

The Civil Liability for Nuclear Damage Act, 2010

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Source: *India Code*

It is an Act to provide for civil liability for nuclear damage and prompt compensation to the victims of a nuclear incident through a no-fault liability regime channelling liability to the operator, appointment of Claims Commissioner, the establishment of Nuclear Damage Claims Commission

Key features

Application of the Act

It applies to nuclear damage suffered–

- **In or over the maritime areas beyond the territorial waters of India**
- In or over the exclusive economic zone of India
- Onboard or by a ship registered in India under section 22 of the Merchant Shipping Act, 1958 (44 of 1958)
- Onboard or by an aircraft registered in India under clause (d) of sub-section (2) of section 5 of the Aircraft Act, 1934
- On or by an artificial island, installation or structure under the jurisdiction of India.
- It applies to the nuclear installation owned or controlled by the Central Government either by itself or through any authority or corporation established by it or a Government company

Liability for Nuclear Damage

Atomic Energy Regulatory Board to notify nuclear incident.–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- in that nuclear installation or

Liability of operator

The operator of the nuclear installation shall be liable for nuclear damage caused by a nuclear incident or involving nuclear material coming from, or originating in, that nuclear installation

Operator not liable in certain circumstances

1. An operator shall not be liable for any nuclear damage where such damage is caused by a nuclear incident directly due to- (i) a grave natural disaster of an exceptional character; or (ii) an act of armed conflict, hostility, civil war, insurrection or terrorism.
2. An operator shall not be liable for any nuclear damage caused to- (i) the nuclear installation itself and any other nuclear installation including a nuclear installation under construction, on the site where such installation is located; and (ii) to any property on the same site which is used or to be used in connection with any such installation; or (iii) to the means of transport upon which the nuclear material involved was carried at the time of nuclear incident
3. Where any nuclear damage is suffered by a person on account of his own negligence or from his own acts of commission or omission, the operator shall not be liable to such person

Limits of liability

1. The maximum amount of liability in respect of each nuclear incident shall be the rupee equivalent of three hundred million Special Drawing Rights or such higher amount as the Central Government may specify by

notification

2. The liability of an operator for each nuclear incident shall be—

- In respect of nuclear reactors having thermal power equal to or above ten MW, rupees one thousand five hundred crores
- In respect of spent fuel reprocessing plants, rupees three hundred crores
- In respect of the research reactors having thermal power below ten MW, fuel cycle facilities other than spent fuel reprocessing plants and transportation of nuclear materials, rupees one hundred crores

Liability of Central Government

The Central Government shall be liable for nuclear damage in respect of a nuclear incident

- Where the liability exceeds the amount of liability of an operator
- Occurring in a nuclear installation owned by it

Operator to maintain insurance or financial securities.

The operator shall, before he begins operation of his nuclear installation, take out an insurance policy or such other financial security or combination of both

Compensation for Nuclear damage and its adjudication

- Whoever suffers nuclear damage shall be entitled to claim compensation in accordance with the provisions of this Act.
- For the purposes of adjudicating upon claims for compensation in respect of nuclear damage, the Central Government shall, by notification, appoint one or more Claims Commissioners for such area, as may be specified in that notification.

Nuclear Damage Claims Commission

Establishment of Nuclear Damage Claims Commission—Where the Central Government, having regard to the injury or damage caused by a nuclear incident, is of the opinion that it is expedient in public interest that such claims for such damage be adjudicated by the Commission instead of a Claims Commissioner, it may, by notification, establish a Commission for the purpose of this Act. 20.

Composition of Commission

- The Commission shall consist of a Chairperson and such other Members, not exceeding six, as the Central Government may, by notification, appoint.
- A person shall not be qualified for appointment as the Chairperson of the Commission unless he has attained the age of fifty-five years and is or has been or qualified to be a Judge of a High Court