



## Committee on Subordinate Legislation Report Summary

### Civil Liability for Nuclear Damage Rules, 2011

- The Committee on Subordinate Legislation submitted its 27<sup>th</sup> Report on Civil Liability for Nuclear Damage Rules, 2011. The Report prepared under the chairmanship of Mr. P. Karunakaran was laid before the Lok Sabha on August 28, 2012.
- The Rules were notified under the Civil Liability for Nuclear Damage Act, 2010. The Act imposes a no-fault limited liability on the operator of a nuclear facility for nuclear damage. It secures the operator the right to recourse in certain circumstances. It also provides for establishment of a Commission to disburse compensation amongst victims.
- The Act provides that the operator or a nuclear facility may seek recourse from the supplier of nuclear material or equipment use in the facility in certain circumstances. The Rules provide that such recourse may be sought during the longer of the two time frames: the product liability period, or initial licence period (five years). The Committee observed that the enactment did not impose limitations on the period during which recourse may be sought. It recommended that the limitation should be removed.
- The Act does not specify the amount of recourse that may be sought by the operator against the supplier. The Rules state that a contract for supply of nuclear material shall at least provide recourse equal to the lesser of the two amounts: (i) value of the contract; (ii) or the operator's liability. The Committee was of the view that the Rules diluted the stringent liability imposed under the Act. It observed that provisions in the Rules should not be inconsistent with the substantial provisions of the Act. Rules should not contain any limitations or excesses which are not contemplated under the Act.
- The Act provides that a claim for compensation can be filed by the victims within 10 years in case of damage to property and 20 years in case of personal injury. The final determination of a claim by the higher judiciary may therefore take more than 20 years for final disposal. The Committee noted that both the Act and the Rules did not clarify if the operator could seek recourse against the supplier irrespective of the time limit, if the recourse available is not exhausted.
- The Committee noted that the term 'supplier', used in section 17 of the Act (relating to the right to recourse), was defined not in the Act, but in the Rules. It observed that terms used in enactments should be defined in the enactment. In providing definitions in the Rules the executive exceeded the authority delegated by the parliament. The Committee recommended that the DAE amend the Act to define 'supplier'.
- The Act provides that the Claims Commissioner is required to adjudicate compensation claims within three months of their receipt. The Committee noted that judicial review of the determination on the claim could be sought before the High Court or the Supreme Court. The Committee observed that in case the award is appealed, the amount should be granted as an interim relief. It should be disbursed pending the verdict of the court. The Committee recommended that an enabling provision should be introduced in the Act as well.
- The Act provides that occurrence of nuclear incidents have to be notified by the Atomic Energy Regulatory Board within 15 days. The Board has to widely publish the incident immediately after such notification. The Committee accepted that such time period was allowed as the processes involved were technical and complex. However, it noted that such issues should be dealt with in the shortest possible time "on war footing".
- The Rules define the term 'legal representative'. However, the Rules provide that applications for compensation may be made by the 'representatives' of the deceased. The Committee noted that there should be uniformity in terms used in Rules as they carried legal meaning. It recommended that the term 'representative' be replaced by 'legal representative' in the relevant Rule.
- The Committee noted that the Rules did not address the terms and conditions of service of Claims Commission Chairperson and members. The Act specified that the law in this regard would be specified in the Rules. The Committee recommended that Rules for the terms and conditions of service should be notified shortly.
- The Committee also noted that there was delay in notifying the Rules under the Act. It observed that Rules are required to be notified within six months of commencement of an enactment. The Committee was of the view that the drafting of the Rules should have been initiated along with drafting of the Bill. The delay in drafting the Rules delayed the enforcement of the Act by 13 months.

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