY FOR NUCLEAR DAMAGE

3. (1) The Atomic Energy Regulatory Board constituted under the Atomic Energy Act, 1962 shall, within a period of fifteen days from the date of occurrence of a nuclear incident, notify such nuclear incident:

Provided that where the Atomic Energy Regulatory Board is satisfied that the gravity of threat and risk involved in a nuclear incident is insignificant, it shall not be required to notify such nuclear incident.

(2) The Atomic energy Regulatory Board shall, immediately after the notification under sub-section (1) is issued, cause wide publicity to be given to the occurrence of such nuclear incident, in such manner as it may deem fit.

* * * * *

5 of 1898.

Power to
make rules
Atomic
Energy
Regulatory
Board to
notify
nuclear
incident.

33 of 1962.

Control over

radioactive
substances.
Cognizance
of offences.

38

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to establish an Authority and such other regulatory bodies for regulation of radiation safety or nuclear safety and achieving highest standards of such safety based on scientific approach, operating experience and best practices followed by nuclear industry and to ensure that the use of radiation and atomic energy in all its applications is safe for the health of the radiation workers, members of the public and the environment and also to establish a Council of Nuclear Safety to oversee and review the policies relating to radiation safety and nuclear safety and to provide for matters connected therewith or incidental thereto.

*(Shri V. Narayanasamy, Minister of State in the Ministry of Personnel,
Public Grievances and Pension)*
GMGIPMRND—1813LS—05-09-2011.
