

TO BE INTRODUCED IN LOK SABHA

AS INTRODUCED IN LOK SABHA

Bill No. 76 of 2011

THE NUCLEAR SAFETY REGULATORY AUTHORITY BILL, 2011

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THE SECOND SCHEDULE.

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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

- 5 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.

(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.

Definitions.

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; 5

(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; 10

(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; 15

(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; 20

(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. 25 33 of 1962.

Act not to prejudice national sovereignty, etc.

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. 30

(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

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. 35

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. 40

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 —

Establishment of Council of Nuclear Safety.

- 5 (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;
- 10 (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;
- 15 (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.

Meetings of Council.

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.

Powers and functions of Council.

CHAPTER IV

ESTABLISHMENT OF NUCLEAR SAFETY REGULATORY AUTHORITY

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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.

Establishment of Authority.

30 *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.

35 (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.**

40 9. (1) **The Authority shall consist of—**

Composition of Authority.

- (i) a Chairperson;
- (ii) two whole-time Members; and
- (iii) part-time Members not exceeding four,

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

(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.

Constitution
of Search
Committees.

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.

Term of
office and
other
conditions of
service of
Chairperson
and Members.

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.

1 of 1956. (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.

10 (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.

15 (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.

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

Financial and administrative powers of Chairperson.

25 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,—

Restriction on Chairperson or Members on employment after cessation of office.

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

30 (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,—

35 (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

40 (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

45 (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.

(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.

Removal of
Chairperson
and Members.

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.

Meetings of
Authority.

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.

Vacancies,
etc., not to
invalidate
proceedings
of Authority.

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.

Secretary and
other officers
and
employees of
Authority.

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.

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;

5 (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.

15 (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.

25 (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.

35 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.

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

Jurisdiction of Authority.

CHAPTER V

POWERS AND FUNCTIONS OF THE AUTHORITY

40 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.

Functions of Authority.

45 *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,

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. 33 of 1962.

(2) Without prejudice to the generality of foregoing provisions, and the measures referred to in sub-section (1), the Authority shall — 5

(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; 10

(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. 15

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; 20

(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; 25

(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: 30

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; 35

(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; 40

(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 45

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;

5 (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;

10 (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;

15 (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;

20 (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;

25 (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;

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

53 of 2005. (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;

38 of 2010. 35 (s) notify nuclear incident as required by section 3 of the Civil Liability for Nuclear Damage Act, 2010.

38 of 2010.

40 (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.

45 **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.

Power of Authority to give directions to owner of radioactive material, etc.

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.

Administration of Factories Act, 1948.

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).

Delegation of powers.

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

Establishment of 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.

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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.

Prohibition of disclosure of information.

(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.

Power of Central Government to carry out certain functions itself.

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.

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

(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:—

Suspension and cancellation of consent.

(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

(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.

Responsibilities of grantee of consent.

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.

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

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 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.

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

Power of Authority to issue certain directions.

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.

Powers of inspection, search and seizure.

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.

(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

5 (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.

10 **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:

Review of
order of
Authority.

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:

15 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.

20 (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

25 **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.

Appellate
Authority.

30 (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—

35 (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.

40 (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:

45 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.

(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

5

FINANCE, ACCOUNTS AND AUDIT

Budget.

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.

Grants by
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.

10

Annual
statement of
accounts.

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.

15

(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.

20

(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.

25

Furnishing of
returns, etc.,
to Central
Government.

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.

30

(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.

35

(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

Offences and
penalties.

40. Whoever—

40

(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

(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

5 (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.

10 **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:

Offences by companies, etc.

15 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.

20 (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—

25 (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

30 **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.

Directions by Central Government.

35 (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.

40 (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.

Members, officers and employees of Authority to be public servants.

Bar of jurisdiction.	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.	
Obligations as to fidelity and secrecy.	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.	5
Protection of action taken in good faith.	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.	
Cognizance of offence.	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—	10
	(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.	15
Power of Central Government to supersede Authority.	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	20
	(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	25
	(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:	30
	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,—	35
	(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;	40

(c) all properties owned or controlled by the Authority shall, until it is re-constituted 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,—

5 (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:

10 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.

15 (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.

Application of other laws not barred.

33 of 1962. (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.

20

50. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(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:—

25 (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;

30 (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;

35 (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.

40 **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.

Power to make regulations.

(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; 5

(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; 10

(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; 15

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

Rules and regulations to be laid before Parliament.

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. 20 25

Amendment of certain enactments.

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.

Power to remove difficulties.

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: 30

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. 35

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
5 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
10 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

THE SECOND SCHEDULE

(See section 53)

PART I

AMENDMENTS TO THE ATOMIC ENERGY ACT, 1962

(33 OF 1962)

5

Substitution
of new
section for
section 16.

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

Control over
radioactive
material.

“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.”.

Amendment
of section 17.

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

10

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

Amendment
of section 23.

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.”.

15

Amendment
of section 26.

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.

Amendment
of section 30.

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:—

20

“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)

25

Amendment
of section 8.

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”.

Amendment
of Second
Schedule.

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

30

“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)

35

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

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.”.

38 of 2010.

5

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:—

10 “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.

15 (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.”.

Substitution of new section for section 3.

Nuclear Safety Regulatory Authority to notify nuclear incident.

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;

(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

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.

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. Sub-clause (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

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

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 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. 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.

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. Sub-clause (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

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. Sub-clause (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.

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 sub-section (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.

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

opportunity to the Authority to showcause 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.

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.

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 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.

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 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; 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.

ANNEXURE

EXTRACTS FROM THE ATOMIC ENERGY ACT, 1962

(33 OF 1962)

* * * * *

Control over radioactive substances.

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.

* * * * *

Cognizance of offences.

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—

5 of 1898.

(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;

* * * * *

Power to make rules

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;

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EXTRACT FROM THE CIVIL LIABILITY FOR NUCLEAR DAMAGE ACT, 2010

(38 OF 2010)

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CHAPTER II

LIABILITY FOR NUCLEAR DAMAGE

Atomic Energy Regulatory Board to notify nuclear incident.

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:

33 of 1962.

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.

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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)*