

Act No. XXIX of 1948

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[PASSED BY THE DOMINION LEGISLATURE]

for the development and control of atomic energy and for purposes connected therewith

(Received the assent of the Governor General on the 15th April 1948.)

WHEREAS it is expedient to provide for the development and control of atomic energy and for purposes connected therewith;

It is hereby enacted as follows:—

1. Short title and extent.—(1) This Act may be called the Atomic Energy Act, 1948.

(2) It extends to ^{whole} all the Provinces of India ~~except the state of Jammu and Kashmir~~

2. Declaration as to expediency of Central Government's control.—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of—

(a) any industry connected with the production or use of atomic energy, and

(b) any mineral which is or may be used for the production or use of atomic energy or research into matters connected therewith.

3. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "atomic energy" means the energy released from atomic nuclei as a result of any process, including the fission process, but does not include energy released in any process of natural transmutation or radio-active decay which is not accelerated or influenced by external means;

(b) "minerals" includes all substances obtained or obtainable from the soil by underground or surface working;

(c) "plant" includes any machinery, equipment or appliance, whether affixed to land or not;

(d) "proscribed substance" means uranium, thorium, plutonium, neptunium or beryllium or any of their respective compounds or any other substance which the Central Government may, by notification in the official Gazette, prescribe, being a substance which in its opinion is or may be used for the production or use of atomic energy or research into matters connected therewith.

4. General powers of the Central Government.—The Central Government shall have power—

(a) to produce, use and dispose of atomic energy and carry out research into any matters connected therewith;

(b) to manufacture or otherwise produce, buy or otherwise acquire, store and transport any articles which in its opinion are, or are likely to be, required for or in connection with the production or use of atomic energy or such research as aforesaid, and to dispose of any articles manufactured, produced, bought or acquired by it; and

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1. Subs. by A.O. 1950.

2. Subs. by S. 3 of Act 3 of 1951. (F. 11-4-51)

(c) to do all such things (including the erection of buildings and the execution of works and the working of minerals), as the Central Government considers necessary or expedient for the exercise of the foregoing powers.

5. Power to obtain information of materials, plant and processes.—(1) The Central Government may, by notice in writing served upon any person, require him to make such periodical and other returns, at such times and containing such particulars and accompanied by such plans, drawings and other documents as may be specified in the notice—

(a) of any prescribed substance, specified in the notice, in his possession or under his control;

(b) of any minerals so specified in his possession or under his control or present in or on land owned or occupied by him, being minerals from which, in the opinion of the Central Government, any of the prescribed substances can be obtained;

(c) of any plant in his possession or under his control designed or adapted for the production or use of atomic energy or research into matters connected therewith;

(d) of any contract entered into by him or any licence granted by or to him relating to the production or use of atomic energy or research into matters connected therewith;

(e) of any other information in his possession relating to any work carried out by him, or on his behalf or under his direction, in connection with the production or use of atomic energy or research into matters connected therewith.

(2) If any person—

(a) fails to comply with any notice served on him under this section,

or

(b) knowingly makes any untrue statement in any return made in pursuance of any such notice,

he shall be guilty of an offence under this Act.

6. Power of entry and inspection.—(1) Any person authorised by the Central Government may, on producing, if so required, a duly authenticated document showing his authority, enter any premises where he has reasonable grounds for believing that work is being carried out for the purpose of or in connection with the production or use of atomic energy or research into matters connected therewith or that any of the prescribed substances, or any minerals from which any such substance can be obtained, or any such plant as is mentioned in clause (c) of sub-section (1) of the last foregoing section, are situated, and may inspect the premises and any articles found therein.

(2) The person carrying out the inspection may make copies of, or extracts from, any drawing, plan or other document found in the premises and, for the purpose of making such copies or extracts, may remove any such drawing, plan or other document after giving a duly signed receipt for the same and retain possession thereof for a period not exceeding seven days.

(3) If any person willfully obstructs any person exercising powers under this section, he shall be guilty of an offence under this Act.

7. Power to do work for purpose of discovering minerals.—(1) The Central Government may, subject to the provisions of this section, do on, over or below the surface of any land such work as it considers necessary for the purpose of

discovering whether there is present in or on the land, either in a natural state or in a deposit of waste material obtained from any underground or surface working, any mineral from which in its opinion any of the prescribed substances can be obtained, and the extent to which such mineral is so present.

(2) Before any powers are exercised under sub-section (1) in relation to any land, the Central Government shall serve on every owner, lessee and occupier of the land a notice in writing (specifying) the nature of the work proposed to be done and the extent of the land affected, and the time, not being less than twenty-eight days, within which and the manner in which objections can be made thereto, and no such power shall be exercised otherwise than in pursuance of the notice or before the expiration of the time specified therein for making objections.

(3) The Central Government may, after giving the person making the objection an opportunity of appearing before and being heard by a person appointed by the Central Government for the purpose and after considering any such objection and the report of the person so appointed, make such orders as it may deem proper but not so as to increase the extent of the land affected.

(4) Compensation shall be determined and paid in accordance with section 16 of this Act in respect of any diminution in the value of any land or property situate thereon resulting from the exercise of powers under this section.

(5) If any person wilfully obstructs or interferes with the exercise of powers under this section, he shall be guilty of an offence under this Act.

8. Compulsory acquisition of prescribed substances, stock of minerals and plant.—(1) The Central Government may, subject to such rules as may be made in this behalf, compulsorily acquire

(a) any prescribed substance,
(b) any minerals being minerals from which in the opinion of the Central Government any of the prescribed substances can be obtained,

(c) any plant not affixed to land which is designed or adapted for the production or use of atomic energy or research into matters connected therewith.

(2) Compensation in respect of the acquisition of any article under this section shall be paid in accordance with the provisions of section 16 of this Act.

9. Compulsory acquisition of certain other rights.—(1) The Central Government may serve on any person who is a party to a contract relating to the production or use of atomic energy or research into matters connected therewith, not being a contract for the rendering of personal services, a notice in writing stating that on such date as may be specified in the notice his rights and liabilities under the contract will be transferred to the Central Government, and thereupon, subject to any withdrawal of the notice (under the) following provisions of this section, the contract shall, as regards any rights exercisable, or liabilities incurred, on or after the said date, have effect as if the Central Government were a party to the contract instead of the person on whom the notice was served, and as if for any reference in the contract to that person there were substituted a reference to the Central Government.

(2) A notice served under sub-section (1) shall contain a statement to the effect that an objection may be made thereto within such time and in such manner as may be specified, and if any such objection is duly made and not withdrawn, the Central Government shall afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Central Government for the purpose.

(3) After considering any such objection and the report of the person appointed by it under sub-section (2), the Central Government may make such orders as it may deem proper.

(4) Where the rights and liabilities of a party to a contract are transferred to the Central Government under this section, there shall be paid to that party such compensation in respect of any loss suffered by that party as may be agreed between him and the Central Government, and in default of such agreement, as may be determined by arbitration.

10. Control of production and use of atomic energy.—(1) The Central Government may, by order published in the official Gazette, prohibit except under a licence granted by it,—

(a) the working of any minerals specified in the order, being minerals from which in the opinion of the Central Government any of the prescribed substances can be obtained;

(b) the acquisition, production, treatment, possession, use, disposal, export or import—

(i) of any of the prescribed substances; or

(ii) of any minerals specified in the order, being minerals from which in the opinion of the Central Government any of the prescribed substances can be obtained; or

(iii) of any plant designed or adapted or manufactured for the production or use of atomic energy or for research into matters connected therewith;

and any such order may contain such incidental and supplementary provisions, including provisions for seizure, retention and disposal of any article in respect of which there are reasonable grounds for suspecting that a contravention of the order has been committed, as the Central Government considers necessary.

(2) Any person who contravenes or fails to comply with an order made under this section or any conditions subject to which a licence is granted under this section shall be guilty of an offence under this Act.

11. Restriction on disclosure of information relating to plant.—(1) Subject to the provisions of this section, any person who, without the consent of the Central Government, communicates to any other person not being an authorised person, or obtains or attempts to obtain, any document, drawing, photograph, plan, model or other information whatsoever which to his knowledge describes, represents or illustrates—

(i) an existing or proposed plant used or proposed to be used for the purpose of producing or using atomic energy, or

(ii) the purpose or method of operation of any such existing or proposed plant, or

(iii) any process operated or proposed to be operated in any such existing or proposed plant,

shall be guilty of an offence under this Act:

Provided that it shall not be such an offence to communicate information with respect to any plant of a type in use for purposes other than the production or use of atomic energy, unless the information discloses that plant of that type is used or proposed to be used for the production or use of atomic energy or research into any matters connected therewith.

Explanation.—In this sub-section "authorised person" means in relation to information on any subject to which this sub-section applies, a person to whom, by virtue of a general authority granted by the Central Government, information on that subject may be communicated.

(2) The Central Government may, by order, grant exemption from this section in such classes of cases and to such extent and subject to such conditions, as may be specified in the order.

(3) Where any information has been made available to the general public otherwise than in contravention of this section, any subsequent communication of that information shall not constitute an offence under this Act.

12. Special provisions as to inventions.—(1) Where an application has been made to the Controller of Patents and Designs (hereafter in this section referred to as the Controller) for the grant of a patent and it appears to the Controller that the invention which is the subject matter of the application relates to the production or use of atomic energy or research into matters connected therewith, he shall serve a notice in writing on the Central Government to that effect, and may, notwithstanding anything in any law, omit or delay the doing of anything which he would otherwise be required to do in relation to the application, and give directions for prohibiting or restricting the publication of information with respect to the subject matter of the application, or the communication of such information to particular persons or classes of persons.

(2) Upon receipt of notice under sub-section (1) the Central Government may make such orders as it may deem proper.

(3) Any person who contravenes any direction given by the Controller or any order made by the Central Government shall be guilty of an offence under this Act.

13. Delegation of powers.—The Central Government may by order direct that any power conferred on it by this Act shall be exercised or discharged by such officer or officers in such circumstances and under such conditions as may be specified in the order.

14. Disclosure of information obtained under Act.—Any person who, without the authority of the Central Government, discloses any information obtained in the exercise of powers under this Act, shall be guilty of an offence under this Act.

15. Offences and penalties.—(1) Any person guilty of an offence under this Act shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(2) Where any offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(3) Proceedings in respect of an offence under section 11 shall not be instituted except with the consent of the Advocate-General of India.

16. Principles relating to payment of compensation.—(1) Where by reason of the exercise of any powers under this Act, any compensation is payable, the amount of such compensation shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement.

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person having expert knowledge as to the nature of the right affected who shall determine the amount of compensation payable.

(2) In making his award the arbitrator appointed under sub-section (1) shall have regard—

(a) in the case of any compensation payable under section 7 of this Act,—

(i) to the nature of the work done,

(ii) the manner, extent and duration of the exercise of any powers under that section,

(iii) the diminution in the rent at which the land and the property situated thereon might reasonably be expected to let for any period or in the market value of the land and property on the date when the exercise of powers comes to an end, and

(iv) the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (I of 1894), in so far as such provisions can be made applicable to the exercise of powers under section 7 of this Act; and

(b) in the case of any compensation payable under section 8 of this Act, to the price which the owner might reasonably have been expected to obtain on a sale of the article effected by him immediately prior to the date of the acquisition.

(3) An appeal shall lie to the High Court against an award of the arbitrator except in cases where the amount claimed thereof does not exceed an amount prescribed in this behalf by the Central Government.

(4) The Central Government may make rules prescribing the procedure to be followed in arbitrations under this Act and the principles to be followed in the apportionment of the costs of proceedings before the arbitrator and on appeal.

(5) Save as provided in this Act nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this Act.