

Bill No. CXXVI of 2005

THE INLAND VESSELS (AMENDMENT) BILL, 2005

A

BILL

further to amend the Inland Vessels Act, 1917.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Inland Vessels (Amendment) Act, 2005.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

1 of 1917.

2. In section 1 of the Inland Vessels Act, 1917 (hereinafter referred to as the principal Act), in sub-section (2), the proviso shall be omitted.

Amendment of section 1.

Amendment
of section 2.

3. In section 2 of the principal Act, in sub-section (1),—

(i) for clauses (a), (b) and (c), the following clauses shall, respectively, be substituted, namely:—

‘(a) “inland vessel” or “inland mechanically propelled vessel” means a mechanically propelled vessel, which ordinarily plies on inland water, but does not include fishing vessel and a ship registered under the Merchant Shipping Act, 1958;

44 of 1958.

(b) “inland water” means—

(i) any canal, river, lake or other navigable water within a State,

(ii) any area of any tidal water deemed to be the inland water as defined by the Central Government under section 70,

(iii) waters declared by the Central Government to be smooth and partially smooth waters under clause (41) of section 3 of the Merchant Shipping Act, 1958;

44 of 1958.

(c) “mechanically propelled vessel” means every description of vessel propelled wholly or in part by electricity, steam or other mechanical power including dumb vessel towed by the mechanically propelled vessel and vessel propelled by outboard motor;’;

(ii) after clause (g), the following clause shall be inserted, namely:—

‘(ga) “tidal water” has the meaning assigned to it in clause (49) of section 3 of the Merchant Shipping Act, 1958;’.

44 of 1958.

Amendment
of section 3.

4. In section 3 of the principal Act, in sub-section (1),—

(i) for the words “and applicable to such voyage or service”, the words “in the zone intended for operation and applicable to such voyage or service in such zone” shall be substituted;

(ii) the following *Explanation* shall be inserted at the end, namely:—

‘*Explanation.*—For the purposes of this sub-section, “zone” means any such inland water area as the State Government may, depending on the maximum significant wave height criteria, by notification in the Official Gazette, specify for the purposes of this Act.’.

Insertion of
new section
9A.

5. After section 9 of the principal Act, the following section shall be inserted, namely:—

Temporary
permit.

“9A. The surveyor who conducted the survey may, without following the procedure laid down in section 9, grant a permit to be effective for a period which shall not in any case exceed thirty days, to authorise the inland mechanically propelled vessel to proceed on voyage or use in service temporarily pending the issue of the certificate of survey.”.

Amendment of
section 19-I.

6. In section 19-I of the principal Act, in sub-section (3), for the words “twelve months”, the words “thirty-six months” shall be substituted.

Amendment
of section 22.

7. In section 22 of the principal Act,—

(i) in sub-section (1), for the words and figures “an inland mechanically propelled vessel for a period of three years before the first day of November, 1956”, the words “a vessel of the Coast Guard, Indian Navy or regular Army for a period as may be prescribed by the State Government in this behalf” shall be substituted;

(ii) after sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purposes of this section,—

30 of 1978.

(a) the expression “Coast Guard” shall have the meaning assigned to it in clause (d) of section 2 of the Coast Guard Act, 1978;

62 of 1957.

(b) the expression “Indian Navy” shall have the meaning assigned to it in clause (10) of section 3 of the Navy Act, 1957;

46 of 1950.

(c) the expression “regular Army” shall have the meaning assigned to it in clause (xxi) of section 3 of the Army Act, 1950.’

8. In section 30 of the principal Act, clause (a) shall be re-lettered as clause (aa), and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:— Amendment of section 30.

“(a) the period of service in the Coast Guard, Indian Navy or regular Army which is required for a person to be granted a certificate without examination under section 22,”.

9. For section 31 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 31.

“31. A certificate of competency or service and licence granted under this Chapter shall have effect throughout India.”. Effect of certificates of competency or service and licences.

10. In section 52 of the principal Act, in sub-section (2),— Amendment of section 52.

(a) in clause (i), the word “and” occurring at the end shall be omitted;

(b) after clause (j), the following clauses shall be inserted, namely:—

“(k) prescribe the requirements that the hull, equipment and machinery of inland mechanically propelled vessel shall comply with;

(l) prescribe the requirement of life saving appliances; and

(m) prescribe the apparatus required for communication and navigation.”.

11. For section 54C of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 54C.

59 of 1988.

‘54C. The provisions of section 134, Chapters X, XI and XII of the Motor Vehicles Act, 1988 shall as far as may be apply, in relation to the mechanically propelled vessels as they apply in relation to motor vehicles, subject to the following modifications, namely:— Application of section 134, Chapters X, XI and XII of the Motor Vehicles Act, 1988 in relation to the mechanically propelled vessels.

(a) in section 134 and throughout in Chapters X, XI and XII,—

(i) references to “motor” or “motor vehicle” or “vehicle” shall be construed as references to “mechanically propelled vessel”;

(ii) references to “public place” shall be construed as references to “inland water”;

(iii) references to “public service vehicle” shall be construed as references to “public service vessel”;

(iv) references to “goods vehicle” shall be construed as references to “goods service vessel”;

(v) references to “State Transport” shall be construed as references to “State Water Transport”;

(vi) references to “driver” or “driver of a vehicle” shall be construed as references to “master of a vessel”;

(vii) references to “driving licence” shall be construed as references to “a certificate granted under Chapter III of the Inland Vessels Act, 1917”; 1 of 1917.

(viii) references to “permit” shall be construed as references to “a certificate of registration granted under section 19F of the Inland Vessels Act, 1917”, 1 of 1917.

and such other consequential amendments as the rules of grammar may require, shall also be made;

(b) in section 145,—

(i) after clause (a), the following clause shall be inserted, namely:—

‘(aa) “goods service vessel” means any mechanically propelled vessel used or adapted to be used for carriage of cargo for hire or reward;’;

(ii) after clause (d), the following clause shall be inserted, namely:—

‘(da) “public service vessel” means any mechanically propelled vessel used or adapted to be used for the carriage of passengers for hire or reward;’;

(iii) for clause (e), the following clause shall be substituted, namely:—

‘(e) “property” includes goods carried in the inland vessel, bridges, landing facilities, navigation marks and infra-structure;’;

(iv) after clause (f), the following clause shall be inserted, namely:—

‘(fa) “route” means a line of travel which specifies the waterway which may be traversed by a mechanically propelled vessel between one terminal and another;’;

(c) in section 149, in sub-section (2), in clause (a),—

(i) in sub-clause (i),—

(A) in item (c), for the words “transport vehicle”, the words “public service vessel or goods service vessel” shall be substituted;

(B) item (d) shall be omitted;

(ii) in sub-clause (ii), for the words “not duly licensed”, the words and figures “not holding a certificate granted under Chapter III of the Inland Vessels Act, 1917” shall be substituted; 1 of 1917.

(d) in section 158,—

(i) for the words “transport vehicle”, wherever they occur, the words “public service vessel or goods service vessel” shall be substituted, and such other consequential amendments as the rules of grammar may require shall also be made;

(ii) in sub-section (1), for clause (d), the following clause shall be substituted, namely:—

“(d) the certificate of survey granted under section 9 of the Inland Vessels Act, 1917,”; 1 of 1917.

(e) in section 161, in sub-section (3),—

(i) in clause (a), for the words “twenty-five thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(ii) in clause (b), for the words “twelve thousand and five hundred rupees”, the words “twenty-five thousand rupees” shall be substituted;

(f) in section 165, in sub-section (1), for the words “Motor Accidents Claims Tribunals”, the words “Inland Vessel Accidents Claims Tribunals” shall be substituted.’.

12. After Chapter VIA of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter VIAB.

‘CHAPTER VIAB

PREVENTION AND CONTROL OF POLLUTION AND PROTECTION OF INLAND WATER

54D. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) “hazardous chemical” or “obnoxious substance” means any chemical or substance, as the case may be, which has been designated as such by rules made under this Chapter;

(b) “oil” means any persistent oil such as crude oil, heavy diesel oil, lubricating oil and white oil, whether carried on board a tanker as cargo or fuel;

(c) “oily mixture” means a mixture with any oil content.

54E. No oil or oily mixture, hazardous chemical or obnoxious substance from a mechanically propelled vessel shall be discharged in inland water:

Prohibition as to discharge of oil, oily mixture, etc., in the inland water.

Provided that nothing in this section shall apply to the discharge of such oil or oily mixture, hazardous chemical or obnoxious substance from a mechanically propelled vessel for the purpose of securing the safety of a mechanically propelled vessel, preventing damage to a mechanically propelled vessel, cargo or saving of life at inland water.

54F. (1) The owner or operator of an inland port, at cargo or passenger terminal, as the case may be, shall provide reception facilities to discharge oil, oily mixture, hazardous chemical or obnoxious substance at such inland port, cargo or passenger terminal.

Reception facilities at inland port, etc.

(2) The owner or operator of an inland port, at cargo or passenger terminal, as the case may be, providing reception facilities at any inland port, a cargo or passenger terminal may make charges for the use of the facilities at such rates and may impose such conditions in respect of use thereof as may be approved by notification in the Official Gazette, by the State Government in respect of the inland port, cargo or passenger terminal.

(3) For the purposes of minimizing the pollution already caused, or for preventing the pollution threatened to be caused, the State Government may direct, by order in writing, the owner or operator of an inland port, at cargo or passenger terminal to provide or arrange for the provision of such pollution containment equipments and pollutant removing materials at such inland port, cargo and passenger terminal as may be specified in the order.

54G. (1) Any surveyor or any person authorised under this Act in this behalf may, at any reasonable time, enter and inspect any inland port, at cargo or passenger terminal for the purposes of—

Power of entry, inspection, etc.

(a) ensuring that the provisions of this Chapter are complied with;

(b) verifying whether such inland port, at cargo or passenger terminal is provided with the pollution containment equipment and pollutant removing

materials in conformity with the order of the State Government or the rules made under this Chapter; and

(c) satisfying himself about the adequacy of the measures taken to prevent pollution.

(2) If the surveyor finds that the inland port, at cargo or passenger terminal is not provided with the aforesaid equipment and materials, he shall give notice to the owner or operator of such inland port, cargo or passenger terminal, as the case may be, a notice in writing pointing out the deficiency and also what in his opinion is requisite to remedy the said deficiency.

(3) No owner or operator of such inland port, at cargo or passenger terminal, as the case may be, served with the notice under sub-section (2), shall proceed with any work at such inland port, cargo or passenger terminal, as the case may be, until he obtains a certificate signed by the surveyor to the effect that the inland port, cargo or passenger terminal, as the case may be, is properly provided with the aforesaid equipment and materials in conformity with the rules made under this Chapter.

54H. (1) The Central Government may make rules for the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the designated hazardous chemical and obnoxious substance under clause (a) of section 54D;

(b) prescribe fitment of oily mixture treatment equipment on shore and on board in certain cases;

(c) prescribe details of reception facilities at inland port, cargo or passenger terminal;

(d) prescribe the forms and record books for inland port, cargo or passenger terminal and the manner in which such books shall be maintained, the nature of entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto;

(e) any other matter, which is to be, or may be, prescribed.’

Powers for Central Government to make rules for prevention and control of pollution.

Insertion of new sections 62D and 62E.

Punishment for offences relating to pollution.

Offences by companies.

13. After section 62C of the principal Act, the following sections shall be inserted, namely:—

‘62D. Whoever contravenes any provision of Chapter VIAB or of any rule made thereunder, shall be punishable with imprisonment which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both.

62E. (1) Where an offence under Chapter VIAB 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 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 all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under Chapter VIAB 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 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.’.

14. (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 the said Act as amended by this Act or this Act as may appear to be necessary or expedient for the purpose of removing the difficulty: Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of two years from the date on which this Act comes into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

The Inland Vessels Act, 1917 was last amended in the year 1977. Since then, several major developments have taken place in the inland water transport sector. Some of the important developments are (i) declaration of three waterways as National Waterways, viz. the Allahabad-Haldia stretch of the Ganga-Bhagirathi-Hooghly rivers (National Waterway No. 1), the Sadiya-Dhubri stretch of the Brahmaputra river (National Waterway No. 2) and the Kollam-Kottapuram stretch of West Coast Canal and Champakara and Udyogmandal canals (National Waterway No. 3); (ii) establishment of the Inland Waterways Authority of India for regulation and development of inland waterways; and (iii) considerable increase in inland water transport activity and consequently increase in demand for trained personnel for manning of vessels. In view of the expanding inland water transport activities, the need felt is that the said Act should be amended to take into account the operational difficulties, present scenario of inland water transport, compatibility of insurance for mechanically propelled vessels against third party risks in line with the provisions of the Motor Vehicle Act, 1988, prevention and control of pollution in inland waters, etc. Accordingly, it is proposed to amend the Inland Vessles Act, 1917.

2. The salient features of the proposed amendment Bill are as follows:—

(i) extension of inland water limits, by amending the definition of inland water, which would result in extensive use of inland waters by inland vessels which otherwise are not permitted to go beyond prescribed limits;

(ii) inclusion of dumb barges in the definition of mechanically propelled vessels, which are currently outside the ambit of the Inland Vessels Act, 1917;

(iii) dividing the inland water area into three zones based on maximum significant wave height criteria through notification by the respective State Governments to facilitate safety of vessels by providing for suitable construction and manning norms based on operating conditions and also to provide for the flexibility of classification of inland waters into different zones;

(iv) extending validity of certificate of registration, competency or licence of crew of inland vessels issued by one State Government to other States in order to provide relief to the vessel owners and the crew and issuance of temporary permit by the surveyor pending the issue of certificate of survey in the interest of overall development of inland water transport sector;

(v) liberalising the criteria for transfer of certificate of registration to avoid hassles to the owners carrying out inter-State operation;

(vi) to make provision for induction of suitable trained manpower from Army, Navy and Coast Guard into inland water transport fold to address the problem of shortage of manpower in inland water transport sector;

(vii) amendment of section 54C so as to make section 134 and Chapters X, XI and XII of the Motor Vehicles Act, 1988, applicable in relation to mechanically propelled vessels with certain modifications and also to provide insurance of vessels against third party risks, compensation for accidents and Claims Tribunal, etc;

(viii) amendment of section 52 of the said Act which empowers the State Governments for prescribing requirements of (i) hull, equipment and machinery in respect of inland mechanically propelled vessels, (ii) life saving appliances, and (iii) apparatus required for communication and navigation in the interest of enhanced safety;

(ix) insertion of new Chapter VIAB in the said Act which *inter alia* provides for prohibition of discharge of oil, oily mixture, etc., in the inland water, reception facility to discharge oil, oily mixture, hazardous chemical or obnoxious chemical at inland port, power of entry and inspection and power to Central Government for making rules for prevention and control of pollution. It also provides punishment for contravention of the provisions of this Chapter and rules made thereunder;

(x) opportunity has also been taken to omit obsolete provisions of the said Act.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 23rd November, 2005.

T. R. BAALU.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill seeks to amend section 30 of the Act which empowers the State Governments to make rules for grant of certificate of service based on the period of service required for the person who has served in the Coast Guard, Indian Navy or regular Army.

Clause 10 of the Bill seeks to amend section 52 of the Act which empowers the State Governments for prescribing requirements of (i) hull, equipment and machinery in respect of inland mechanically propelled vessels, (ii) life saving appliances, and (iii) apparatus required for communication and navigation in the interest of enhanced safety.

Clause 12 of the Bill seeks to insert a new Chapter VI AB to provide for prevention and control of pollution and protection of Inland Waterways. Proposed section 54H of the said Chapter empowers the Central Government to make rules for the purpose of this Chapter. Specifically such rule may (a) prescribe the designated hazardous chemical and obnoxious substance under clause (a) of section 54D; (b) prescribe fitment of oily mixture treatment equipment on shore and on board in certain cases; (c) prescribe details of reception facilities at inland port, cargo or passenger terminal; (d) prescribe the forms and record books for inland port, cargo or passenger terminal and the manner in which such books shall be maintained, the nature of entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto; (e) any other matter, which is to be, or may be, prescribed.

The matters with regard to which the Central Government or the State Government, as the case may be, is proposed to be empowered to make rules are matters of detail. The rules made by the Central Government shall be laid before each House of Parliament and the rules made by the State Government shall be laid before the Legislature of that State. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE INLAND VESSELS ACT, 1917

(1 OF 1917)

CHAPTER I

PRELIMINARY

1. (1) * * * * * Short title and extent.

(2) It extends to the whole of India except the State of Jammu and Kashmir:

Provided that it shall not come into force in any part of the territories which on the 31st day of March, 1936, were included in the Province of Madras or which on the 31st day of October, 1956, were included in the State of Travancore-Cochin, unless the State Government concerned, by notification in the Official Gazette, so directs.

2. (1) In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) “inland vessel” or “inland mechanically propelled vessel” means a mechanically propelled vessel which ordinarily plies on any inland water;

(b) “inland water” means any canal, river, lake or other navigable water;

(c) “mechanically propelled vessel” means every description of vessel propelled wholly or in part by electricity, steam or other mechanical power;

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CHAPTER II

SURVEY OF INLAND MECHANICALLY PROPELLED VESSELS

3. (1) An inland mechanically propelled vessel shall not proceed on any voyage, or be used for any service unless she has a certificate of survey in force and applicable to such voyage or service. Inland mechanically propelled vessel not to proceed on voyage or to be used for service without certificate of survey.

* * * * *

19-I. (1) * * * * * Prohibition against transfer of certificate of registration.

(3) When an inland mechanically propelled vessel registered in one State has been kept in another State for a period exceeding twelve months, the owner or master of the vessel shall make an application under section 19K to the registering authority, within whose jurisdiction the vessel then is, for the transfer of registry from the registering authority of the place where the vessel is registered.

* * * * *

22. (1) The State Government may, if it thinks fit, grant without examination to any person who has served as a master, or as an engineer, of an inland mechanically propelled vessel for a period of three years before the first day of November, 1956, a certificate (hereinafter called a certificate of service) to the effect that he is, by reason of his having so served, competent to act as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, on board an inland mechanically propelled vessel. Grant of masters', serangs', engineers' and engine-drivers' certificates of service.

* * * * *

Power for State Government to make rules as to grant of certificates of service.

30. The State Government may also make rules to regulate the granting of certificates of service under section 22, and may by such rules prescribe in particular—

* * * * *

Area in which certificates of competency or service and licences shall have effect.

31. A certificate of competency or service or a licence granted under this Chapter shall have effect throughout the State in which it was granted:

Provided that the authority granting such certificate or licence may, by endorsement thereon, restrict the effect of such certificate or licence to any part of such State:

Provided further that such certificate or licence may be endorsed by the State Government of any other State, or with the general or special sanction of the State Government of such other State, by the authority granting it so as to have effect in such other State or any part thereof, and thereupon shall have effect accordingly.

* * * * *

Power for State Government to make rules for protection of inland mechanically propelled vessels from accidents.

52. (1) * * * * *

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(i) prescribe the speed at which inland mechanically propelled vessels may be navigated in specified areas; and

* * * * *

CHAPTER VIA

INSURANCE OF MECHANICALLY PROPELLED VESSELS AGAINST THIRD PARTY RISKS

Application of Chapter VIII of the Motor Vehicles Act, 1939, in relation to the insurance of mechanically propelled vessels.

54C. The provisions of Chapter VIII of the Motor Vehicles Act, 1939, shall *mutatis mutandis* apply, in relation to the insurance of mechanically propelled vessels against third party risks as they apply in relation to motor vehicles, subject to the following modifications, namely:—

(a) throughout in Chapter VIII,—

(i) references to “motor vehicle” or “vehicle” shall be construed as references to “mechanically propelled vessel”;

(ii) references to “public place” shall be construed as references to “inland water”,

and such other consequential amendments as the rules of grammar may require shall also be made;

(b) in section 94,—

(i) in sub-section (3), for clause (c), the following clause shall be substituted, namely:—

“(c) any State Water Transport Undertaking providing inland water transport service, where such Undertaking is carried on by—

(i) the Central Government or a State Government;

(ii) any local authority or any corporation or company owned by the Central Government or one or more State Governments or by the Central Government and one or more State Governments;

(ii) in the *Explanation*, in item (iii), for the words “State Transport”, the words “State Water Transport” shall be substituted;

(c) in section 95,—

(i) in sub-section (1),—

(A) in clause (b), in sub-clause (ii), for the words “of a public service vehicle”, the words and brackets “of a mechanically propelled vessel used or adapted to be used for the carriage of passengers for hire or reward (hereinafter referred to as a public service vessel)” shall be substituted,

(B) in the proviso, in clause (i), for sub-clauses (b) and (c), the following sub-clauses shall be substituted, namely:—

“(b) if it is a public service vessel, engaged as a conductor of the vessel or in examining tickets on the vessel, or

(c) if it is a vessel used or adapted for the carriage of goods solely or in addition to passengers (hereinafter referred to as goods service vessel), being carried in the vessel, or”;

(ii) in sub-section (2),—

(A) in clause (a), for the words “goods vehicle, a limit of fifty thousand rupees”, the words “goods service vessel, a limit of two lakhs and fifty thousand rupees” shall be substituted;

(B) in clause (b),—

(1) in sub-clause (i), for the words “fifty thousand rupees”, the words “two lakhs and fifty thousand rupees” shall be substituted;

(2) in sub-clause (ii),—

(a) in paragraph (3), for the words “one lakh”, the words “five lakhs” shall be substituted;

(b) in paragraph (4), the words “where the vehicle is a motor cab, and five thousand rupees for each individual passenger in any other case” shall be omitted;

(C) in clause (d), for the words “a limit of rupees two thousand”, the words “a limit of ten thousand rupees” shall be substituted;

(d) in section 96,—

(i) in sub-section (2), in clause (b),—

(A) for sub-clause (i), the following sub-clause shall be substituted, namely:—

“(i) a condition excluding the use of the mechanically propelled vessel—

(a) for hire or reward, where the vessel is on the date of the contract of insurance, a vessel not covered by a certificate of registration, or

(b) for organised racing or speed testing, or

(c) for a purpose not allowed by the certificate of registration under which the vessel is used, where the vessel is a public service vessel or a goods service vessel, or”;

(B) in sub-clause (ii),—

(1) for the words “not duly licensed”, the words and figures “not holding a certificate granted under Chapter III of the Inland Vessels Act, 1917” shall be substituted,

(2) for the words “a driving licence”, the words and figures “a certificate granted under Chapter III of the Inland Vessels Act, 1917” shall be substituted;

(ii) in sub-section (2A), after the words “obtained from a Court”, the words “in the State of Jammu and Kashmir or” shall be inserted;

(iii) in the proviso to sub-section (2A) and in sub-section (6), after the words “corresponding law”, the words “of the State of Jammu and Kashmir or” shall be inserted;

(e) after section 105, the following section shall be inserted, namely:—

“105A. When any person is injured or any property of third party is damaged as a result of an accident in which an inland mechanically propelled vessel is involved, the master or the driver of the vessel or other person in charge of the vessel shall—

(a) take all reasonable steps to secure medical attention for the injured person, and, if necessary, convey him to the nearest hospital, unless the injured person or his guardian in case he is a minor, desires otherwise;

(b) give on demand by a police officer any information required by him, or, if no police officer is present, report the circumstances of the occurrence at the nearest police station as soon as possible, and in any case within twenty-four hours of the occurrence.”;

(f) in section 106,—

(A) in sub-section (2), for the word and figures “section 89”, the word, figures and letter “section 105A” shall be substituted;

(B) in sub-section (2A), in the proviso, for the words “transport vehicle”, the words “public service vessel or goods service vessel” shall be substituted;

(g) in section 107, for the words “whether by payment of a tax or otherwise for authority to use the vehicle in a public place to produce such evidence as may be prescribed by those rules to the effect that either”, the words “for a certificate of survey or a certificate of registration in respect of such vessel to produce such evidence as may be prescribed to the effect that either” shall be substituted;

(h) in section 108,—

(A) for the words “transport vehicle”, wherever they occur, the words “public service vessel or goods service vessel” shall be substituted, and such other consequential amendments as the rules of grammar may require shall also be made;

(B) in sub-section (1), in clause (a),—

(1) for the words “twenty-five thousand rupees for the first fifty vehicles”, the words “one lakh rupees for the first fifty mechanically propelled vessels” shall be substituted,

(2) for the words “one hundred and fifty thousand rupees”, the words “two lakhs and fifty thousand rupees” shall be substituted;

(i) for section 110 to section 110B, the following sections shall, respectively, be substituted, namely:—

“110. (1) The State Government may, by notification in the Official Gazette, constitute one or more Inland Vessels Accidents Claims Tribunals (hereinafter referred to as the Claims Tribunals) for such areas as may be specified in the

Duty of driver
in case of
accident and
injury to a
person.

Claims
Tribunals.

notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of mechanically propelled vessels or damage to any property of a third party so arising, or both:

Provided that where such claim includes a claim for compensation in respect of damage to property exceeding rupees ten thousand the claimant may, at his option, refer the claim to a civil court for adjudication and where a reference is so made, the Claims Tribunal shall have no jurisdiction to entertain any question relating to such claim.

(2) A Claims Tribunal shall consist of such number of members as the State Government may think fit to appoint and where it consists of two or more members, one of them shall be appointed as the Chairman thereof.

(3) A person shall not be qualified for appointment as a member of a Claims Tribunal unless he—

(a) is, or has been, a Judge of a High Court, or

(b) is, or has been, a District Judge, or

(c) is qualified for appointment as a Judge of the High Court.

(4) Where two or more Claims Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business among them.

110A. (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 110 may be made—

Application for compensation.

(a) by the person who has sustained the injury, or

(b) where death has resulted from the accident, by all or any of the legal representatives of the deceased, or

(c) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred, and shall be in such form and shall contain such particulars as may be prescribed.

(3) No application for compensation under this section shall be entertained unless it is made within six months of the occurrence of the accident:

Provided that the Claims Tribunal may entertain the application after the expiry of the said period of six months if it is satisfied that the applicant was prevented by sufficient cause from making the application in time.

110AA. Notwithstanding anything contained in the Workmen's Compensation Act, 1923, where the death or bodily injury to any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may claim such compensation under either of those Acts but not under both.

Option regarding claim for compensation in certain cases.

Award of Claims
Tribunal.

110B. On receipt of an application for compensation made under section 110A, the Claims Tribunal shall, after giving the parties an opportunity of being heard, hold an inquiry into the claim and may make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid; and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or master or driver of the vessel involved in the accident or by all or any of them, as the case may be.”;

(j) in section 110C, for the words, figures and letters “section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898”, the words, figures and letters “section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973” shall be substituted.

5 of 1898.
2 of 1974.

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further to amend the Inland Vessels Act, 1917.

(Shri T. R. Baalu, Minister of Shipping, Road Transport & Highways)

MGIPMRND—4201RS(S-5)—06-12-2005.