

Dangerous Machines (Regulation) Act, 1983

February 9, 2013

PREAMBLE

[Act 35 of 1983]

[14th December, 1983]

An Act to provide for the regulation of trade and commerce in, and production, supply, distribution and use of, the product of any industry producing dangerous machines with a view to securing the welfare of labour, operating any such machine and for payment of compensation for the death or bodily injury suffered by any labourer while operating any such machine, and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows :

1. SHORT TITLE, EXTENT AND COMMENCEMENT. –

(1) This Act may be called the Dangerous Machines (Regulation) Act, 1983.

(2) It extends to the whole of India.

(3) This section and clause (c) of Section 3 shall come into force at once in all the States and the remaining provisions of this Act shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act; and any reference in any provision of this Act to the commencement of this Act shall in relation to any State be construed as a reference to the commencement of that provision in that State.

2. DECLARATION AS TO EXPEDIENCY OF CONTROL BY UNION. –

It is hereby declared that it is expedient in the public interest that the Union should take under its control the industries engaged in the manufacture or production of power threshers or any other machines which are intended to be used in the agricultural or rural sector and which are of such nature that any accident in the course of operation thereof may cause its operator death, dismemberment of any limb or other bodily injury.

3. DEFINITIONS. –

In this Act, unless the context otherwise requires, –

(a) "child" means a person who has not completed his fourteenth year of age;



(b) "Controller" means the person appointed by the State Government to give effect to the provisions of this Act, and includes every Additional Deputy or Assistant Controller who may be authorised by the Controller under sub-section (3) of Section 5 to exercise any power under this Act;

(c) "dangerous machine" means a power thresher, and includes any such machine intended to be used in the agricultural or rural sector as the Central Government, being of opinion that it is of such a nature that any accident in the course of operation thereof is likely to cause to its operator death, dismemberment of any limb or other bodily injury, may, by notification in the Official Gazette, specify as dangerous machine;

(d) "day" means a period of twenty-four hours beginning midnight;

(e) "dealer" in relation to any dangerous machine or any part thereof,

means a person who, or a firm or a Hindu undivided family which, carries on, directly or otherwise, the business of buying, selling, supplying or distributing any dangerous machine or any part thereof, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration, and includes

– (i) a commission agent who carries on such business on behalf of any principal;

(ii) an importer who sells, supplies, distributes or otherwise delivers any dangerous machine to any user, manufacturer, repairer, consumer or any other person, but does not include a manufacturer who sells, supplies, distributes or otherwise delivers any dangerous machine or any part thereof to any person or category of persons referred to in this clause.

Explanation : For the removal of doubts, it is hereby declared that a manufacturer who sells, supplies, distributes, or otherwise delivers any dangerous machine or any part thereof to any person other than a dealer, shall be deemed to be a dealer, and shall in addition to his liability to comply with the provisions of this Act relating to manufacturers, also be liable to comply with the provisions of this Act relating to dealers;

(f) "employer", in relation to the operator of any dangerous machine, means the person by whom such operator has been employed, whether for any remuneration or otherwise, for operating such machine;

(g) "family", in relation to an operator, means his wife and dependent children and includes his dependent parents;

(h) "Inspector" means an Inspector appointed under this Act;

(i) "machine" includes prime movers, transmission machinery and all other appliances whereby power is generated, transferred, transmitted or applied to a dangerous machine;

(j) "manufacturer", in relation to any dangerous machine or any part

thereof, means a person who, or a firm or a Hindu undivided family which,

(i) makes or manufactures such dangerous machine or part thereof,

(ii) makes or manufactures one or more parts, and acquires the other parts of such dangerous machine and, after assembling those parts,



claims the end-product to be a product manufactured by himself, or itself, as the case may be,

(iii) does not make or manufacture any part of such dangerous machine but assembles parts thereof made or manufactured by others and claims the end-product to be a product manufactured by himself, or itself, as the case may be;

(k) "operator" means a person employed directly or by or through any agency (including a contractor), whether as a regular worker or as a casual worker, with or without the knowledge of the principal employer, whether for remuneration or not, in the operation or cleaning of any dangerous machine or any part thereof or in any other kind of work incidental to, or connected with the operation or cleaning of any dangerous machine or any part thereof;

(l) "power" means electrical or mechanical energy, or any other form of energy which is mechanically transmitted into a dangerous machine;

(m) "power thresher" means a machine, operated with the aid of power, for threshing one or more kinds of agricultural produce;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "prime mover" means an engine, motor or other appliance which generates or otherwise provides power to a dangerous machine;

(p) "transmission machinery" means any shaft, wheel, drum, pulley system of pulleys, coupling, clutch, driving-belt or other appliance or device by which the motion of a prime mover is transmitted to, or received by, any dangerous machine.



4. ACT TO OVERRIDE ALL OTHER ENACTMENTS. –

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any contract or instrument having effect by virtue of any law other than this Act or any decree or order of any court, tribunal or authority.

5. APPOINTMENT AND FUNCTIONS OF CONTROLLERS. –

(1) The State Government shall, by notification in the Official Gazette, appoint a Controller for carrying out the provisions of this Act, and may also by the same or subsequent notification appoint such number of Additional, Deputy or Assistant Controllers as it may deem fit.

(2) The Controller shall discharge his functions under this Act subject to the general control and directions of the State Government.

(3) The Controller may authorise such persons as he thinks fit also to exercise all or any of the powers exercisable by him under this Act other than the powers under sub-section (5) and different persons may be authorised to exercise different powers.

(4) Subject to any general or special direction given or imposed by the Controller, any person authorised by the Controller to exercise any powers may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(5) The Controller may also, –

(a) perform all or any of the functions of, and

(b) exercise all or any of the powers conferred by this Act or any rule or order made there under on, any officer lower in rank than himself.

Comments

The Controller can also—

(i) perform all or any of the functions of, and

(ii) exercise all or any of the powers conferred by this Act on,

any of his subordinate officers.

6. POWER OF CONTROLLER TO ISSUE ORDERS. –

The Controller may, if he thinks fit, make orders, not inconsistent with the provisions of this Act, for carrying out the provisions of this Act.

7. APPOINTMENT OF INSPECTORS. –

(1) The State Government may, by notification in the Official Gazette, appoint as many Inspectors as it deems fit to carry out the provisions of this Act relating to inspection, search, seizure of dangerous machines and examination of the records of manufacturers, dealers and users relating to such machines.

(2) Every Inspector shall discharge his functions subject to the general direction and control of the Controller.

8. CONTROLLER, ETC. TO BE PUBLIC SERVANTS. –

The Controller, and any person authorised by the State Government or the Controller to perform any functions under this Act, and every Inspector, shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

Comments

The Controller and every Inspector performing any functions under this Act, are public servants within the ambit of section 21 of the Indian Penal Code.

9. LICENSING OF MANUFACTURERS AND DEALERS. –

(1) Save as otherwise provided in this section, no person shall manufacture, or commence or carry on business as a manufacturer or dealer of, any dangerous machine unless he holds a valid licence issued in this behalf by the Controller :

Provided that a person engaged in the manufacture of, or carrying on business as a manufacture or dealer of, any dangerous machines of any class immediately before the appointed day in relation to dangerous machines of such class may continue to manufacture such machines or carry on such business without such a licence for a period of one month from that date, and if



he makes an application for such licence under this section within the said period of one month, till the communication to him of the order of the Controller disposing of such application.

Explanation : For the purposes of this proviso, "appointed day" means, –

(i) in relation to the class of dangerous machines being power threshers, the date of commencement of this Act;

(ii) in relation to any other class of dangerous machines, the date with effect from which such machines have been specified to be dangerous machines by the Central Government by notification under clause (c) of Section 3, or in the case of a State in which this section has come into force with effect from a later date, such later date.

(2) A licence issued under this section

(a) shall be valid for a period of five years;

(b) may be renewed from time to time, for a like period; and

(c) shall be in such form, and shall be subject to such conditions, as may be prescribed by the Central Government.

(3) A person who intends to commence the manufacture, or carry on business as manufacturer or dealer, of any dangerous machine shall make an application in such form and on payment of such fees, not exceeding five hundred rupees, as may be prescribed, for the issue of a licence.

(4) No application for the issue of a licence to commence the manufacture, or to carry on business as a manufacturer or dealer, of any dangerous machine shall be granted unless the Controller, after making such inquiry as he thinks fit, is satisfied –

(a) in the case of a manufacturer carrying on business at the commencement of this Act, of manufacturing any dangerous machine, that such machine complies with the standards prescribed under Section 13; and

(b) in the case of a person who intends to commence business, after such commencement, as a manufacturer of a dangerous machine, that the applicant has declared that he would manufacture such machine in accordance with the standards laid down by or under this Act.

(5) An application for the renewal of a licence issued under this section shall be made not less than forty-five days before the date of expiry of the period of validity thereof and shall be accompanied by such fees, not exceeding two hundred rupees, as may be prescribed.

(6) No application for the renewal of a licence for the manufacture, or for the carrying on the business as a manufacturer, of a dangerous machine shall be rejected unless, –

(a) the holder of such licence has been given a reasonable opportunity of presenting his case; and

(b) the Controller is satisfied that –

(i) the application for such renewal has been made after the expiry of the period specified therefore;

Provided that an application for the renewal of a licence made after the expiry of the specified period may be entertained on payment of such late fees, not exceeding one hundred rupees, as



may be prescribed;

(ii) any statement made by the applicant at the time of the issue or renewal of the licence was incorrect or false in material particulars;

(iii) the applicant has omitted or failed to manufacture any dangerous machine in accordance with the prescribed standards; or

(iv) the applicant has contravened any term or condition of the licence or any provision of this Act, or any rule or order made there under or of any law for the time being in force in so far as such law prohibits the bringing into or taking out of India, any dangerous machine.

(7) Every person to whom a licence has been issued or renewed under this section shall comply with the terms and conditions specified in the licence and the provisions of this Act and the rules and orders made there under

(8) Every person to whom a licence has been granted or renewed under this section shall ensure that every person employed by him complies, in the course of such employment, with the provisions of this Act or any rule or order made thereunder.

(9) Every order granting or rejecting any application for the issue or renewal of a licence under this section shall be made in writing.

(10) Every licensed dealer and every licensed manufacturer shall display his licence at a conspicuous place of the premises in which he carries on business as such licensed dealer or manufacturer.

Comments

(i) A licence issued is valid for five years and is renewable from time to time, for a like period. However, an application, for renewal has to be made not less than forty-five days before the date of expiry of the period of validity of such licence, along with the prescribed fee.

(ii) Every licensed dealer/manufacturer has to display his licence at a conspicuous place of his business premises.

(ii) All orders relating to issue, granting, rejecting or renewal of licence must be made in writing by the authority concerned.

10. SUSPENSION AND CANCELLATION OF LICENCES. –

(1) The Controller may, if he has any reasonable cause to believe that the holder of a licence granted under Section 9 has made a statement in, or in relation to, any application for the issue or renewal of a licence, which is incorrect or false in material particulars, or has contravened any provision of this Act or any rule or order made there under or of any other law for the time being in force which regulates the bringing into or taking out of India any dangerous machines, suspend such licence pending the completion of any inquiry or trial against the holder of such licence, for making such incorrect or false statement or for such contravention, as the case may be :

Provided that no such licence shall be suspended for a period exceeding ten days unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action.



(2) The Controller may, if he is satisfied after making such inquiry as he may think fit, that the holder of any licence issued or renewed under this Act has made such incorrect or false statement as is referred to in sub-section (1), or has omitted or failed to manufacture any dangerous machine in accordance with the prescribed standards or has contravened the provisions of such law, rule or order, as is referred to in that sub-section, cancel such licence :

Provided that no licence shall be cancelled unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action.

(3) Every person whose licence has been suspended or cancelled shall, immediately after such suspension or cancellation, stop functioning as such licensee and shall not resume business as such licensee until the order of such suspension or cancellation has been vacated.

(4) Every person who holds a licence which is suspended or cancelled shall, immediately after such suspension or cancellation, surrender such licence to the Controller.

Comments

(i) Every person whose licence has been suspended or cancelled must stop functioning as such licensee and cannot resume such business until the order of such suspension or cancellation has been vacated.

(ii) After suspension or cancellation of a licence, such licensee has to be surrendered such licence to the Controller.

11. CANCELLATION OF LICENCE ON APPLICATION BY MANUFACTURER OR ORDER. –

A person licensed to manufacture or carry on business as a manufacturer or dealer of any dangerous machines who discontinues such manufacture or business or who intends to discontinue such manufacture of business, may make an application to the Controller for the cancellation of his licence, and thereupon, the Controller may cancel such licence.

12. LICENCE TO A FIRM TO BE INVALID ON THE CHANGE OF PARTNERSHIP. –

Where any firm has been licensed under this Act to manufacture or carry on business as a dealer or manufacturer of a dangerous machine, such licence shall, notwithstanding anything contained in this Act, become invalid on and from the date on which there is a change in the partnership of such firm, unless such change in the partnership of the firm has been approved by the Controller.

13. MANUFACTURER TO ENSURE THAT EVERY PART OF A DANGEROUS MACHINE CONFORMS TO PRESCRIBED STANDARDS. –

(1) Every manufacturer of a dangerous machine shall ensure that such machine and every part thereof complies with such standards, conforming to the standards laid down therefore by the Indian Standards Institution, as may be prescribed by the Central Government.

(2) In particular, and without prejudice to the generality of the foregoing provisions, the manufacturer of a dangerous machine shall ensure that the following parts are secured by



safeguards of substantial construction, namely :-

- (a) the prime mover and every part thereof,
- (b) the transmission machinery and every part thereof,
- (c) every other dangerous part, such as, rollers, blowers, sieves, elevator and the like.

(3) Every manufacturer of a dangerous machine shall also clearly and legibly provide such machine with danger signals indicating the point beyond which no limb shall be inserted for the purpose of feeding the machine or for any other purpose.

14. PARTICULARS TO BE SPECIFIED ON EVERY DANGEROUS MACHINE. –

The manufacturer shall ensure that the following particulars are legibly and conspicuously marked or inscribed on every dangerous machine by such method as would make it indelible, namely :-

- (a) the direction of the rotation and the number of rotations per minute;
- (b) its power requirement; and
- (c) the name and correct address of the manufacturer, the year of its manufacture, and the date, number and other particulars of the licence of the manufacturer.

15. DUTIES OF THE MANUFACTURER TO SUPPLY OPERATOR'S MANUAL WITH EACH DANGEROUS MACHINE. –

Every manufacturer shall supply along with each dangerous machine a manual containing general instructions regarding the operation of such machine, and shall also include therein such cautions, as may be prescribed.

16. CERTIFICATE AND GUARANTEE BY MANUFACTURERS AND DEALERS. –

Before transferring the possession of any dangerous machine, whether by sale, lease, hire or otherwise, every manufacturer and every dealer shall deliver, to the person acquiring the possession of such machine, a declaration to the effect that the machine conforms to the standards laid down by or under this Act and also complies with in all respects, the provisions of this Act and the rules and orders made there under.

17. LIABILITY OF THE MANUFACTURER FOR REIMBURSEMENT. –

Whenever any person operating a dangerous machine suffers death or dismemberment of any limb or any other bodily injury –

- (i) by reason of any manufacturing defect in the machine whereby such death, dismemberment or injury was caused, or



(ii) by reason of the omission of the manufacturer to comply with the provisions of this Act and the rules and orders made thereunder. such manufacturer shall be liable to reimburse the person by whom compensation had to be paid under this Act to the members of the family of the person whose death was caused by such machine or, as the case may be, to the person by whom such dismemberment or bodily injury was suffered.

18. MANUFACTURERS AND DEALERS TO MAINTAIN RECORDS.

Every manufacturer and every dealer shall maintain such registers, records and accounts as may be prescribed.

19. USER TO GET EACH DANGEROUS MACHINE REGISTERED. –

(1) Every person who owns a dangerous machine or acquires control over such machine, whether as a lessee or hirer or otherwise (in this Act referred to as the user) shall make, before beginning to operate such machine, an application to the Controller, on payment of such fees, not exceeding five rupees, as may be prescribed, for the registration of such machine.

(2) On receipt of an application made under sub-section (1), the Controller shall, if he is satisfied that the machine complies with, in all respects, the provisions of this Act and the rules and orders made there under, register the same and grant to the applicant a certificate showing such registration.

(3) The Controller shall maintain a register containing the particulars of the dangerous machines registered by him and the names and addresses and other particulars of the persons on whose application such registration has been made.

(4) No dangerous machine shall be operated until it has been registered in accordance with the provisions of this section.

20. MATTERS TO BE ENSURED BY USERS. –

Every user of a dangerous machine shall ensure that –

(a) such machine conforms to the standards laid down by or under this Act and also complies with, in all respects, the provisions of this Act and the rules and orders made there under;

(b) no child is employed for the operation of such machine; and

(c) adequate arrangements exist for rendering first aid to any person who may suffer any injury while operating any such machine.

21. MODIFICATION OF EXISTING DANGEROUS MACHINE. –

(1) Every person who has, immediately before the commencement of this Act, in his custody or control, any dangerous machine which does not comply with, in all respects, the provisions of this Act and the rules and orders made there under, shall, within such time, not being less than one hundred and eighty days from such commencement, as the State Government may, by notification in the Official Gazette, specify, get the same modified in accordance with such rules as may be made by the Central Government in this behalf.



(2) No such machine shall be used or operated, after the expiry of the period specified under sub-section (1), unless the modifications referred to in sub-section (1) have been made.

22. EMPLOYER'S LIABILITY FOR COMPENSATION. –

(1) If, during his employment as an operator of a dangerous machine, death or dismemberment of any limb or any other bodily injury is caused to such operator, his employer shall be liable to pay compensation –

(a) in the case of death of the operator, to his family, and

(b) in any other case, to the operator :

Provided that where the operator does not have a family, the compensation shall be paid to the person or persons nominated in this behalf by the operator in writing and notified to the Controller : Provided further that the employer shall not be so liable –

(i) in respect of any injury which does not result in the total or partial disablement of the operator for a period exceeding three days; or

(ii) in respect of any injury, not resulting in death, caused by an accident which is directly attributable to –

(a) the operator having been at the time thereof under the influence of any intoxicant or drug, or

(b) the willful removal by the worker of any safety guard or other device which he knew to have been provided in the machine for the purpose of securing the safety of the operator.

(2) The amount of the compensation payable under sub-section (1) shall be determined and paid in accordance with the provisions of the Workmen's Compensation Act, 1923 (8 of 1923), as if the operator were a workman within the meaning of that Act, and, for this purpose, the provisions of the said Act shall apply to him as they apply to a workman within the meaning of that Act.

23. NOTICE OF ACCIDENT. –

(1) Where the death or dismemberment of any limb or any other bodily injury has been caused to an operator, during the course of his employment, notice of such death, dismemberment or injury shall be given to the employer within three days from the date on which such death, dismemberment or injury was caused.

(2) Such notice shall be given by the operator if he is alive or by any member of his family or any other person interested in him.

(3) Omission to give the notice referred to in sub-section (2) shall not disentitle the operator or the members of his family, as the case may be, to receive the compensation payable under this Act.

24. DUTY OF EMPLOYER TO TAKE OUT INSURANCE POLICIES. –



(1) Every employer shall take out, as soon as may be practicable after the commencement of this Act, one or more insurance policies providing for contracts of insurance whereby he is insured against any liability arising out of sub-section (1) of Section 22 to make payment of compensation to any operator of a dangerous machine and such contract of insurance may provide for the payment of annuities to the operator, or in case of his death, to the members of his family or to his nominee, if he does not have a family.

(2) Every employer shall get the insurance policy referred to in sub-section (1) renewed from time to time before the expiry of the period of validity thereof so that the policy of insurance may remain in force throughout the period during which any person is employed by him to operate any dangerous machine.

25. OMISSION OR FAILURE OF THE EMPLOYER TO TAKE OUT INSURANCE POLICIES. – –

(1) In the event of the omission or failure of the employer to take out an insurance policy referred to in Section 24 or in the event of the omission, failure or inability of the employer to keep such insurance policy in force or to obtain, from the insurer, any amount required to be paid as compensation to an operator, or to the members of his family or nominee, as the case may be, the employer shall make payment of compensation from his own funds, to the operator, or to the members of his family or his nominee, as the case may be, as soon as possible after the date on which the operator suffers death or dismemberment of limb or other bodily injury but not later than thirty days from such date and on such payment the employer's liability for payment of compensation to the operator or to the members of his family shall stand fully discharged.

(2) The discharge of the liability referred to in sub-section (1) shall not take away or abridge the right of, the employer to receive, from the insurer, such payment as may be due to him under the policy of insurance taken out or renewed by him.



26. EXAMINATION OF MACHINE CAUSING DEATH OR INJURY. –

(1) As soon as the employer comes to know, whether on receipt of a notice under Section 23 or otherwise, that the operator has suffered death, dismemberment of any limb or other bodily injury during the operation of any dangerous machine, he shall forthwith give notice of such death or injury to the Inspector.

(2) Whenever an Inspector comes to know about any death or injury, whether on receipt of a notice referred to under sub-section (1) or otherwise, he shall, as soon as practicable, enter into the premises where the dangerous machine whereby such death, dismemberment of limb or other bodily injury has been caused, is located and examine the machine with a view to finding out whether the machine conforms to the standards laid down by or under this Act and contains all the prescribed safety devices, and, where, after such examination, he is of the opinion that the machine is unsafe, he shall, by an order, prohibit the use of such machine until it is certified by him to be safe.

(3) No machine shall be operated during the period of operation of the prohibitory order made under sub-section (2).

27. INSPECTION OF RECORDS ETC. –

Every register, record and accounts maintained under this Act and every licence issued or renewed under this Act shall be open to the inspection of the Inspector.

28. POWER TO ENTER AND SEARCH. –

An Inspector authorised in this behalf by the Controller may, if he has any reason to suspect that any provision of this Act has been, or is being, or is about to be, contravened, enter and search, at any reasonable time of the day, any premises in which any dangerous machine is operated.

29. POWER OF SEIZURE. –

Whenever the Inspector is satisfied that any dangerous machine, which does not comply with, in all respects, the provisions of this Act or the rules or orders made there under, is being operated in contravention of the provisions of this Act, he may seize such dangerous machine and the records and registers connected therewith.

30. SEARCH AND SEIZURE TO BE MADE IN ACCORDANCE WITH THE CODE OF CRIMINAL PROCEDURE, 1973. –

Every search and seizure made under this Act shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

31. PUNISHMENT FOR CONTRAVENTION OF THE PROVISIONS OF THE ACT. –

Whoever, in contravention of the provisions of this Act, or any rule or order made there under –

- (a) manufactures, or carries on business as a manufacturer or dealer of, any dangerous machine without being in possession of a valid licence issued or renewed under this Act;
- (b) employs a child in the operation of any dangerous machine;
- (c) causes any person to operate a dangerous machine which does not conform to the standards specified by or under this Act;
- (d) causes any person to operate any dangerous machine referred to in Section 21, without carrying out the prescribed modifications;
- (e) omits to take out or renew an insurance policy as required by Section 24;
- (f) sells or otherwise transfers any dangerous machine which does not conform to the provisions of this Act or the rules made there under;
- (g) operates or causes any person to operate any dangerous machine during the period of operation of a prohibitory order made under sub-section (2) of Section 26; or
- (h) contravenes any other provision of this Act, or rule order made there under, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and in the case of a second or subsequent offence, shall be punishable with imprisonment for a term which shall not be less than three months and also with fine which shall not be less than five hundred rupees but not more than one thousand rupees.



32. OFFENCES BY COMPANIES. –

(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 :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, 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.

(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 of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section, –

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

33. COGNIZANCE AND TRIAL OF OFFENCES. –

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no court shall take cognizance of an offence punishable under this Act except on a complaint in writing made by the Controller or any person authorised by him in this behalf.

(2) Every offence under this Act may be tried summarily by a Magistrate.

34. APPEALS. –

(1) Any person aggrieved by any order granting or refusing to issue or renew a licence under this Act or refusing to register a dangerous machine, may prefer an appeal against the order to the State Government

(2) Every such appeal shall be filed within thirty days from the date of the order :

Provided that the State Government may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal with the said period.

35. PROTECTION OF ACTION TAKEN IN GOOD FAITH. –

No suit, prosecution or other legal proceedings shall lie against the State Government, the Controller, any Inspector or any other person authorised by the Controller for exercising any powers or discharging any functions under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made there under.

36. POWER OF CENTRAL GOVERNMENT TO MAKE RULES. –



(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of sub-section (2) of Section 9, and the provisions of Sections 13 and 21.

(2) Every notification made by the Central Government under clause (c) of Section 3, and every rule made by it under sub-section (1), 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 notification or rule, or both Houses agree that the notification or rule should not be made, the notification or rule 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 notification or rule.

37. POWER OF STATE GOVERNMENT TO MAKE RULES. –

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act other than those specified in sub-section (1) of Section 36.

(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:-

(a) all matters specified in Section 9 except those specified in sub-section (2) thereof;

(b) the fees (including late fees), within the limits specified in Section 9, for the issue and renewal of licences under that section and for the registration of dealers, as provided in Section 19;

(c) the cautions to be specified in the manual of instructions as required by Section 15;

(d) the registers, records and accounts which are required to be maintained under Section 18;

(e) the arrangement required to be made under Section 20 for rendering first aid to any injured operator of a dangerous machine; and

(f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

38. POWER TO GIVE DIRECTIONS. –

The Central Government may give directions to any State Government as to the Carrying into execution in the State of any of the provisions of this Act or of any rule or order made there under.



