

CHAPTER X

OFFENCES AND PENALTIES

- 51. Whoever, without reasonable cause —**
- (a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or
- (b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,
- shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.
- 52. Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.**
- 53. Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.**
- 54. Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.**
- 55. (1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he 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 Department of the Government 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 officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- 56. Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.**
- 57. If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.**
- Punishment for obstruction, etc.
- Punishment for false claim.
- Punishment for misappropriation of money or materials, etc.
- Punishment for false warning.
- Offences by Departments of the Government.
- Failure of officer in duty or his connivance at the contravention of the provisions of this Act.
- Penalty for contravention of any order regarding requisitioning.

Offence by
companies.

58. (1) Where an offence under this Act has been committed by a company or body corporate, 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 contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing 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 exercised 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 was 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 purpose 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.

Previous
sanction for
prosecution.

59. No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

Cognizance
of offences.

60. No court shall take cognizance of an offence under this Act except on a complaint made by—

(a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or

(b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid."

CHAPTER XI

MISCELLANEOUS

Prohibition
against
discrimina-
tion.

61. While providing compensation and relief to the victims of disaster, there shall be no discrimination on the ground of sex, caste, community, descent or religion.

Power to
issue direction
by Central
Government.

62. Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Central Government to issue direction in writing to the Ministries or Departments of the Government of India, or the National Executive Committee or the State Government, State Authority, State Executive Committee, statutory bodies or any of its officers or employees, as the case may be, to facilitate or assist in the disaster management and such Ministry or Department or Government or Authority, Executive Committee, statutory body, officer or employee shall be bound to comply with such direction.

Powers to be
made
available for
rescue
operations.

63. Any officer or authority of the Union or a State, when requested by the National Executive Committee, any State Executive Committee or District Authority or any person authorised by such Committee or Authority in this behalf, shall make available to that Committee or authority or person, such officers and employees as requested for, to perform any of the functions in connection with the prevention of disaster or mitigation or rescue or relief work.

64. Subject to the provisions of this Act, if it appears to the National Executive Committee, State Executive Committee or the District Authority, as the case may be, that provisions of any rule, regulation, notification, guideline, instruction, order, scheme or bye-laws, as the case may be, are required to be made or amended for the purposes of prevention of disasters or the mitigation thereof, it may require the amendment of such rules, regulation, notification, guidelines, instruction, order, scheme or bye-laws, as the case may be, for that purpose, and the appropriate department or authority shall take necessary action to comply with the requirements.

Making or amending rules, etc., in certain circumstances.

65. (1) If it appears to the National Executive Committee, State Executive Committee or District Authority or any officer as may be authorised by it in this behalf that—

Power of requisition of resources, provisions, vehicles, etc., for rescue operations, etc.

(a) any resources with any authority or person are needed for the purpose of prompt response;

(b) any premises are needed or likely to be needed for the purpose of rescue operations; or

(c) any vehicle is needed or is likely to be needed for the purposes of transport of resources from disaster affected areas or transport of resources to the affected area or transport in connection with rescue, rehabilitation or reconstruction,

such authority may, by order in writing, requisition such resources or premises or such vehicle, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning.

(2) Whenever any resource, premises or vehicle is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such resource, premises or vehicle is required for any of the purposes mentioned in that sub-section.

(3) In this section,—

(a) "resources" includes men and material resources;

(b) "services" includes facilities;

(c) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(d) "vehicle" means any vehicle used or capable of being used for the purpose of transport, whether propelled by mechanical power or otherwise.

66. (1) Whenever any Committee, Authority or officer referred to in sub-section (1) of section 65, in pursuance of that section requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

Payment of compensation.

(i) the rent payable in respect of the premises, or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if as consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the thirty days to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine: