

TO BE INTRODUCED IN LOK SABHA

Bill No. 38 of 2010

THE PETROLEUM AND MINERALS PIPELINES (ACQUISITION OF
RIGHT OF USER IN LAND) AMENDMENT BILL, 2010

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BILL

further to amend the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962.

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

1. (1) This Act may be called the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Amendment Act, 2010.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of new section for sections 15 and 16. Penalty.

2. For sections 15 and 16 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962. the following sections shall be substituted, namely:—

50 of 1962.

"15. (1) Whoever wilfully obstructs any person in doing any of the acts authorised by section 4 or section 7 or section 8 or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4 or wilfully does any act prohibited under section 9, shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) Whoever makes or causes to make any unauthorised connection with or removes, destroys, damages or displaces any pipeline laid under section 7, or inserts any device to extract petroleum product or minerals from such pipeline, or disrupts supplies being made through the pipeline, shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.

(3) If any person convicted of an offence under sub-section (2) is again convicted of an offence under the same provision, he shall be punishable with rigorous imprisonment for the second and for every subsequent offence for a term which shall not be less than three years but which may extend to ten years:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three years.

(4) Whoever, with the intent to cause or knowing that he is likely to cause damage to or destruction of any pipeline laid under section 7, causes by fire, explosive substance or otherwise damage to the pipeline being used for transportation of petroleum products, crude oil and gas with the intent to commit sabotage or with the knowledge that such act is so imminently dangerous that it may in all probability cause death of a person or such bodily injury likely to cause death of any person, shall be punishable with rigorous imprisonment which shall not be less than ten years but may extend to imprisonment for life or death.

Certain offences to be cognizable.

16. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence falling under sub-sections (2), (3) and (4) of section 15 shall be deemed to be cognizable and non-bailable within the meaning of that Code.

2 of 1974.

Conferment of powers of investigation, etc.

16A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, for the purposes of this Act, the Central Government may, by notification in the Official Gazette, confer on any officer of the Central Government, powers of arrest, investigation and prosecution exercisable by a police officer under that Code.

2 of 1974.

(2) All officers of police and all officers of Government are hereby required and empowered to assist the officer of the Central Government referred to in sub-section (1), in the execution of the provisions of this Act.

Burden of proof in certain cases.

16B. Where any petroleum product together with all tools, vehicles and all items used in committing any such offence under sub-section (2) or sub-section (4) of section 15 are seized under this Act in the reasonable belief that such petroleum products have been stolen from the pipeline laid under section 7, the burden of proving that they are not stolen property shall be, in case where such seizure is made from the possession of any person,—

(i) on the person from whose possession the property was seized, and

(ii) on the person who claims to be the owner thereof, if any person other than the person from whose possession the stolen property was seized.

16C. When any proceeding taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any petroleum product is the property of the corporation, the Court shall presume, unless the contrary is shown, that such petroleum product belongs to the corporation.

Presumption regarding property.

2 of 1974.

16D. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless—

Provisions as to bail.

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

2 of 1974.

(2) The limitations on granting of bail specified in sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.

2 of 1974.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973.

2 of 1974.

16E. Nothing in section 438 of the Code of Criminal Procedure, 1973 shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under sub-section (2) or sub-section (4) of section 15.”.

Section 438 of the Code of Criminal Procedure, 1973 not to apply.

ANNEXURE

EXTRACTS FROM THE PETROLEUM AND MINERALS PIPELINES (ACQUISITION OF RIGHT OF USER IN LAND) ACT, 1962

(50 OF 1962)

* * * * *

Penalty.

15. (1) Whoever wilfully obstructs any person in doing any of the acts authorised by section 4 or section 7 or section 8 or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4 or wilfully does any act prohibited under section 9, shall be punishable with imprisonment which may extend to six months or with fine or with both.

(2) Whoever wilfully removes, displaces, damages or destroy any pipeline laid under section 7, shall be punishable with rigorous imprisonment for a term which shall not be less than one year, but which may extend to three years and shall also be liable to fine.

Certain offence to be cognizable.

16. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence falling under sub-section (2) of section 15 shall be deemed to be cognizable within the meaning of that Code.

5 of 1898.

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STATEMENT OF OBJECTS AND REASONS

The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 was enacted to provide for the acquisition of right of user in land for laying pipelines for the transport of petroleum and minerals and for matters connected therewith.

2. Since the enactment of the aforesaid Act, several underground pipelines have been laid across the country carrying crude oil, petroleum products and gas. The network of such pipelines has grown in a big way. Despite regular patrolling and inspection of the pipelines, large number of incidents of pilferage and sabotage of pipelines by anti-social elements are taking place frequently. As the crude petroleum and its products are hazardous material, their pilferage and spillage from such pipelines have serious consequences.

3. To curb the incidents of pilferage from, and sabotage of, pipelines and also to serve as deterrence to the emerging security threats to the pipeline installations, including those from extremists and terrorists, more stringent punishment is required to be provided for in the aforesaid Act.

4. Sections 15 and 16 of the aforesaid Act, which lay down the provisions to deal with the cases of pilferage from, or sabotage of, pipelines, do not provide for sufficient deterrence to criminals from committing the offence of pilferage or sabotage. Sub-section (2) of section 15 provides that whoever wilfully removes, displaces, damages or destroys any pipeline, shall be punishable with rigorous imprisonment for a term which shall not be less than one year, but which may extend to three years and shall also be liable to fine. Section 16 provides that offence under sub-section (2) of section 15 shall be deemed to be cognizable under the Code of Criminal Procedure, 1973.

5. It is proposed to substitute the said sub-section (2) of section 15 of the aforesaid Act and insert sub-sections (3) and (4) in that section, *inter alia*, to provide that—

(a) whoever makes or causes to make any unauthorized connection with, or removes, destroys, damages or displaces any pipeline or inserts any device to extract petroleum or its products or minerals from such pipeline or disrupts supplies being made through the pipeline, shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine;

(b) a person, who is convicted of an offence under sub-section (2), commits the offence again under that sub-section shall be punishable with rigorous imprisonment for a term which shall not be less than three years and may extend to ten years for the second or subsequent offence;

(c) whoever, with the intent to cause or knowing that he is likely to cause damage to or destruction of any pipeline, causes by fire, explosive substance or otherwise damage to, or destruction of, any pipeline being used for transportation of crude oil/petroleum product/gas with the intent to commit sabotage or with the knowledge that such act is so imminently dangerous that it may in all probability cause death of a person or such bodily injury likely to cause death of any person, shall be punishable with rigorous imprisonment which shall not be less than ten years and may extend to imprisonment for life or death.

6. It is further proposed to amend section 16 of the aforesaid Act to make the offences under sub-sections (2), (3) and (4) of section 15 of the said Act to be cognizable and non-bailable.

7. It is also proposed to insert new sections 16A, 16B, 16C and 16D in the aforesaid Act, *inter alia*, to provide that—

(a) the Central Government may, notwithstanding anything contained in the Code of Criminal Procedure, 1973, confer on any of its officers the powers of arrest, investigation and prosecution exercisable by a police officer and all the officers of police and the Government shall assist the officers of the Central Government in execution of the provisions of the said Act;

(b) when any petroleum product together with all tools, vehicles and all items used in committing any offence under sub-section (2) or sub-section (4) of the aforesaid section 15 are seized in the reasonable belief that the petroleum products have been stolen from the pipeline, the burden is on the person from whose possession the petroleum products (crude oil/petroleum product/gas) together with the tools, vehicles, etc., used in committing the crime are seized or who claims to be owner thereof, to prove that he is not guilty;

(c) if any question arises, in any proceedings taken under this Act, or in consequence of anything done under this Act, as to whether any petroleum product is the property of the corporation, such property shall be presumed to be the property of the corporation until the contrary is proved;

(d) no person accused or convicted of an offence punishable under the said Act, shall be released on bail or on his own bond unless the prosecution has been given an opportunity to oppose the application for such release;

(e) section 438 of the Code of Criminal Procedure, 1973, relating to the grant of bail to person apprehending arrest, shall not apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under sub-section (2) or sub-section (4) of section 15 of the said Act.

8. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 9th March, 2010.

MURLI DEORA

LOK SABHA

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BILL

further to amend the Petroleum and Minerals Pipelines (Acquisition of Right of User
in Land) Act, 1962.

(Shri Murli Deora, Minister of Petroleum and Natural Gas)