

# THE DISASTER MANAGEMENT BILL, 2005

A

## BILL

*to provide for the effective management of disasters and for matters connected therewith or incidental thereto.*

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

## CHAPTER I

### PRELIMINARY

**1.** (1) This Act may be called the Disaster Management Act, 2005.

(2) It extends to the whole of India.

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

Short title,

extent and

commencement.

SERVER1/BILL\_2004/RS/944RS.P65

1

### **Bill No. LV of 2005**

2

SERVER1/BILL\_2004/RS/944RS.P65

Definitions. **2.** In this Act, unless the context otherwise requires,—

(a) "affected area" means an area or part of the country affected by a disaster;

(b) "capacity-building" includes—

(i) identification of existing resources and resources to be acquired or created;

(ii) acquiring or creating resources identified under sub-clause (i);

(iii) organisation and training of personnel and coordination of such training for effective management of disasters;

(c) "Central Government" means the Ministry or Department of the Government of India having administrative control of disaster management;

(d) "disaster" means a catastrophe, mishap, calamity or grave occurrence affecting any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;

(e) "disaster management" means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for—

(i) prevention of danger or threat of any disaster;

(ii) mitigation or reduction of risk of any disaster or its severity or consequences;

(iii) capacity-building;

(iv) preparedness to deal with any disaster;

(v) prompt response to any threatening disaster situation or disaster;

(vi) assessing the severity or magnitude of effects of any disaster;

(vii) evacuation, rescue and relief;

(viii) rehabilitation and reconstruction;

(f) "District Authority" means the District Disaster Management Authority constituted under sub-section (1) of section 25;

(g) "District Plan" means the plan for disaster management for the district prepared under section 31;

(h) "local authority" includes panchayati raj institutions, municipalities, a district board, cantonment board, town planning authority or any other body or authority, by whatever name called, for the time being invested by law, for rendering essential

services or, with the control and management of civic services, within a specified local area;

(i) "mitigation" means measures aimed at reducing the risk, impact or effects of a disaster or threatening disaster situation;

(j) "National Authority" means the National Disaster Management Authority established under sub-section (1) of section 3;

(k) "National Executive Committee" means the Executive Committee of the National Authority constituted under sub-section (1) of section 8;

(l) "National Plan" means the plan for disaster management for the whole of the country prepared under section 11;

3

SERVER1/BILL\_2004/RS/944RS.P65

(m) "preparedness" means the state of readiness to deal with a threatening disaster situation or disaster and the effects thereof;

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

(o) "reconstruction" means repair or construction of any property after a disaster;

(p) "resources" includes manpower, services, materials and provisions;

(q) "State Authority" means the State Disaster Management Authority established under sub-section (1) of section 14;

(r) "State Executive Committee" means the Executive Committee of a State Authority constituted under sub-section (1) of section 20;

(s) "State Plan" means the plan for disaster management for the whole of the State prepared under section 23.

## CHAPTER II

### THE NATIONAL DISASTER MANAGEMENT AUTHORITY

**3.** (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint in this behalf, there shall be established for the purposes of this Act, an authority to be known as the National Disaster Management Authority.

(2) The National Authority shall consist of such number of members, not exceeding ten, as may be prescribed by the Central Government and, unless the rules otherwise provide, the National Authority shall consist of the following :—

(a) the Prime Minister of India, who shall be Chairperson, *ex officio*;

(b) nine other members to be nominated by the Prime Minister.

(c) the Chairperson of the National Authority may designate one of the members nominated under sub-clause (b) of sub-section (2) to be the Vice-Chairperson of the Authority.

**4.** (1) The National Authority shall meet as and when necessary and at such time and place as the Chairperson of the National Authority may think fit.

(2) The Chairperson of the National Authority shall preside over the meetings of the National Authority.

(3) If for any reason the Chairperson of the National Authority is unable to attend any meeting of the National Authority, the Vice-Chairman of the National Authority shall preside over the meeting.

**5. The Central Government shall provide the National Authority with such officers, consultants and employees, as it considers necessary for carrying out the functions of the National Authority.**

**6.** (1) Subject to the provisions of this Act, the National Authority shall have the responsibility for laying down the policies, plans and guidelines for disaster management.

(2) Without prejudice to generality of the provisions contained in sub-section (1), the National Authority may –

(a) lay down policies on disaster management;

(b) approve the National Plan;

(c) approve plans prepared by the Ministries or Departments of the Government of India in accordance with the National Plan;

Meetings of  
National

Authority.  
Establishment  
of National  
Disaster  
Management  
Authority.  
Appointment  
of officers,  
and other  
employees of  
the National  
Authority.  
Powers and  
functions of  
National  
Authority.

4

SERVER1/BILL\_2004/RS/944RS.P65

(d) lay down guidelines to be followed by the State Authorities in drawing up the State Plan;

(e) lay down guidelines to be followed by the different Ministries or Departments of the Government of India for the purpose of integrating the measures for prevention of disaster or the mitigation of its effects in their development plans and projects;

(f) coordinate the enforcement and implementation of the policy and plan for disaster management;

(g) arrange for, and oversee, the provision of funds for the purpose of mitigation measures, preparedness and response;

(h) provide such support to other countries affected by major disasters as may be determined by the Central Government;

(i) take such other measures for the prevention of disaster, or the mitigation, or for preparedness and capacity building for dealing with the threatening disaster situation or disaster as it may consider necessary.

(3) The Chairperson of the National Authority shall, in the case of emergency, have power to exercise all or any of the powers of the National Authority but exercise of such powers shall be subject to *post facto* ratification by the National Authority.

7. (1) The National Authority may constitute an advisory committee consisting of experts in the field of disaster management and having practical experience of disaster management at the national, State or district level to make recommendations on different aspects of disaster management.

(2) **The members of the advisory committee shall be paid such allowances as may be prescribed by the Central Government.**

8. (1) The Central Government shall, immediately after issue of notification under subsection (1) of section 3, constitute a National Executive Committee to assist the National Authority in the performance of its functions under this Act.

(2) The National Executive Committee shall consist of the following members, namely:—

(a) the Secretary to the Government of India in charge of the Ministry or Department of the Government of India having administrative control of the disaster management, who shall be Chairperson, *ex officio*;

(b) the Secretaries to the Government of India in the Ministries or Departments having administrative control of the agriculture, atomic energy, defence, drinking water supply, environment and forests, finance (expenditure), health, power, rural development, science and technology, space, telecommunication, water resources and the Chief of the Integrated Defence Staff of the Chiefs of Staff Committee, *ex officio*.

(3) The Chairperson of the National Executive Committee shall exercise such powers and perform such functions as may be prescribed by the Central Government.

(4) The procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions shall be such as may be prescribed by the Central

Government.

**9. (1) The National Executive Committee may, as and when it considers necessary, constitute one or more sub-committees, for the efficient discharge of its functions.**

(2) The National Executive Committee shall, from amongst its members, appoint the Chairperson of the sub-committee referred to in sub-section (1).

Constitution  
of National  
Executive  
Committee.  
Constitution  
of subcommittees.  
Constitution  
of advisory  
committee by  
National  
Authority.

5

SERVER1/BILL\_2004/RS/944RS.P65

**(3) Any person associated as an expert with any sub-committee may be paid such allowances as may be prescribed by the Central Government.**

**10. (1)** The National Executive Committee shall assist the National Authority in the discharge of its functions and have the responsibility for implementing the policies and plans of the National Authority and the directions issued by the Central Government in regard to take all measures for the purpose of disaster management in the country.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the National Executive Committee may —

- (a) act as the coordinating and monitoring body for disaster management;
- (b) prepare the National Plan to be approved by the National Authority;
- (c) coordinate and monitor the implementation of the National Policy;
- (d) lay down guidelines for preparing disaster management plans by different Ministries or Departments of the Government of India and the State Authorities;
- (e) provide necessary technical assistance to the State Governments and the State Authorities for preparing their disaster management plans in accordance with the guidelines laid down by the National Authority;
- (f) monitor the implementation of the National Plan and the plans prepared by the Ministries or Departments of the Government of India;
- (g) monitor the implementation of the guidelines laid down by the National Authority for integrating of measures for prevention of disasters and mitigation by the Ministries or Departments in their development plans and projects;
- (h) monitor, coordinate and give directions regarding the mitigation and preparedness measures to be taken by different Ministries or Departments and agencies of the Government;
- (i) evaluate the preparedness at all governmental levels for the purpose of responding to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness;
- (j) plan and coordinate specialised training programme for disaster management for different levels of officers, employees and voluntary rescue workers;
- (k) coordinate response in the event of any threatening disaster situation or disaster;
- (l) lay down guidelines for, or give directions to, the concerned Ministries or Departments of the Government of India, the State Governments and the State Authorities regarding measures to be taken by them in response to any threatening disaster situation or disaster;
- (m) require any department or agency of the Government to make available to the National Authority or State Authorities such men or material resources as are available with it for the purposes of emergency response, rescue and relief;
- (n) advise, assist and coordinate the activities of the Ministries or Departments of the Government of India, State Authorities, statutory bodies, other governmental or

non-governmental organisations and others engaged in disaster management;  
(o) provide necessary technical assistance or give advice to the State Authorities and District Authorities for carrying out their functions under this Act;  
(p) promote general education and awareness in relation to disaster management;  
and  
(q) perform such other functions as the National Authority may require it to perform.

Powers and  
functions of  
National  
Executive  
Committee.

6

SERVER1/BILL\_2004/RS/944RS.P65

**11.** (1) There shall be drawn up a plan for disaster management for the whole of the country to be called the National Plan.

(2) The National Plan shall be prepared by the National Executive Committee having regard to the National Policy and in consultation with the State Governments and expert bodies or organisations in the field of disaster management, and approved by the National Authority.

(3) The National Plan shall include—

(a) measures to be taken for the prevention of disasters, or the mitigation of their effects;

(b) measures to be taken for the integration of mitigation measures in the development plans;

(c) measures to be taken for preparedness and capacity building to effectively respond to any threatening disaster situations or disaster;

(d) roles and responsibilities of different Ministries or Departments of the Government of India in respect of measures specified in clauses (a), (b) and (c).

(4) The National Plan shall be reviewed and updated annually.

**(5) Appropriate provisions shall be made by the Central Government for financing the measures to be carried out under the National Plan.**

(6) Copies of the National Plan referred to in sub-sections (2) and (4) shall be made available to the Ministries or Departments of the Government of India and such Ministries or Departments shall draw up their own plans in accordance with the National Plan.

**12.** The National Authority shall lay down guidelines for the minimum standards of relief to be provided to persons affected by disaster, which shall include,—

(i) the minimum requirements to be provided in the relief camps in relation to shelter, food, drinking water, medical cover and sanitation;

(ii) the special provisions to be made for widows and orphans;

(iii) *ex gratia* assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood;

(iv) such other relief as may be necessary.

**13. The National Authority may, in cases of disasters of severe magnitude give directions regarding relief in repayment of loans or for grant of fresh loans to the persons affected by disaster on such concessional terms as may be appropriate.**

### CHAPTER III

#### STATE DISASTER MANAGEMENT AUTHORITIES

**14.** (1) Every State Government shall, as soon as may be after the issue of the notification under sub-section (1) of section 3, by notification in the Official Gazette, establish a State Disaster Management Authority for the State with such name as may be specified in the notification of the State Government.

(2) A State Authority shall consist of such number of members, not exceeding ten, as may be prescribed by the State Government and, unless the rules otherwise provide, the State Authority shall consist of the following members, namely:—

(a) the Chief Minister of the State, who shall be Chairperson, *ex officio*;

(b) nine other members to be nominated by the Chief Minister;

National  
Plan.  
Guidelines for  
minimum  
standards of  
relief.  
Relief in loan  
repayment,  
etc.  
Establishment  
of State  
Disaster  
Management  
Authority.

7

SERVER1/BILL\_2004/RS/944RS.P65

(c) the Chairperson of the State Executive Committee, *ex officio*.

(d) the Chairperson of the State Authority may designate one of the members nominated under sub-section (b) to be the Vice-Chairperson of the State Authority;

(3) The Chairperson of the State Executive Committee shall be Chief Executive Officer of the State Authority, *ex officio*.

**15.** (1) The State Authority shall meet as and when necessary and at such time and place as the Chairperson of the State Authority may think fit.

(2) The Chairperson of the State Authority shall preside over the meetings of the State Authority.

(3) If for any reason, the Chairperson of the State Authority is unable to attend the meeting of the State Authority, the Vice-Chairperson of the State Authority shall preside at the meeting.

**16.** The State Government shall provide the State Authority with such officers, consultants and employees, as it considers necessary, for carrying out the functions of the State Authority.

**17.** (1) A State Authority may, as and when it considers necessary, constitute an advisory committee, consisting of experts in the field of disaster management and having practical experience of disaster management to make recommendations on different aspects of disaster management.

(2) The members of the advisory committee shall be paid such allowances as may be prescribed by the State Government.

**18.** (1) Subject to the provisions of this Act, a State Authority shall have the responsibility for laying down policies and plans for disaster management in the State.

(2) Without prejudice to the generality of provisions contained in sub-section (1), the State Authority may —

(a) lay down the State disaster management policy;

(b) lay down the State Plan in accordance with the guidelines laid down by the National Authority;

(c) approve the disaster management plans prepared by the departments of the Government of the State;

(d) coordinate the implementation of the plan;

(e) oversee the provision of funds for mitigation and preparedness measures;

(f) review the development plans of the different departments of the State and ensure that prevention and mitigation measures are integrated therein;

(g) review the measures being taken for mitigation, capacity building and preparedness by the departments of the Government of the State and issue such guidelines or directions as may be necessary.

(3) The Chairperson of the State Authority shall, in the case of emergency, have power to exercise all or any of the powers of the State Authority but the exercise of such powers shall be subject to *post facto* ratification of the State Authority.

Meetings of  
the State  
Authority.

Appointment  
of officers  
and other  
employees of  
State  
Authority.  
Constitution  
of advisory  
committee by  
the State  
Authority.  
Powers and  
functions of  
State  
Authority.

8

SERVER1/BILL\_2004/RS/944RS.P65

**19.** The State Authority shall lay down detailed guidelines for providing minimum standards of relief to persons affected by disaster in the State:

Provided that such standards shall in no case be less than the minimum standards laid down in the guidelines laid down by the National Authority in this regard.

**20. (1)** The State Government shall, immediately after issue of notification under subsection (1) of section 14, constitute a State Executive Committee to assist the State Authority in the performance of its functions and to coordinate action in accordance with the guidelines laid down by the State Authority and the directions issued by the State Government under this Act.

(2) The State Executive Committee shall consist of the following members, namely:—

(a) The Chief Secretary to the State Government, who shall be Chairperson, *ex officio*;

(b) four Secretaries to the Government of the State of such departments as the State Government may think fit, *ex officio*.

(3) The Chairperson of the State Executive Committee shall exercise such powers and perform such functions as may be prescribed by the State Government and such other powers and functions as may be delegated to him by the State Authority.

(4) The procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions shall be such as may be prescribed by the State Government.

**21. (1)** The State Executive Committee may, as and when it considers necessary, constitute one or more sub-committees, for efficient discharge of its functions.

(2) The State Executive Committee shall, from amongst its members, appoint the Chairperson of the sub-committee referred to in sub-section (1).

(3) Any person associated as an expert with any sub-committee may be paid such allowances as may be prescribed by the State Government.

**22. (1)** The State Executive Committee shall have the responsibility for implementing the National Plan and State Plan and act as the coordinating and monitoring body for management of disaster in the State.

(2) Without prejudice to the generality of the provisions of sub-section (1), the State Executive Committee may—

(a) coordinate and monitor the implementation of the National Policy, the National Plan and the State Plan;

(b) examine the vulnerability of different parts of the State to different forms of disasters and specify measures to be taken for their prevention or mitigation;

(c) lay down guidelines for preparation of disaster management plans by the departments of the Government of the State and the District Authorities;

(d) monitor the implementation of disaster management plans prepared by the departments of the Government of the State and District Authorities;

(e) lay down guidelines to be followed by the departments of the Government of the State for the purposes of integration of measures for prevention of disasters and

mitigation in their development plans and projects and provide necessary technical assistance therefor;

(f) monitor the implementation of measures referred to in clause (e);

(g) evaluate preparedness at all governmental or non-governmental levels to

Guidelines for

minimum

standard of

relief by

State

Authority.

Constitution

of State

Executive

Committee.

Constitution

of subcommittees

by

State

Executive

Committee.

Functions of

the State

Executive

Committee.

9

SERVER1/BILL\_2004/RS/944RS.P65

respond to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness;

(h) coordinate response in the event of any threatening disaster situation or disaster;

(i) give directions to any Department of the Government of the State or any other authority or body in the State regarding actions to be taken in response to any threatening disaster situation or disaster;

(j) promote general education, awareness and community training in regard to the forms of disasters to which different parts of the State are vulnerable and the measures that may be taken by such community to prevent the disaster, mitigate and respond to such disaster;

(k) advise, assist and coordinate the activities of the Departments of the Government of the State, District Authorities, statutory bodies and other governmental and non-governmental organisations engaged in disaster management;

(l) provide necessary technical assistance or give advice to District Authorities and local authorities for carrying out their functions effectively;

(m) advise the State Government regarding all financial matters in relation to disaster management;

(n) examine the construction, in any local area in the State and, if it is of the opinion that the standards laid for such construction for the prevention of disaster is not being or has not been followed, may direct the District Authority or the local authority, as the case may be, to take such action as may be necessary to secure compliance of such standards;

(o) provide information to the National Authority relating to different aspects of disaster management;

(p) lay down, review and update State level response plans and guidelines and ensure that the district level plans are prepared, reviewed and updated;

(q) ensure that communication systems are in order and the disaster management drills are carried out periodically;

(q) perform such other functions as may be assigned to it by the State Authority or as it may consider necessary.

**23.** (1) There shall be a plan for disaster management for every State to be called the State Disaster Management Plan.

(2) The State Plan shall be prepared by the State Authority having regard to the



guidelines laid down by the National Authority and after such consultation with zila parishads, district authorities and the people's representatives as the State Authority may deem fit.

(3) The State Plan shall include,—

(a) the vulnerability of different parts of the State to different forms of disasters;

(b) the measures to be adopted for prevention and mitigation of disasters;

(c) the manner in which the mitigation measures shall be integrated with the development plans and projects;

(d) the capacity-building and preparedness measures to be taken;

(e) the roles and responsibilities of each Department of the Government of the State in relation to the measures specified in clauses (b), (c) and (d) above;

(f) the roles and responsibilities of different Departments of the Government of the State in responding to any threatening disaster situation or disaster;

State Plan.

10

SERVER1/BILL\_2004/RS/944RS.P65

(4) The State Plan shall be reviewed and updated annually.

(5) Appropriate provisions shall be made by the State Government for financing for the measures to be carried out under the State Plan.

(6) Copies of the State Plan referred to in sub-sections (2) and (4) shall be made available to the Departments of the Government of the State and such Departments shall draw up their own plans in accordance with the State Plan.

**24.** For the purpose of, assisting and protecting the community affected by disaster or providing relief to such community or, preventing or combating disruption or dealing with the effects of any threatening disaster situation, the State Executive Committee may—

(a) control and restrict, vehicular traffic to, from or within, the vulnerable or affected area;

(b) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;

(c) remove debris, conduct search and carry out rescue operations;

(d) provide shelter, food, drinking water, essential provisions, healthcare and services in accordance with the standards laid down by the National Authority and State Authority;

(e) give direction to the concerned Department of the Government of the State, any District Authority or other authority, within the local limits of the State to take such measure or steps for rescue, evacuation or providing immediate relief saving lives or property, as may be necessary in its opinion;

(f) require any department of the Government of the State or any other body or authority or person in charge of any relevant resources to make available the resources for the purposes of emergency response, rescue and relief;

(g) require experts and consultants in the field of disasters to provide advise and assistance for rescue and relief;

(h) procure exclusive or preferential use of amenities from any authority or person as and when required;

(i) construct temporary bridges or other necessary structures and demolish unsafe structures which may be hazardous to public;

(j) ensure that non-governmental organisations carry out their activities in an equitable and non-discriminatory manner;

(k) disseminate information to public to deal with any threatening disaster situation or disaster;

(l) take such steps as the Central Government or the State Government may direct in this regard or take such other steps as are required or warranted by the form of any threatening disaster situation or disaster.

#### CHAPTER IV

##### DISTRICT DISASTER MANAGEMENT AUTHORITY

**25.** (1) Every State Government shall, as soon as may be after issue of notification under sub-section (1) of section 14, by notification in the Official Gazette, establish a District

Disaster Management Authority for every district in the State with such name as may be specified in that notification.

(2) The District Authority shall consist of such number of members, not exceeding seven, as may be prescribed by the State Government, and unless the rules otherwise provide, it shall consist of the following members, namely:—

Powers and  
functions of  
State  
Executive  
Committee in  
the event of  
threatening  
disaster  
situation.  
Constitution  
of District  
Disaster  
Management  
Authority.

11

SERVER1/BILL\_2004/RS/944RS.P65

(a) the Collector or District Magistrate or Deputy Commissioner, as the case may be, of the district who shall be Chairperson, *ex officio*;

(b) the Chief Executive Officer of the District Authority;

(c) the Superintendent of Police, *ex officio*;

(d) the Chief Medical Officer of the district, *ex officio*;

(e) three other district level officers, to be appointed by the State Government.

(3) The State Government shall appoint an officer not below the rank of Additional Collector or Additional District Magistrate or Additional Deputy Commissioner, as the case may be, of the district to be the Chief Executive Officer of the District Authority to exercise such powers and perform such functions as may be prescribed by the State Government and such other powers and functions as may be delegated to him by the District Authority.

**26.** (1) The Chairperson of the District Authority shall, in addition to presiding over the meetings of the District Authority, exercise and discharge such powers and functions of the District Authority as the District Authority may delegate to him.

(2) The Chairperson of the District Authority shall, in the case of an emergency, have power to exercise all or any of the powers of the District Authority but the exercise of such powers shall be subject to *post facto* ratification of the District Authority.

(3) The District Authority or the Chairperson of the District Authority may, by general or special order, in writing, delegate such of its or his powers and functions, under subsections (1) or (2), as the case may be, to the Chief Executive Officer of the District Authority, subject to such conditions and limitations, if any, as it or he deems fit.

**27.** The District Authority shall meet as and when necessary and at such time and place as the Chairperson may think fit.

**28.** (1) The District Authority may, as and when it consider, necessary, constitute one or more advisory committees and other committees for the efficient discharge of its functions.

(2) The District Authority shall, from amongst its members, appoint the Chairperson of the Committee referred to in sub-section (1).

(3) Any person associated as an expert with any committee or sub-committee constituted under sub-section (1) may be paid such allowances as may be prescribed by the State Government.

**29.** The State Government shall provide the District Authority with such officers, consultants and other employees as it considers necessary for carrying out the functions of District Authority.

**30.** (1) The District Authority shall act as the district planning, coordinating and implementing body for disaster management and take all measures for the purposes of disaster management in the district in accordance with the guidelines laid down by the

National Authority and the State Authority.

(2) Without prejudice to the generality of the provisions of sub-section (1), the District Authority may—

(i) prepare a disaster management plan including district response plan for the district;

Meetings.

Powers of

Chairperson

of District

Authority.

Constitution

of advisory

committees

and other

committees.

Appointment

of officers

and other

employees of

District

Authority.

Powers and

functions of

District

Authority.

12

SERVER1/BILL\_2004/RS/944RS.P65

(ii) coordinate and monitor the implementation of the National Policy, State Policy, National Plan, State Plan and District Plan;

(iii) ensure that the areas in the district vulnerable to disasters are identified and measures for the prevention of disasters and the mitigation of its effects are undertaken by the departments of the Government at the district level as well as by the local authorities;

(iv) ensure that the guidelines for prevention of disasters, mitigation of its effects, preparedness and response measures as laid down by the National Authority and the State Authority are followed by all departments of the Government at the district level and the local authorities in the district;

(v) give directions to different authorities at the district level and local authorities to take such other measures for the prevention or mitigation of disasters as may be necessary;

(vi) lay down guidelines for prevention of disaster management plans by the department of the Government at the districts level and local authorities in the district;

(vii) monitor the implementation of disaster management plans prepared by the Departments of the Government at the district level;

(viii) lay down guidelines to be followed by the Departments of the Government at the district level for purposes of integration of measures for prevention of disasters and mitigation in their development plans and projects and provide necessary technical assistance therefor;

(ix) monitor the implementation of measures referred to in clause (viii);

(x) review the state of capabilities for responding to any disaster or threatening disaster situation in the district and give directions to the relevant departments or authorities at the district level for their upgradation as may be necessary;

(xi) review the preparedness measures and give directions to the concerned departments at the district level or other concerned authorities where necessary for bringing the preparedness measures to the levels required for responding effectively to any disaster threatening disaster situation;

(xii) organise and coordinate specialised training programmes for different levels of officers, employees and voluntary rescue workers in the district;

(xiii) facilitate community training and awareness programmes for prevention of

disaster or mitigation with the support of local authorities, governmental and nongovernmental organisations;

(xiv) set up, maintain, review and upgrade the mechanism for early warnings and dissemination of proper information to public;

(xv) prepare, review and update district level response plan and guidelines;

(xvi) coordinate response to any threatening disaster situation or disaster;

(xvii) ensure that the Departments of the Government at the district level and the local authorities prepare their response plans in accordance with the district response plan;

(xviii) lay down guidelines for, or give direction to, the concerned Department of the Government at the district level or any other authorities within the local limits of the district to take measures to respond effectively to any threatened disaster situation or disaster;

(xiv) advise, assist and coordinate the activities of the Departments of the Government at the district level, statutory bodies and other governmental and nongovernmental organisations in the district engaged in the disaster management;

13

SERVER1/BILL\_2004/RS/944RS.P65

(xix) coordinate with, and give guidelines to, local authorities in the district to ensure that pre-disaster and post-disaster management activities in the district are carried out promptly and effectively;

(xx) provide necessary technical assistance or give advise to the local authorities in the district for carrying out their functions;

(xxi) review development plans prepared by the Departments of the Government at the district level, statutory authorities or local authorities with a view to make necessary provisions therein for prevention of disaster or mitigation;

(xxii) examine the construction in any area in the district and, if it is of the opinion that the standards for the prevention of disaster or mitigation laid down for such construction is not being or has not been followed, may direct the concerned authority to take such action as may be necessary to secure compliance of such standards;

(xxiii) identify buildings and places which could, in the event of any threatening disaster situation or disaster, be used as relief centers or camps and make arrangements for water supply and sanitation in such buildings or places;

(xxiv) establish stockpiles of relief and rescue materials or ensure preparedness to make such materials available at a short notice;

(xxv) provide information to the State Authority relating to different aspects of disaster management;

(xxvi) encourage the involvement of non-governmental organisations and voluntary social-welfare institutions working at the grassroots level in the district for disaster management;

(xxvii) ensure communication systems are in order, and disaster management drills are carried out periodically;

(xxviii) perform such other functions as the State Government or State Authority may assign to it or as it deems necessary for disaster management in the District.

**31.** (1) There shall be a plan for disaster management for every district of the State.

(2) The District Plan shall be prepared by the District Authority, after consultation with the zila parishad and municipality and having regard to the National Plan and the State Plan.

(3) The District Plan shall include –

(a) the areas in the district vulnerable to different forms of disasters;

(b) the measures to be taken, for prevention and mitigation of disaster, by the Departments of the Government at the district level and local authorities in the district;

(c) the capacity-building and preparedness measures required to be taken by the departments of the Government at the district level and the local authorities in the district to respond to any threatening disaster situation or disaster;

(d) the response plans and procedures, in the event of a disaster, providing for—  
(i) allocation of responsibilities to the Departments of the Government at the district level and the local authorities in the district;  
(ii) prompt response to disaster and relief thereof;  
(iii) procurement of essential resources;  
(iv) establishment of communication links; and  
(v) the dissemination of information to the public;  
District Plan.

14

SERVER1/BILL\_2004/RS/944RS.P65

(e) such other matters as may be required by the State Authority.

(4) The District Plan shall be reviewed and updated annually.

(5) The copies of the District Plan referred to in sub-sections (2) and (4) shall be made available to the departments of the Government in the district.

(6) The District Authority shall send a copy of the District Plan to the State Authority which shall forward it to the State Government.

(7) The District Authority shall, review from time to time, the implementation of the Plan and issue such directions to the District authorities of different departments of the Government in the district as it may deem necessary for the implementation thereof.

**32.** Every office of the Government of India and of the State Government at the district level and the local authorities shall, subject to the supervision of the District Authority, —

(a) prepare a disaster management plan setting out the following, namely:—

(i) provisions for prevention and mitigation measures as provided for in the District Plan and as is assigned to the department or agency concerned;

(ii) provisions for taking measures relating to capacity-building and preparedness as laid down in the District Plan;

(iii) the response plans and procedures, in the event of, any threatening disaster situation or disaster;

(b) coordinate the preparation and the implementation of its plan with those of the other organisations at the district level including local authority, communities and other stakeholders;

(c) regularly review and update the plan; and

(d) submit a copy of its disaster management plan, and of any amendment thereto, to the District Authority.

**33.** The District Authority may by order require any officer or any Department at the district level or any local authority to take such measures for the prevention or mitigation of disaster, or to effectively respond to it, as may be necessary, and such officer or department shall be bound to carry out such order.

**34. (1)** For the purpose of assisting, protecting or providing relief to the community, in response to any threatening disaster situation or disaster, the District Authority may—

(a) give directions for the release and use of resources available with any Department of the Government and the local authority in the district;

(b) control and restrict vehicular traffic to, from and within, the vulnerable or affected area;

(c) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;

(d) remove debris, conduct search and carry out rescue operations;

(e) provide shelter, food, drinking water and essential provisions, healthcare and services;

(f) establish emergency communication systems in the affected area;

(g) make arrangements for the disposal of the unclaimed dead bodies;

Plans by

different

authorities at

district level

and their

implementation.  
Requisition by  
the District  
Authority.  
Powers and  
functions of  
District  
Authority in  
the event of  
any threatening  
disaster  
situation or  
disaster.

15

SERVER1/BILL\_2004/RS/944RS.P65

(h) direct any Department of the Government of the State or any authority or body under that Government at the district level to take such measures as are necessary in its opinion;

(i) require experts and consultants in the relevant fields to advise and assist as it may deem necessary;

(j) procure exclusive of preferential use of amenities from any authority or person;

(k) construct temporary bridges or other necessary structures and demolish structures which may be hazardous to public or aggravate the effects of the disaster;

(l) ensure that the non-governmental organisations carry out their activities in an equitable and non-discriminatory manner;

(m) take such other steps as may be required or warranted to be taken in such a situation.

#### CHAPTER V

##### MEASURES BY THE GOVERNMENT FOR DISASTER MANAGEMENT

**35.** (1) Subject to the provisions of this Act, the Central Government shall take all such measures as it deems necessary or expedient for the purpose of disaster management.

(2) In particular and without prejudice to the generality of the provisions of subsection (1), the measures which the Central Government may take under that sub-section include measures with respect to all or any of the following matters, namely:—

(a) coordination of actions of the Ministries or Departments of the Government of India, State Governments, National Authority, State Authorities, governmental and non-governmental organisations in relation to disaster management;

(b) ensure the integration of measures for prevention of disasters and mitigation by Ministries or Departments of the Government of India into their development plans and projects;

(c) ensure appropriate allocation of funds for prevention of disaster, mitigation, capacity-building and preparedness by the Ministries or Departments of the Government of India;

(d) ensure that the Ministries or Departments of the Government of India take necessary measures for preparedness to promptly and effectively respond to any threatening disaster situation or disaster;

(e) cooperation and assistance to State Governments, as requested by them or otherwise deemed appropriate by it;

(f) deployment of naval, military and air forces, other armed forces of the Union or any other civilian personnel as may be required for the purposes of this Act;

(g) coordination with the United Nations agencies, international organisations and governments of foreign countries for the purposes of this Act;

(h) establish institutions for research, training, and developmental programmes in the field of disaster management;

(i) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act.

(3) The Central Government may extend such support to other countries affected by major disaster as it may deem appropriate.

Central  
Government  
to take  
measures.

16

SERVER1/BILL\_2004/RS/944RS.P65

**36.** It shall be the responsibility of every Ministry or Department of the Government of India to —

- (a) take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority;
- (b) integrate into its development plans and projects, the measures for prevention or mitigation of disasters in accordance with the guidelines laid down by the National Authority;
- (c) respond effectively and promptly to any threatening disaster situation or disaster in accordance with the guidelines of the National Authority or the directions of the National Executive Committee in this behalf;
- (d) review the enactments administered by it, its policies, rules and regulations, with a view to incorporate therein the provisions necessary for prevention of disasters, mitigation or preparedness;
- (e) allocate funds for measures for prevention of disaster, mitigation, capacitybuilding and preparedness;
- (f) provide assistance to the National Authority and State Governments for—
  - (i) drawing up mitigation, preparedness and response plans, capacitybuilding, data collection and identification and training of personnel in relation to disaster management;
  - (ii) carrying out rescue and relief operations in the affected area;
  - (iii) assessing the damage from any disaster;
  - (iv) carrying out rehabilitation and reconstruction;
- (g) make available its resources to the National Executive Committee or a State Executive Committee for the purposes of responding promptly and effectively to any threatening disaster situation or disaster, including measures for—
  - (i) providing emergency communication in a vulnerable or affected area;
  - (ii) transporting personnel and relief goods to and from the affected area;
  - (iii) providing evacuation, rescue, temporary shelter or other immediate relief;
  - (iv) setting up temporary bridges, jetties and landing places;
  - (v) providing, drinking water, essential provisions, healthcare, and services in an affected area;
- (h) take such other actions as it may consider necessary for disaster management.

**37. (1)** Every Ministry or Department of the Government of India shall—

- (a) prepare a disaster management plan specifying the following particulars, namely:—
  - (i) the measures to be taken by it for prevention and mitigation of disasters in accordance with the National Plan;
  - (ii) the specifications regarding integration of mitigation measures in its development plans in accordance with the guidelines of the National Authority and the National Executive Committee;
  - (iii) its roles and responsibilities in relation to preparedness and capacitybuilding to deal with any threatening disaster situation or disaster;

Responsibilities  
of  
Ministries or  
Departments  
of Government  
of  
India.  
Disaster

management  
plans of  
Ministries or  
Departments  
of Government  
of India.

17

SERVER1/BILL\_2004/RS/944RS.P65

(iv) its roles and responsibilities in regard to promptly and effectively responding to any threatening disaster situation or disaster;  
(v) the present status of its preparedness to perform the roles and responsibilities specified in sub-clauses (iii) and (iv);  
(vi) the measures required to be taken in order to enable it to perform its responsibilities specified in sub-clauses (iii) and (iv);  
(b) review and update annually the plan referred to in clause (a);  
(c) forward a copy of the plan referred to in clause (a) or clause (b), as the case may be, to the Central Government which Government shall forward a copy thereof to the National Authority for its approval.

(2) Every Ministry or Department of the Government of India shall—

(a) make, while preparing disaster management plan under clause (a) of subsection (1), provisions for financing the activities specified therein;  
(b) furnish a status report regarding the implementation of the plan referred to in clause (a) of sub-section (1) to the National Authority, as and when required by it.

**38.** (1) Subject to the provisions of this Act, each State Government shall take all measures specified in the guidelines laid down by the National Authority and such further measures as it deems necessary or expedient, for the purpose of disaster management.

(2) The measures which the State Government may take under sub-section (1) include measures with respect to all or any of the following matters, namely:—

(a) coordination of actions of different departments of the Government of the State, the State Authority, District Authorities, local authority and other nongovernmental organisations;

(b) cooperation and assistance in the disaster management to the National Authority and National Executive Committee, the State Authority and the State Executive Committee, and the District Authorities;

(c) cooperation with, and assistance to, the Ministries or Departments of the Government of India in disaster management, as requested by them or otherwise deemed appropriate by it;

(d) allocation of funds for measures for prevention of disaster, mitigation, capacity-building and preparedness by the departments of the Government of the State in accordance with the provisions of the State Plan and the District Plans;

(e) ensure that the integration of measures for prevention of disaster or mitigation by the departments of the Government of the State in their development plans and projects;

(f) integrate in the State development plan, measures to reduce or mitigate the vulnerability of different parts of the State to different disasters;

(g) ensure the preparation of disaster management plans by different departments of the State in accordance with the guidelines laid down by the National Authority and the State Authority;

(h) establishment of adequate warning systems up to the level of vulnerable communities;

(i) ensure that different departments of the Government of the State and the District Authorities take appropriate preparedness measures;

State  
Government  
to take  
measures.

18

SERVER1/BILL\_2004/RS/944RS.P65



(j) ensure that in a threatening disaster situation or disaster, the resources of different departments of the Government of the State are made available to the National Executive Committee or the State Executive Committee or the District Authorities, as the case may be, for the purposes of effective response, rescue and relief in any threatening disaster situation or disaster;

(k) provide rehabilitation and reconstruction assistance to the victims of any disaster; and

(l) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of provisions of this Act.

**39.** It shall be the responsibility of every department of the Government of a State to—

(a) take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority and the State Authority;

(b) integrate into its development plans and projects, the measures for prevention of disaster and mitigation;

(c) allocate funds for prevention of disaster, mitigation, capacity-building and preparedness;

(d) respond effectively and promptly to any threatening disaster situation or disaster in accordance with the State Plan, and in accordance with the guidelines or directions of the National Executive Committee and the State Executive Committee;

(e) review the enactments administered by it, its policies, rules and regulations with a view to incorporate therein the provisions necessary for prevention of disasters, mitigation or preparedness;

(f) provide assistance, as required, by the National Executive Committee, the State Executive Committee and District Authorities, for—

(i) drawing up mitigation, preparedness and response plans, capacitybuilding, data collection and identification and training of personnel in relation to disaster management;

(ii) assessing the damage from any disaster;

(iii) carrying out rehabilitation and reconstruction;

(g) make provision for resources in consultation with the State Authority for the implementation of the District Plan by its authorities at the district level;

(h) make available its resources to the National Executive Committee or the State Executive Committee or the District Authorities for the purposes of responding promptly and effectively to any disaster in the State, including measures for—

(i) providing emergency communication with a vulnerable or affected area;

(ii) transporting personnel and relief goods to and from the affected area;

(iii) providing evacuation, rescue, temporary shelter or other immediate relief;

(iv) carrying out evacuation of persons or live-stock from an area of any threatening disaster situation or disaster;

(v) setting up temporary bridges, jetties and landing places;

(vi) providing drinking water, essential provisions, healthcare and services in an affected area;

(i) such other actions as may be necessary for disaster management.

Responsibilities

of

departments

of the State

Government.

19

SERVER1/BILL\_2004/RS/944RS.P65

**40.** (J) Every department of the State Government, in conformity with the guidelines laid down by the State Authority, shall—

(a) prepare a disaster management plan which shall lay down the following :—

(i) the types of disasters to which different parts of the State are vulnerable;

(ii) integration of strategies for the prevention of disaster or the mitigation

of its effects or both with the development plans and programmes by the department;

(iii) the roles and responsibilities of the department of the State in the event of any threatening disaster situation or disaster and emergency support function it is required to perform;

(iv) present status of its preparedness to perform such roles or responsibilities or emergency support function under sub-clause (iii);

(v) the capacity-building and preparedness measures proposed to be put into effect in order to enable the Ministries or Departments of the Government of India to discharge its their responsibilities under section 37;

(b) annually review and update the plan referred to in clause (a) and ;

(c) furnish a copy of the plan referred to in clause (a) or clause (b), as the case may be, to the State Authority.

(2) Every department of the State Government, while preparing the plan under subsection (1), shall make provisions for financing the activities specified therein.

(3) Every department of the State Government shall furnish an implementation status report to the State Executive Committee regarding the implementation of the disaster management plan referred to in sub-section (1).

## CHAPTER VI

### LOCAL AUTHORITIES

**41.** (1) Subject to the directions of the District Authority, a local authority shall –

(a) ensure that its officers and employees are trained for disaster management;

(b) ensure that resources relating to disaster management are so maintained as to be readily available for use in the event of any threatened disaster situation or disaster;

(c) ensure all construction projects under it or within its jurisdiction conform to the standards and specifications laid down for prevention of disasters and mitigation by the National Authority, State Authority and the District Authority;

(d) carry out relief, rehabilitation and reconstruction activities in the affected area in accordance with the State Plan and the District Plan.

(2) The local authority may take such other measures as may be necessary for the disaster management.

## CHAPTER VII

### NATIONAL INSTITUTE OF DISASTER MANAGEMENT

**42.** (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint in this behalf, there shall be constituted an institute to be called the National Institute of Disaster Management.

(2) Subject to the provisions of this Act, the National Institute of Disaster Management shall be responsible for planning and promoting training and research in the area of disaster

Disaster

management

plan of

departments

of State.

Functions of

the local

authority.

National

Institute of

Disaster

Management.

20

SERVER1/BILL\_2004/RS/944RS.P65

management, documentation and development of national level information base relating to disaster management policies, prevention mechanisms and mitigation measures.

(3) Without prejudice to the generality of the provisions contained in sub-section (1), the National Institute, for the discharge of its functions, may –

(a) develop training modules, undertake research and documentation in disaster

management and organise training programmes;

(b) formulate and implement a comprehensive human resource development plan covering all aspects of disaster management;

(c) provide assistance in national level policy formulation;

(d) provide required assistance to the training and research institutes for development of training and research programmes for stakeholders including Government functionaries and undertake training of faculty members of the State level training institutes;

(e) provide assistance to the State Governments and State training institutes in the formulation of State level policies, strategies, disaster management framework and any other assistance as may be required by the State Governments or State training institutes for capacity-building of stakeholders, Government including its functionaries, civil society members, corporate sector and people's elected representatives;

(f) develop educational materials for disaster management including academic and professional courses;

(g) promote awareness among stakeholders including college or school teachers and students, technical personnel and others associated with multi-hazard mitigation, preparedness and response measures;

(h) undertake, organise and facilitate study courses, conferences, lectures, seminars within and outside the country to promote the aforesaid objects;

(i) undertake and provide for publication of journals, research papers and books and establish and maintain libraries in furtherance of the aforesaid objects;

(j) do all such other lawful things as are conducive or incidental to the attainment of the above objects; and

(k) undertake any other function as may be assigned to it by the Central Government.

**43.** The Central Government shall provide the National Institute of Disaster Management with such officers, consultants and other employees, as it considers necessary, for carrying out its functions.

#### CHAPTER VIII

##### NATIONAL DISASTER RESPONSE FORCE

**44.** (1) There shall be constituted a National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

(2) Subject to the provisions of this Act, the Force shall be constituted in such manner and, the conditions of service of the members of the Force, including disciplinary provisions therefor, be such as may be prescribed.

**45.** The general superintendence, direction and control of the Force shall be vested and exercised by the National Authority and the command and supervision of the Force shall vest in an officer to be appointed by the Central Government as the Director General of the National Disaster Response Force.

Officers and  
other  
employees of  
the National  
Institute.  
National  
Disaster  
Response  
Force.  
Control,  
direction, etc.

21

SERVER1/BILL\_2004/RS/944RS.P65

#### CHAPTER IX

##### FINANCE, ACCOUNTS AND AUDIT

**46.** (1) The Central Government may, by notification in the Official Gazette, constitute a fund to be called the National Disaster Response Fund for meeting any threatening disaster situation or disaster and there shall be credited thereto –

(a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf provide;

(b) any grants that may be made by any person or institution for the purpose of disaster management.

(1) The National Disaster Response Fund shall be made available to the National Executive Committee to be applied towards meeting the expenses for emergency response and relief.

**47.** (1) The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Disaster Mitigation Fund for projects exclusively for the purpose of mitigation and there shall be credited thereto such amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

(2) The National Disaster Mitigation Fund shall be applied by the National Authority in relation to projects which are undertaken exclusively for the purpose of the mitigation.

**48.** (1) The State Government shall, immediately after notifications issued for constituting the State Authority and the District Authorities, establish for the purposes of this Act the following funds, namely:—

(a) the fund to be called the State Disaster Response Fund;

(b) the fund to be called the District Disaster Response Fund;

(c) the fund to be called the State Disaster Mitigation Fund;

(d) the fund to be called the District Disaster Mitigation Fund.

(2) The State Government shall ensure that the funds established—

(i) under clause (a) of sub-section (1) is available to the State Executive Committee;

(ii) under sub-clause (c) of sub-section (1) is available to the State Authority;

(iii) under clauses (b) and (d) are available to the District Authority.

**49.** (1) Every Ministry or Department of the Government of India shall make provisions, in its annual budget, for funds for the purposes of carrying out the activities and programmes set out in its disaster management plan.

(2) The provisions of sub-section (1) shall, *mutatis mutandis*, apply to departments of the Government of the State.

**50.** Where by reason of any threatening disaster situation or disaster, the National Authority or State Authority or District Authority is satisfied that immediate procurement of provisions or materials or the immediate application of resources are necessary for rescue or relief,—

(a) it may authorise the concerned department or authority to make the emergency procurement and in such case, the standard procedure requiring inviting of tenders shall be deemed to be waived;

(b) a certificate about utilisation of provisions or materials by the controlling officer authorised by the National Authority, State Authority or District Authority, as the case may be, shall be deemed to be a valid document or voucher for the purpose of accounting of emergency procurement of such provisions or materials.

National Fund  
for Disaster  
Response.  
National  
Mitigation  
Fund.  
Establishment  
of funds by  
State  
Government.  
Allocation of  
funds by  
Ministries and  
Departments.  
Emergency  
procurement  
and accounting.

## CHAPTER X

### OFFENCES AND PENALTIES

**51.** (1) Whoever, without reasonable cause –

(a) obstructs any officer or employee of the Central Government or a 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 State Government or the National Executive Committee or State Executive Committee 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, State Government, the National Authority, State Authority or 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 164, 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  
material, etc.

Punishment  
for false

warning.  
Offences by  
Ministry or  
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.

23

SERVER1/BILL\_2004/RS/944RS.P65

**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.

**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.

## CHAPTER XI

### MISCELLANEOUS

**60.** 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.

**61.** 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 National Executive Committee or a 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.

**62.** 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.

**63.** 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 byelaws, 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.

Offence by  
companies.  
Previous  
sanction for  
prosecution.  
Prohibition  
against  
discrimination.  
Power to  
issue direction  
by the  
Central  
Government.  
Powers to be  
made  
available for  
rescue  
operations.  
Making or  
amending  
rules, etc., in  
certain  
circumstances.

24

SERVER1/BILL\_2004/RS/944RS.P65

**64.** (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—

(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.

**65.** (1) Whenever any authority, referred to in sub-section (1) of section 64, 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:—

(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 State Government, as the case may be, may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the Central Government or the State Government, as the case may be, to an arbitrator appointed in this behalf by the Central Government or State Government, as the case may be, for determination, and shall be determined in accordance with the decision of such arbitrator.

*Explanation.*—In this sub-section, the expression “person interested” means the person who was in actual possession of the premises requisitioned under section 64 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

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

Payment of  
compensation.

25

SERVER1/BILL\_2004/RS/944RS.P65

(2) Whenever any Authority, referred to in sub-section (1) of section 64 in pursuance of that section requisitions any vehicle, there shall be paid to the owner thereof compensation the amount of which shall be determined by the Central Government or the State Government, as the case may be, on the basis of the fares or rates prevailing in the locality for the hire of such vehicle:

Provided that where the owner of such vehicle being aggrieved by the amount of compensation so determined makes an application within the prescribed time 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:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the Central Government or the State Government, as the case may be, in this behalf may decide.

**66.** The National Authority, the State Authority, or a District Authority may give direction to any authority or person in control of any audio or audio-visual media or such other means of communication as may be available to carry any warning or advisories regarding any threatening disaster situation or disaster, and the said means of communication and media as designated shall comply with such direction.

**67.** Every order or decision of the National Authority or the National Executive Committee, the State Authority, or the State Executive Committee or the District Authority, shall be authenticated by such officers of the National Authority or the National Executive



Committee or, the State Executive Committee, or the District Authority, as may be authorised by it in this behalf.

**68.** The National Executive Committee, State Executive Committee, as the case may be, by general or special order in writing, may delegate to the Chairperson or any other member or to any officer, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary.

**69.** The National Authority shall prepare once every year, in such form and at such time as may be prescribed by rules, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament within one month of its receipt.

**70.** No court (except the Supreme Court or a High Court) shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken, orders made, direction, instruction or guidelines issued by the Central Government, National Authority, State Government, State Authority or District Authority in pursuance of any power conferred by, or in relation to its functions, by this Act.

**71.** 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 instrument having effect by virtue of any law other than this Act.

**72.** No suit or prosecution or other proceeding shall lie in any court against the Central Government or the National Authority or the State Government or the State Authority or the District Authority or local authority or any officer or employee of the Central Government or the National Authority or the State Government or the State Authority or the District Authority or local authority or any person working for on behalf of such Government or authority in respect of any work done or purported to have been done or intended to be done by such authority or Government or such officer or employee or such person under the provisions of this Act or the rules or regulations made thereunder.

Direction to  
media for  
communication  
of  
warnings, etc.  
Authentication  
of orders  
or decisions.  
Delegation of  
powers.  
Annual  
report.  
Bar of  
jurisdiction of  
court.  
Act to have  
overriding  
effect.  
Action taken  
in good faith.

26

SERVER1/BILL\_2004/RS/944RS.P65

**73.** Officers and employees of the Central Government, National Authority, National Executive Committee, State Government, State Authority, State Executive Committee or District Authority shall be immune from legal process in regard to any warning in respect of any impending disaster communicated or disseminated by them in their official capacity or any action taken or direction issued by them in pursuance of such communication or dissemination.

**74.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(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) the composition and number of the members of the National Authority under sub-section (2) of section 3;
- (b) the allowances to be paid to the members of the advisory committee under sub-section (2) of section 7;
- (c) the powers and functions of the Chairperson of the National Executive Committee under sub-section (3) of section 8 and the procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions under sub-section (4) of section 8;
- (d) allowances to be paid to the persons associated with the sub-committee constituted by the National Executive Committee under sub-section (3) of section 9;
- (e) the manner of constitution of the Force, the conditions of service of the members of the Force, including disciplinary provisions under sub-section (2) of section 44;
- (f) the form in which and the time within which annual report is to be prepared under section 69;
- (g) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

(3) Every rule made by the Central Government under this Act 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 rule or both Houses agree that the rule should not be made, the 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 rule.

**75. (1)** The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(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) the composition and number of the members of the State Authority under sub-section (2) of section 14;
- (b) the allowances to be paid to the members of the advisory committee under sub-section (2) of section 17;
- (c) the powers and functions of the Chairperson of the State Executive Committee under sub-section (3), and the procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions under sub-section (4) of section 20;

Immunity  
from legal  
process.  
Power of  
Central  
Government  
to make rules.  
Power of  
State  
Government  
to make rules.

27

SERVER1/BILL\_2004/RS/944RS.P65

- (d) allowances to be paid to the persons associated with the sub-committee constituted by the State Executive Committee under sub-section (3) of section 21;
- (e) the composition and the number of members of the District Authority under sub-section (2), and the powers and functions to be exercised and discharged by the Chief Executive Officer of the District Authority under sub-section (3) of section 25;
- (f) allowance payable to the persons associated with any committee constituted by the District Authority as experts under sub-section (3) of section 28;

(g) any other matter which is to be made, or may be, prescribed, or in respect of which provision is to be made by rules.

(3) Every rule made by the State Government under this Act 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.

**76.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government or the State Government, as the case may be, may, by notification in the Official Gazette, make order not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

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

Power to  
remove  
difficulties.

#### STATEMENT OF OBJECTS AND REASONS

The Government have decided to enact a law on disaster management to provide for requisite institutional mechanisms for drawing up and monitoring the implementation of the disaster management plans, ensuring measures by various wings of Government for prevention and mitigating effects of disasters and for undertaking a holistic, coordinated and prompt response to any disaster situation.

2. The Disaster Management Bill, 2005 provides for setting up of a National Disaster Management Authority under the Chairmanship of the Prime Minister, State Disaster Management Authorities under the Chairmanship of the Chief Ministers and District Disaster Management Authorities under the Chairmanship of District Magistrates. The Bill also provides for concerned Ministries or Departments to draw up department-wise plans in accordance with the national disaster management plan. It provides for constitution of a National Disaster Response Force and setting up the National Institute of Disaster Management. The Bill provides for the constitution of the National Fund for Disaster Response and the National Fund for Disaster Mitigation and similar Funds at the State and District levels. The Bill provides for specific role for Local Bodies in disaster management including Panchayati Raj Institutions as well as Urban Local Bodies like Municipalities.

3. The proposed enactment will facilitate effective steps for the mitigation of disasters, prepare for and coordinate effective response to disasters, as also matters connected therewith or incidental thereto.

4. The Bill seeks to achieve the above objects.

SHIVRAJ PATIL.

NEW DELHI;

The 8th May, 2005

28

#### NOTES ON CLAUSES

*Clause 3* seeks to establish the National Disaster Management Authority (hereinafter called the National Authority) and provide for its composition.

*Clause 4* seeks to make provisions for the meetings of the National Authority.

*Clause 5* seeks to create an obligation on the Central Government to provide the National Authority with officers, consultants and other employees, as considered necessary by it, for carrying out the functions of the National Authority.

*Clause 6* seeks to lay down the responsibility and functions of the National Authority and provides for exercise of the powers of the Authority by its Chairperson, in the case of emergency, subject to *post facto* ratification by the National Authority.

*Clause 7* seeks to provide for constitution of an advisory committee by the National Authority and also the Central Government to prescribe allowances to be paid to the members of the advisory committee.

*Clause 8* seeks to provide for the constitution of the National Executive Committee to assist the National Authority. It also seeks to authorise the Central Government to prescribe the powers, functions and procedure of the National Executive Committee.

*Clause 9* seeks to provide for the constitution of sub-committees by the National Executive Committee and enables the Central Government to prescribe and make payment of allowances to any person associated as an expert in any sub-committee.

*Clause 10* seeks to prescribe the powers and functions of the National Executive Committee.

*Clause 11* seeks to make it mandatory to prepare the National Disaster Management Plan for the whole of the country. It lays down the broad coverage of the plan and the requirements of consultation in the preparation of the plan. It provides for annual review and updating of the National Plan. It enjoins upon the Central Government to make provisions for financing the activities to be carried out under the National Plan. It also provides for the Ministries or Departments of the Government of India to draw up their own plans in accordance with the National Plan.

*Clause 12* seeks to provide for laying down the guidelines by the National Authority for minimum standards of relief and spells out certain important aspects to be included in the guidelines.

*Clause 13* seeks to empower the National Authority, in cases of disasters of severe magnitude, to give directions regarding relief in repayment of loans or for grant of fresh loans on concessional terms to the persons affected by such disasters.

*Clause 14* seeks to provide for the establishment of the State Disaster Management Authority (hereinafter called the State Authority) by the State Government and provides for the composition of the State Authority.

*Clause 15* seeks to provide for the frequency, venue and presiding authority for the meetings of the State Authority.

29

30

SERVER1/BILL\_2004/RS/944RS1.P65

*Clause 16* seeks to enjoin upon the State Government concerned to provide the State Authority with such officers, consultants and other employees, as it considers necessary for carrying out the functions of the State Authority.

*Clause 17* seeks to provide for the constitution of an advisory committee by the State Authority and also seeks to enable the State Government to prescribe allowances and to make payment of such allowances to the members of the advisory committee.

*Clause 18* seeks to lay down the responsibility and functions of the State Authority and provides for exercise of the powers of the State Authority by its Chairperson in the case of emergency, subject to *post facto* ratification by the State Authority.

*Clause 19* seeks to provide for laying down detailed guidelines by the State Authority for minimum standards of relief, which will not be less than the minimum standards laid down in the guidelines by the National Authority.

*Clause 20* seeks to provide for the constitution of the State Executive Committee to assist the State Authority. It also seeks to authorise the State Government to prescribe the powers, functions and procedure of the State Executive Committee. In addition, delegation of powers and functions to the State Executive Committee by the State Authority is envisaged.

*Clause 21* seeks to specify the responsibility and functions of the State Executive Committee.

*Clause 22* seeks to make it mandatory for the State to have the State Disaster Management Plan. It lays down the broad coverage of the plan as well as the

requirements of consultation in the preparation of the State Plan. It provides for annual review and updating the State Plan. It enjoins upon the State Government to make provisions for financing the activities to be carried out under the State Plan. It also provides for the departments of the State Government to draw up their own plans in accordance with the State Plan.

*Clause 23* seeks to lay down the powers and functions of the State Executive Committee in the event of a disaster or a threatening disaster situation.

*Clause 24* seeks to provide for the establishment of the District Disaster Management Authority for every District and provides its composition.

*Clause 25* seeks to provide power to prescribe the powers and functions of the Chairperson of the District Authority.

*Clause 26* seeks to provide for the frequency and venue of the meetings of the District Authority.

*Clause 27* seeks to empower the District Authority to constitute committees or subcommittees and also enables it to make payment of allowances to any person associated as an expert with these committees, at the rates to be prescribed by the State Government.

*Clause 28* seeks to enjoin upon the State Government to provide the District Authority with officers, consultants and other employees for carrying out its functions.

*Clause 29* seeks to provide the power to prescribe the powers and functions of the District Authority.

*Clause 30* seeks to make it mandatory to have a disaster management plan for every district. It lays down the broad aspects to be covered by the District Plan, mandates consultation with zila parishad and the municipality in the preparation of the plan, and provides for annual review and updating the

31

SERVER1/BILL\_2004/RS/944RS1.P65

plans. It also seeks to authorise the District Authority to review the implementation of the District Plan and issue directions to different departments of the Government in the district for its implementation.

*Clause 31* seeks to make it mandatory for every office of the Government of India and of the State Government at the district level and the local authorities to prepare a disaster management plan. It seeks to lay down the broad coverage of the plan and provides for coordination of its preparation and implementation with local authority, communities and other stakeholders. It also provides for the regular review and updating the plan.

*Clause 32* seeks to empower the District Authority to give directions to any officer or any department at the district level or any local authority to take necessary measures for prevention or mitigation of a disaster or to effectively respond to it.

*Clause 33* seeks to lay down the powers and functions of the District Authority in the event of any threatening disaster situation or disaster.

*Clause 34* seeks to enjoin upon the Central Government to take measures, as it deems necessary or expedient, for the purpose of disaster management. It also specifies some of the matters with respect to which such measures are required to be taken by the Central Government.

*Clause 35* seeks to specify the responsibility of the Ministries or Departments of the Government of India in regard to prevention, mitigation, preparedness and response. It also spells out some of the actions to be taken by the Ministries or Departments for this purpose.

*Clause 36* seeks to make it mandatory for every Ministry or Department of the Government of India to prepare a disaster management plan. It specifies certain aspects for which the particulars are to be included in the plan. It also provides for annual review and updating of the plan and for approval of the original or updated plan by the National Authority. It enjoins upon the Ministries or Department concerned to make provision for financing of

the activities specified in the plan and to furnish a status report regarding the implementation the plan to the National Authority, as and when required by it.

*Clause 37* seeks to make it mandatory for the State Governments to take measures for the purpose of disaster management. It also specifies some of the matters with respect of which such measures are required to be taken by the State Governments.

*Clause 38* seeks to specify the responsibility of every department of the Government of a State in regard to prevention, mitigation, preparedness and response to disasters.

*Clause 39* seeks to make it mandatory for every department of a State Government to prepare a disaster management plan and make provisions for financing of the plan. It also lays down the broad coverage of the plan, provides for annual review and updating of the plan and furnishing of a status report on its implementation to the State Executive Committee, and enjoins upon the State Government to make provisions for financing the activities specified therein.

*Clause 40* seeks to specify the functions of the local authority in regard to disaster management.

*Clause 41* seeks to provide for the constitution of the National Institute of Disaster Management by the Central Government and seeks to lays down the responsibility and possible functions of the Institute.

32

SERVER1/BILL\_2004/RS/944RS1.P65

*Clause 42* seeks to enjoin upon the Central Government to provide the National Institute with officers, consultants and other employees for carrying out its functions.

*Clause 43* seeks to provide for the constitution of the National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

*Clause 44* seeks to vest the general superintendence, direction and control of the National Disaster Response Force in the National Authority and the command and supervision of the Force in an officer to be appointed by the Central Government as the Director General of the National Disaster Response Force.

*Clause 45* seeks to provide for the constitution of the National Disaster Response Fund.

*Clause 46* seeks to provide for the constitution of the National Disaster Mitigation Fund.

*Clause 47* seeks to provide for the establishment of the State Disaster Response Fund, the District Disaster Response Fund, the State Disaster Mitigation Fund and the District Disaster Mitigation Fund.

*Clause 48* seeks to enjoin upon every Ministry or Department of the Government of India to make provision of funds in its annual budget for the purposes of carrying out the activities or programmes set out in its disaster management plan. It seeks to lay down a similar obligation for departments of the State Governments.

*Clause 49* seeks to empower the National Authority or State Authority or District Authority to authorise emergency procurement of provisions or material for rescue and relief by the concerned Departments or authority.

*Clauses 50 to 58* seek to lay down what will constitute an offence in terms of obstruction of the functions under the Act, false claim for relief, misappropriation of relief material or funds, issuance of false warning, failure of an officer to perform the duty imposed on him under the Act without due permission or lawful excuse, or his connivance at contravention of the provisions of the Act. The clauses also provide for penalties for these offences.

*Clauses 59 to 76* are of miscellaneous in nature. *Clause 59* seeks to prohibit discrimination in the distribution of compensation and relief to victims of disaster on the ground of sex, caste, community, descent or religion. *Clauses 60 to 68* deal

with the power to issue directions by the Central Government; obligation of any officer or authority of the Union or a State to make available officers and employees to perform any of the functions in connection with disaster prevention or mitigation; power to seek amendment of any rules, regulations, instructions etc. for the purpose of prevention or mitigation of disasters; power to requisition resources, premises, provisions, vehicles, etc. for rescue operations or rehabilitation; payment of compensation for the resources so requisitioned; settlement of disputes relating to the amount of compensation or entitlement thereto; giving of directions to media for communication of warning regarding a threatening disaster situation or disaster; authentication of orders or decisions; delegation of powers; and preparation of annual report by the National Authority and its laying on the table of both Houses of Parliament. Clauses 69 to 72 contain provisions regarding bar on jurisdiction of courts in regard to action taken or directions issued in pursuance of the powers conferred or functions assigned by the Act; overriding effect to the Act; and immunity from legal process for action taken in good faith under the provisions of the Bill. Clauses 74 and 75 provide for making of rules by the Central Government and the State Government for carrying out the

33

SERVER1/BILL\_2004/RS/944RS1.P65

purposes of the Act; some of the matters to be covered by these rules; laying of these rules before each House of Parliament and the State Legislature; making of rules by State Government to carry out the provisions of the Act; some of the matters to be covered by these rules; laying of these rules before the State Legislature. Clause 76 seeks to empower the Central Government or the State Government to make orders, not inconsistent with the provisions of the Act, for removal of any difficulty in implementation of the provisions of the Act, within two years from the commencement of the Act.

#### FINANCIAL MEMORANDUM

The following provisions included in the Bill will involve expenditure from the Consolidated Fund of India :—

1. Clause 5 states that the Central Government shall provide the National Authority with such officers, consultants and employees, as it may consider necessary for carrying out the functions of the National Authority.
2. Clause 7 provides that the National Authority may constitute an advisory committee consisting of experts in the field of disaster management and that members of the advisory committee shall be paid such allowances as may be prescribed by the Central Government.
3. Clause 9 (1) provides for constitution of one or more sub-committees by the National Executive Committee. Clause 9(3) provides that any person associated as an expert with any sub-committee may be paid such allowances as may be prescribed by the Central Government.
4. Clause 11(5) provides that appropriate provisions shall be made by the Central Government for financing the measures to be carried out under the National Plan.
5. Clause 12 provides that the National Authority shall lay down guidelines for the minimum standards of relief to be provided to persons affected by disaster.
6. Clause 13 provides that the National Authority may, in cases of disasters of severe magnitude, give directions regarding relief in repayment of loans or for grant of fresh loans to the persons affected by disaster on such concessional terms as may be appropriate.
7. Clause 35(2)(c) provides for the Central Government to ensure that appropriate allocation of funds for prevention of disaster, mitigation, capacity-building and preparedness by the Ministries or Departments of the Government of India is made.
8. Clause 35 (2)(f) provides for deployment of naval, military and air forces, other armed forces of the Union or any other civilian personnel as may be required for the purposes

of this Act.

9. Clause 35(2)(h) provides that the Central Government may take measures to establish institutions for research, training, and developmental programmes in the field of disaster management.

10. Clause 35(3) provides that the Central Government may extend such support to other countries affected by a major disaster as it may deem appropriate.

11. Clause 36 (e) states that it shall be the responsibility of every Ministry/Department of the Government of India to allocate funds for measures for prevention or disaster mitigation, capacity-building and preparedness.

12. Clause 43 States that the Central Government shall provide the National Institute of Disaster Management with such officers or consultants and employees as it may consider necessary for carrying out its functions.

13. Clause 44 provides for the constitution of a National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

14. Clause 46 states that the Central Government may constitute a Fund to be called the National Disaster Response Fund for meeting any threatening disaster situation and

34

35

SERVER1/BILL\_2004/RS/944RS1.P65

there shall be credited thereto an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

15. Clause 47 states that the Central Government may constitute a Fund to be called the National Disaster Mitigation Fund for projects exclusively for the purpose of mitigation and there shall be credited thereto such amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

16. Clause 49 states that every Ministry or Department of the Government of India shall make provisions, in its annual budget, for funds for the purposes of carrying out the activities and programmes set out in its disaster management plan.

17. Clause 50 provides for immediate procurement of provisions or materials or the immediate application of resources necessary for rescue or relief by the National Authority or by concerned department or authority which may be authorised by it to make the emergency procurement.

18. Clause 51 provides that whenever any resource, premises or Vehicle is requisitioned for rescue operations, there shall be paid to the persons interested compensation for such premise or Vehicle.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 74 of the Bill provides that the Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

The rules to be made under this Bill may include the composition and number of the members of the National Authority under sub-clause (2) of clause 3, the allowances to be paid to the members of the advisory committee under sub-clause (2) of clause 7, the powers and functions of the Chairperson of the National Executive Committee under sub-clause (3) of clause 8 and the procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions under sub-clause (4) of clause 8, the allowances to be paid to the persons associated with the sub-committee under sub-clause (3) of clause 9, the manner of constitution of the Force, the conditions of service of the members of the Force, including disciplinary provisions under sub-clause (2) of clause 44, the form in which and the time within which annual report is to be prepared under clause 69, and any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules under sub-clause (2) of clause 74.

2. Clause 75 of the Bill provides that the State Government may, by notification in the official Gazette, make rules to carry out the provisions of this Act.

The rules to be made under this Bill may include the composition and number of the members of the State Authority under sub-clause (2) of clause 14, the allowances to be paid to the members of the advisory committee under sub-clause (2) of clause 17, the powers and functions of the Chairperson of the State Executive Committee under sub-clause (3) of



clause 20, and the procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions under sub-clause (4) of clause 20, allowances to be paid to the persons associated with the sub-committee under sub-clause (3) of clause 21, the composition and the number of members of the District Authority under sub-clause (2) of clause 25, and the powers and functions to be exercised and discharged by the Chief Executive Officer of the District Authority under sub-clause (3) of clause 25, any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules under sub-clause (2) of clause 75.

3. The matters in respect of which provisions may be made in the rules to be framed under the proposed legislation are generally matters of procedure of detail. The delegation of legislative power is, therefore, of a normal character.

36

## THE DISASTER MANAGEMENT BILL, 2005

### ARRANGEMENT OF CLAUSES

#### CHAPTER I

##### PRELIMINARY

##### CLAUSES

1. Short title, extent and commencement.
2. Definitions.

#### CHAPTER II

##### THE NATIONAL DISASTER MANAGEMENT AUTHORITY

3. Establishment of National Disaster Management Authority.
4. Meetings of National Authority.
5. Appointment of officers and other employees of the National Authority.
6. Powers and functions of National Authority.
7. Constitution of advisory committee by National Authority.
8. Constitution of National Executive Committee.
9. Constitution of sub-committees.
10. Powers and functions of National Executive Committee.
11. National Plan.
12. Guidelines for minimum standards of relief.
13. Relief in loan repayment, etc.

#### CHAPTER III

##### STATE DISASTER MANAGEMENT AUTHORITIES

14. Establishment of State Disaster Management Authority.
15. Meetings of the State Authority.
16. Appointment of officers and other employees of State Authority.
17. Constitution of advisory committee by the State Authority.
18. Powers and functions of State Authority.
19. Guidelines for minimum standard of relief by State Authority.
20. Constitution of State Executive Committee.
21. Constitution of sub-committees by State Executive Committee.
22. Functions of the State Executive Committee.
23. State Plan.
24. Powers and functions of State Executive Committee in the event of threatening disaster situation.

#### CHAPTER IV

##### DISTRICT DISASTER MANAGEMENT AUTHORITY

25. Constitution of District Disaster Management Authority.
26. Powers of Chairperson of District Authority.
27. Meetings.

TO BE INTRODUCED IN THE RAJYA SABHA

**Bill No. LV of 2005**

CLAUSES

28. Constitution of advisory committees and other committees.
29. Appointment of officers and other employees of District Authority.
30. Powers and functions of District Authority.
31. District Plan.
32. Plans by different authorities at district level and their implementation.
33. Requisition by the District Authority. .
34. Powers and functions of District Authority in the event of any threatening disaster situation or disaster.

#### CHAPTER V

##### MEASURES BY THE GOVERNMENT FOR DISASTER MANAGEMENT

35. Central Government to take measures.
36. Responsibilities of Ministries or Departments of Government of India.
37. Disaster management plans of Ministries or Departments of Government of India.
38. State Government to take measures.
39. Responsibilities of departments of the State Government.
40. Disaster management plan of departments of State.

#### CHAPTER VI

##### LOCAL AUTHORITIES

41. Functions of the local authority.

#### CHAPTER VII

##### NATIONAL INSTITUTE OF DISASTER MANAGEMENT

42. National Institute of Disaster Management.
43. Officers and other employees of the National Institute.

#### CHAPTER VIII

##### NATIONAL DISASTER RESPONSE FORCE

44. National Disaster Response Force.
45. Control, direction, etc.

#### CHAPTER IX

##### FINANCE, ACCOUNTS AND AUDIT

46. National Mitigation Fund.
47. National Fund for Disaster Management.
48. Establishment of funds by State Government.
49. Allocation of funds by Ministries and Departments.
50. Emergency procurement and accounting.

#### CHAPTER X

##### OFFENCES AND PENALTIES

51. Punishment for obstruction, etc.
52. Punishment for false claim.
53. Punishment for misappropriation of money or material, etc.
54. Punishment for false warning.
55. Offences by Ministries or Departments of the Government.
56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.

(ii)

##### CLAUSES

57. Penalty for contravention of any order regarding requisitioning.
58. Offence by companies.
59. Previous sanction for prosecution.

#### CHAPTER XI

##### MISCELLANEOUS

60. Prohibition against discrimination.
61. Power to issue direction by the Central Government.
62. Powers to be made available for rescue operations.
63. Making or amending rules, etc., in certain circumstances.
64. Power of requisition of resources, provisions, vehicles, etc., for rescue operations, etc.
65. Payment of compensation.

66. Direction to media for communication of warnings, etc.
67. Authentication of orders or decisions.
68. Delegation of powers.
69. Annual report.
70. Bar of jurisdiction of court.
71. Act to have overriding effect.
72. Action taken in good faith.
73. Immunity from legal process.
74. Power of Central Government to make rules.
75. Power of State Government to make rules.
76. Power to remove difficulties.

(iii)

RAJYA SABHA

---

A

BILL

to provide for the effective management of disasters and for matters connected therewith or incidental thereto.

---

(*Shri Shivraj V. Patil, Minister of Home Affairs*)

MGIPMRND—944RS—9.05.2005.

STATEMENT OF OBJECTS AND REASONS

The Government have decided to enact a law on disaster management to provide for requisite institutional mechanisms for drawing up and monitoring the implementation of the disaster management plans, ensuring measures by various wings of Government for prevention and mitigating effects of disasters and for undertaking a holistic, coordinated and prompt response to any disaster situation.

2. The Disaster Management Bill, 2005 provides for setting up of a National Disaster Management Authority under the Chairmanship of the Prime Minister, State Disaster Management Authorities under the Chairmanship of the Chief Ministers and District Disaster Management Authorities under the Chairmanship of District Magistrates. The Bill also provides for concerned Ministries or Departments to draw up department-wise plans in accordance with the national disaster management plan. It provides for constitution of a National Disaster Response Force and setting up the National Institute of Disaster Management. The Bill provides for the constitution of the National Fund for Disaster Response and the National Fund for Disaster Mitigation and similar Funds at the State and District levels. The Bill provides for specific role for Local Bodies in disaster management including Panchayati Raj Institutions as well as Urban Local Bodies like Municipalities.

3. The proposed enactment will facilitate effective steps for the mitigation of disasters, prepare for and coordinate effective response to disasters, as also matters connected therewith or incidental thereto.

4. The Bill seeks to achieve the above objects.

SHIVRAJ PATIL.

NEW DELHI;

*The 8th May, 2005*

28

NOTES ON CLAUSES

*Clause 3* seeks to establish the National Disaster Management Authority (hereinafter called the National Authority) and provide for its composition.

*Clause 4* seeks to make provisions for the meetings of the National Authority.

*Clause 5* seeks to create an obligation on the Central Government to provide the National Authority with officers, consultants and other employees, as considered necessary by it, for carrying out the functions of the National Authority.

*Clause 6* seeks to lay down the responsibility and functions of the National Authority and provides for exercise of the powers of the Authority by its Chairperson,

in the case of emergency, subject to *post facto* ratification by the National Authority.

*Clause 7* seeks to provide for constitution of an advisory committee by the National Authority and also the Central Government to prescribe allowances to be paid to the members of the advisory committee.

*Clause 8* seeks to provide for the constitution of the National Executive Committee to assist the National Authority. It also seeks to authorise the Central Government to prescribe the powers, functions and procedure of the National Executive Committee.

*Clause 9* seeks to provide for the constitution of sub-committees by the National Executive Committee and enables the Central Government to prescribe and make payment of allowances to any person associated as an expert in any sub-committee.

*Clause 10* seeks to prescribe the powers and functions of the National Executive Committee.

*Clause 11* seeks to make it mandatory to prepare the National Disaster Management Plan for the whole of the country. It lays down the broad coverage of the plan and the requirements of consultation in the preparation of the plan. It provides for annual review and updating of the National Plan. It enjoins upon the Central Government to make provisions for financing the activities to be carried out under the National Plan. It also provides for the Ministries or Departments of the Government of India to draw up their own plans in accordance with the National Plan.

*Clause 12* seeks to provide for laying down the guidelines by the National Authority for minimum standards of relief and spells out certain important aspects to be included in the guidelines.

*Clause 13* seeks to empower the National Authority, in cases of disasters of severe magnitude, to give directions regarding relief in repayment of loans or for grant of fresh loans on concessional terms to the persons affected by such disasters.

*Clause 14* seeks to provide for the establishment of the State Disaster Management Authority (hereinafter called the State Authority) by the State Government and provides for the composition of the State Authority.

*Clause 15* seeks to provide for the frequency, venue and presiding authority for the meetings of the State Authority.

29

30

SERVER1/BILL\_2004/RS/944RS1.P65

*Clause 16* seeks to enjoin upon the State Government concerned to provide the State Authority with such officers, consultants and other employees, as it considers necessary for carrying out the functions of the State Authority.

*Clause 17* seeks to provide for the constitution of an advisory committee by the State Authority and also seeks to enable the State Government to prescribe allowances and to make payment of such allowances to the members of the advisory committee.

*Clause 18* seeks to lay down the responsibility and functions of the State Authority and provides for exercise of the powers of the State Authority by its Chairperson in the case of emergency, subject to *post facto* ratification by the State Authority.

*Clause 19* seeks to provide for laying down detailed guidelines by the State Authority for minimum standards of relief, which will not be less than the minimum standards laid down in the guidelines by the National Authority.

*Clause 20* seeks to provide for the constitution of the State Executive Committee to assist the State Authority. It also seeks to authorise the State Government to prescribe the powers, functions and procedure of the State Executive Committee. In addition, delegation of powers and functions to the State

Executive Committee by the State Authority is envisaged.

*Clause 21* seeks to specify the responsibility and functions of the State Executive Committee.

*Clause 22* seeks to make it mandatory for the State to have the State Disaster Management Plan. It lays down the broad coverage of the plan as well as the requirements of consultation in the preparation of the State Plan. It provides for annual review and updating the State Plan. It enjoins upon the State Government to make provisions for financing the activities to be carried out under the State Plan. It also provides for the departments of the State Government to draw up their own plans in accordance with the State Plan.

*Clause 23* seeks to lay down the powers and functions of the State Executive Committee in the event of a disaster or a threatening disaster situation.

*Clause 24* seeks to provide for the establishment of the District Disaster Management Authority for every District and provides its composition.

*Clause 25* seeks to provide power to prescribe the powers and functions of the Chairperson of the District Authority.

*Clause 26* seeks to provide for the frequency and venue of the meetings of the District Authority.

*Clause 27* seeks to empower the District Authority to constitute committees or subcommittees and also enables it to make payment of allowances to any person associated as an expert with these committees, at the rates to be prescribed by the State Government.

*Clause 28* seeks to enjoin upon the State Government to provide the District Authority with officers, consultants and other employees for carrying out its functions.

*Clause 29* seeks to provide the power to prescribe the powers and functions of the District Authority.

*Clause 30* seeks to make it mandatory to have a disaster management plan for every district. It lays down the broad aspects to be covered by the District Plan, mandates consultation with zila parishad and the municipality in the preparation of the plan, and provides for annual review and updating the

31

SERVER1/BILL\_2004/RS/944RS1.P65

plans. It also seeks to authorise the District Authority to review the implementation of the District Plan and issue directions to different departments of the Government in the district for its implementation.

*Clause 31* seeks to make it mandatory for every office of the Government of India and of the State Government at the district level and the local authorities to prepare a disaster management plan. It seeks to lay down the broad coverage of the plan and provides for coordination of its preparation and implementation with local authority, communities and other stakeholders. It also provides for the regular review and updating the plan.

*Clause 32* seeks to empower the District Authority to give directions to any officer or any department at the district level or any local authority to take necessary measures for prevention or mitigation of a disaster or to effectively respond to it.

*Clause 33* seeks to lay down the powers and functions of the District Authority in the event of any threatening disaster situation or disaster.

*Clause 34* seeks to enjoin upon the Central Government to take measures, as it deems necessary or expedient, for the purpose of disaster management. It also specifies some of the matters with respect to which such measures are required to be taken by the Central Government.

*Clause 35* seeks to specify the responsibility of the Ministries or Departments of the Government of India in regard to prevention, mitigation, preparedness and response. It also spells out some of the actions to be taken by the Ministries or Departments for this purpose.

*Clause 36* seeks to make it mandatory for every Ministry or Department of the

Government of India to prepare a disaster management plan. It specifies certain aspects for which the particulars are to be included in the plan. It also provides for annual review and updating of the plan and for approval of the original or updated plan by the National Authority. It enjoins upon the Ministries or Department concerned to make provision for financing of the activities specified in the plan and to furnish a status report regarding the implementation the plan to the National Authority, as and when required by it.

*Clause 37* seeks to make it mandatory for the State Governments to take measures for the purpose of disaster management. It also specifies some of the matters with respect of which such measures are required to be taken by the State Governments.

*Clause 38* seeks to specify the responsibility of every department of the Government of a State in regard to prevention, mitigation, preparedness and response to disasters.

*Clause 39* seeks to make it mandatory for every department of a State Government to prepare a disaster management plan and make provisions for financing of the plan. It also lays down the broad coverage of the plan, provides for annual review and updating of the plan and furnishing of a status report on its implementation to the State Executive Committee, and enjoins upon the State Government to make provisions for financing the activities specified therein.

*Clause 40* seeks to specify the functions of the local authority in regard to disaster management.

*Clause 41* seeks to provide for the constitution of the National Institute of Disaster Management by the Central Government and seeks to lays down the responsibility and possible functions of the Institute.

32

SERVER1/BILL\_2004/RS/944RS1.P65

*Clause 42* seeks to enjoin upon the Central Government to provide the National Institute with officers, consultants and other employees for carrying out its functions.

*Clause 43* seeks to provide for the constitution of the National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

*Clause 44* seeks to vest the general superintendence, direction and control of the National Disaster Response Force in the National Authority and the command and supervision of the Force in an officer to be appointed by the Central Government as the Director General of the National Disaster Response Force.

*Clause 45* seeks to provide for the constitution of the National Disaster Response Fund.

*Clause 46* seeks to provide for the constitution of the National Disaster Mitigation Fund.

*Clause 47* seeks to provide for the establishment of the State Disaster Response Fund, the District Disaster Response Fund, the State Disaster Mitigation Fund and the District Disaster Mitigation Fund.

*Clause 48* seeks to enjoin upon every Ministry or Department of the Government of India to make provision of funds in its annual budget for the purposes of carrying out the activities or programmes set out in its disaster management plan. It seeks to lay down a similar obligation for departments of the State Governments.

*Clause 49* seeks to empower the National Authority or State Authority or District Authority to authorise emergency procurement of provisions or material for rescue and relief by the concerned Departments or authority.

*Clauses 50 to 58* seek to lay down what will constitute an offence in terms of obstruction of the functions under the Act, false claim for relief, misappropriation of relief material or funds, issuance of false warning, failure of an officer to perform the duty imposed on him under the Act without due permission or lawful

excuse, or his connivance at contravention of the provisions of the Act. The clauses also provide for penalties for these offences.

Clauses 59 to 76 are of miscellaneous in nature. Clause 59 seeks to prohibit discrimination in the distribution of compensation and relief to victims of disaster on the ground of sex, caste, community, descent or religion. Clauses 60 to 68 deal with the power to issue directions by the Central Government; obligation of any officer or authority of the Union or a State to make available officers and employees to perform any of the functions in connection with disaster prevention or mitigation; power to seek amendment of any rules, regulations, instructions etc. for the purpose of prevention or mitigation of disasters; power to requisition resources, premises, provisions, vehicles, etc. for rescue operations or rehabilitation; payment of compensation for the resources so requisitioned; settlement of disputes relating to the amount of compensation or entitlement thereto; giving of directions to media for communication of warning regarding a threatening disaster situation or disaster; authentication of orders or decisions; delegation of powers; and preparation of annual report by the National Authority and its laying on the table of both Houses of Parliament. Clauses 69 to 72 contain provisions regarding bar on jurisdiction of courts in regard to action taken or directions issued in pursuance of the powers conferred or functions assigned by the Act; overriding effect to the Act; and immunity from legal process for action taken in good faith under the provisions of the Bill. Clauses 74 and 75 provide for making of rules by the Central Government and the State Government for carrying out the

33

SERVER1/BILL\_2004/RS/944RS1.P65

purposes of the Act; some of the matters to be covered by these rules; laying of these rules before each House of Parliament and the State Legislature; making of rules by State Government to carry out the provisions of the Act; some of the matters to be covered by these rules; laying of these rules before the State Legislature. Clause 76 seeks to empower the Central Government or the State Government to make orders, not inconsistent with the provisions of the Act, for removal of any difficulty in implementation of the provisions of the Act, within two years from the commencement of the Act.

#### FINANCIAL MEMORANDUM

The following provisions included in the Bill will involve expenditure from the Consolidated Fund of India :—

1. Clause 5 states that the Central Government shall provide the National Authority with such officers, consultants and employees, as it may consider necessary for carrying out the functions of the National Authority.
2. Clause 7 provides that the National Authority may constitute an advisory committee consisting of experts in the field of disaster management and that members of the advisory committee shall be paid such allowances as may be prescribed by the Central Government.
3. Clause 9 (1) provides for constitution of one or more sub-committees by the National Executive Committee. Clause 9(3) provides that any person associated as an expert with any sub-committee may be paid such allowances as may be prescribed by the Central Government.
4. Clause 11(5) provides that appropriate provisions shall be made by the Central Government for financing the measures to be carried out under the National Plan.
5. Clause 12 provides that the National Authority shall lay down guidelines for the minimum standards of relief to be provided to persons affected by disaster.
6. Clause 13 provides that the National Authority may, in cases of disasters of severe magnitude, give directions regarding relief in repayment of loans or for grant of fresh loans to the persons affected by disaster on such concessional terms as may be appropriate.

7. Clause 35(2)(c) provides for the Central Government to ensure that appropriate allocation of funds for prevention of disaster, mitigation, capacity-building and preparedness by the Ministries or Departments of the Government of India is made.
8. Clause 35 (2)(f) provides for deployment of naval, military and air forces, other armed forces of the Union or any other civilian personnel as may be required for the purposes of this Act.
9. Clause 35(2)(h) provides that the Central Government may take measures to establish institutions for research, training, and developmental programmes in the field of disaster management.
10. Clause 35(3) provides that the Central Government may extend such support to other countries affected by a major disaster as it may deem appropriate.
11. Clause 36 (e) states that it shall be the responsibility of every Ministry/Department of the Government of India to allocate funds for measures for prevention or disaster mitigation, capacity-building and preparedness.
12. Clause 43 States that the Central Government shall provide the National Institute of Disaster Management with such officers or consultants and employees as it may consider necessary for carrying out its functions.
13. Clause 44 provides for the constitution of a National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.
14. Clause 46 states that the Central Government may constitute a Fund to be called the National Disaster Response Fund for meeting any threatening disaster situation and

34

35

SERVER1/BILL\_2004/RS/944RS1.P65

there shall be credited thereto an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

15. Clause 47 states that the Central Government may constitute a Fund to be called the National Disaster Mitigation Fund for projects exclusively for the purpose of mitigation and there shall be credited thereto such amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

16. Clause 49 states that every Ministry or Department of the Government of India shall make provisions, in its annual budget, for funds for the purposes of carrying out the activities and programmes set out in its disaster management plan.

17. Clause 50 provides for immediate procurement of provisions or materials or the immediate application of resources necessary for rescue or relief by the National Authority or by concerned department or authority which may be authorised by it to make the emergency procurement.

18. Clause 51 provides that whenever any resource, premises or Vehicle is requisitioned for rescue operations, there shall be paid to the persons interested compensation for such premise or Vehicle.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 74 of the Bill provides that the Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

The rules to be made under this Bill may include the composition and number of the members of the National Authority under sub-clause (2) of clause 3, the allowances to be paid to the members of the advisory committee under sub-clause (2) of clause 7, the powers and functions of the Chairperson of the National Executive Committee under sub-clause (3) of clause 8 and the procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions under sub-clause (4) of clause 8, the allowances to be paid to the persons associated with the sub-committee under sub-clause (3) of clause 9, the manner of constitution of the Force, the conditions of service of the members of the Force, including disciplinary provisions under sub-clause (2) of clause 44, the form in which and the time within which annual report is to be prepared under clause 69, and any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules under sub-clause (2) of clause 74.

2. Clause 75 of the Bill provides that the State Government may, by notification in the



official Gazette, make rules to carry out the provisions of this Act.

The rules to be made under this Bill may include the composition and number of the members of the State Authority under sub-clause (2) of clause 14, the allowances to be paid to the members of the advisory committee under sub-clause (2) of clause 17, the powers and functions of the Chairperson of the State Executive Committee under sub-clause (3) of clause 20, and the procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions under sub-clause (4) of clause 20, allowances to be paid to the persons associated with the sub-committee under sub-clause (3) of clause 21, the composition and the number of members of the District Authority under sub-clause (2) of clause 25, and the powers and functions to be exercised and discharged by the Chief Executive Officer of the District Authority under sub-clause (3) of clause 25, any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules under sub-clause (2) of clause 75.

3. The matters in respect of which provisions may be made in the rules to be framed under the proposed legislation are generally matters of procedure of detail. The delegation of legislative power is, therefore, of a normal character.

36

## THE DISASTER MANAGEMENT BILL, 2005

### ARRANGEMENT OF CLAUSES

#### CHAPTER I

##### PRELIMINARY

##### CLAUSES

1. Short title, extent and commencement.
2. Definitions.

#### CHAPTER II

##### THE NATIONAL DISASTER MANAGEMENT AUTHORITY

3. Establishment of National Disaster Management Authority.
4. Meetings of National Authority.
5. Appointment of officers and other employees of the National Authority.
6. Powers and functions of National Authority.
7. Constitution of advisory committee by National Authority.
8. Constitution of National Executive Committee.
9. Constitution of sub-committees.
10. Powers and functions of National Executive Committee.
11. National Plan.
12. Guidelines for minimum standards of relief.
13. Relief in loan repayment, etc.

#### CHAPTER III

##### STATE DISASTER MANAGEMENT AUTHORITIES

14. Establishment of State Disaster Management Authority.
15. Meetings of the State Authority.
16. Appointment of officers and other employees of State Authority.
17. Constitution of advisory committee by the State Authority.
18. Powers and functions of State Authority.
19. Guidelines for minimum standard of relief by State Authority.
20. Constitution of State Executive Committee.
21. Constitution of sub-committees by State Executive Committee.
22. Functions of the State Executive Committee.
23. State Plan.
24. Powers and functions of State Executive Committee in the event of threatening disaster situation.

#### CHAPTER IV

##### DISTRICT DISASTER MANAGEMENT AUTHORITY

25. Constitution of District Disaster Management Authority.

26. Powers of Chairperson of District Authority.
27. Meetings.

TO BE INTRODUCED IN THE RAJYA SABHA

**Bill No. LV of 2005**

CLAUSES

28. Constitution of advisory committees and other committees.
29. Appointment of officers and other employees of District Authority.
30. Powers and functions of District Authority.
31. District Plan.
32. Plans by different authorities at district level and their implementation.
33. Requisition by the District Authority. .
34. Powers and functions of District Authority in the event of any threatening disaster situation or disaster.

CHAPTER V

MEASURES BY THE GOVERNMENT FOR DISASTER MANAGEMENT

35. Central Government to take measures.
36. Responsibilities of Ministries or Departments of Government of India.
37. Disaster management plans of Ministries or Departments of Government of India.
38. State Government to take measures.
39. Responsibilities of departments of the State Government.
40. Disaster management plan of departments of State.

CHAPTER VI

LOCAL AUTHORITIES

41. Functions of the local authority.

CHAPTER VII

NATIONAL INSTITUTE OF DISASTER MANAGEMENT

42. National Institute of Disaster Management.
43. Officers and other employees of the National Institute.

CHAPTER VIII

NATIONAL DISASTER RESPONSE FORCE

44. National Disaster Response Force.
45. Control, direction, etc.

CHAPTER IX

FINANCE, ACCOUNTS AND AUDIT

46. National Mitigation Fund.
47. National Fund for Disaster Management.
48. Establishment of funds by State Government.
49. Allocation of funds by Ministries and Departments.
50. Emergency procurement and accounting.

CHAPTER X

OFFENCES AND PENALTIES

51. Punishment for obstruction, etc.
52. Punishment for false claim.
53. Punishment for misappropriation of money or material, etc.
54. Punishment for false warning.
55. Offences by Ministries or Departments of the Government.
56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.

(ii)

CLAUSES

57. Penalty for contravention of any order regarding requisitioning.
58. Offence by companies.
59. Previous sanction for prosecution.

CHAPTER XI

MISCELLANEOUS

60. Prohibition against discrimination.

61. Power to issue direction by the Central Government.
62. Powers to be made available for rescue operations.
63. Making or amending rules, etc., in certain circumstances.
64. Power of requisition of resources, provisions, vehicles, etc., for rescue operations, etc.
65. Payment of compensation.
66. Direction to media for communication of warnings, etc.
67. Authentication of orders or decisions.
68. Delegation of powers.
69. Annual report.
70. Bar of jurisdiction of court.
71. Act to have overriding effect.
72. Action taken in good faith.
73. Immunity from legal process.
74. Power of Central Government to make rules.
75. Power of State Government to make rules.
76. Power to remove difficulties.

(iii)

RAJYA SABHA

---

A

**BILL**

to provide for the effective management of disasters and for matters connected therewith or incidental thereto.

---

*(Shri Shivraj V. Patil, Minister of Home Affairs)*

MGIPMRND—944RS—9.05.2005.

**STATEMENT OF OBJECTS AND REASONS**

The Government have decided to enact a law on disaster management to provide for requisite institutional mechanisms for drawing up and monitoring the implementation of the disaster management plans, ensuring measures by various wings of Government for prevention and mitigating effects of disasters and for undertaking a holistic, coordinated and prompt response to any disaster situation.

2. The Disaster Management Bill, 2005 provides for setting up of a National Disaster Management Authority under the Chairmanship of the Prime Minister, State Disaster Management Authorities under the Chairmanship of the Chief Ministers and District Disaster Management Authorities under the Chairmanship of District Magistrates. The Bill also provides for concerned Ministries or Departments to draw up department-wise plans in accordance with the national disaster management plan. It provides for constitution of a National Disaster Response Force and setting up the National Institute of Disaster Management. The Bill provides for the constitution of the National Fund for Disaster Response and the National Fund for Disaster Mitigation and similar Funds at the State and District levels. The Bill provides for specific role for Local Bodies in disaster management including Panchayati Raj Institutions as well as Urban Local Bodies like Municipalities.

3. The proposed enactment will facilitate effective steps for the mitigation of disasters, prepare for and coordinate effective response to disasters, as also matters connected therewith or incidental thereto.

4. The Bill seeks to achieve the above objects.

SHIVRAJ PATIL.

NEW DELHI;

*The 8th May, 2005*

28

NOTES ON CLAUSES

*Clause 3* seeks to establish the National Disaster Management Authority (hereinafter called the National Authority) and provide for its composition.

*Clause 4* seeks to make provisions for the meetings of the National Authority.

*Clause 5* seeks to create an obligation on the Central Government to provide the

National Authority with officers, consultants and other employees, as considered necessary by it, for carrying out the functions of the National Authority.

*Clause 6* seeks to lay down the responsibility and functions of the National Authority and provides for exercise of the powers of the Authority by its Chairperson, in the case of emergency, subject to *post facto* ratification by the National Authority.

*Clause 7* seeks to provide for constitution of an advisory committee by the National Authority and also the Central Government to prescribe allowances to be paid to the members of the advisory committee.

*Clause 8* seeks to provide for the constitution of the National Executive Committee to assist the National Authority. It also seeks to authorise the Central Government to prescribe the powers, functions and procedure of the National Executive Committee.

*Clause 9* seeks to provide for the constitution of sub-committees by the National Executive Committee and enables the Central Government to prescribe and make payment of allowances to any person associated as an expert in any sub-committee.

*Clause 10* seeks to prescribe the powers and functions of the National Executive Committee.

*Clause 11* seeks to make it mandatory to prepare the National Disaster Management Plan for the whole of the country. It lays down the broad coverage of the plan and the requirements of consultation in the preparation of the plan. It provides for annual review and updating of the National Plan. It enjoins upon the Central Government to make provisions for financing the activities to be carried out under the National Plan. It also provides for the Ministries or Departments of the Government of India to draw up their own plans in accordance with the National Plan.

*Clause 12* seeks to provide for laying down the guidelines by the National Authority for minimum standards of relief and spells out certain important aspects to be included in the guidelines.

*Clause 13* seeks to empower the National Authority, in cases of disasters of severe magnitude, to give directions regarding relief in repayment of loans or for grant of fresh loans on concessional terms to the persons affected by such disasters.

*Clause 14* seeks to provide for the establishment of the State Disaster Management Authority (hereinafter called the State Authority) by the State Government and provides for the composition of the State Authority.

*Clause 15* seeks to provide for the frequency, venue and presiding authority for the meetings of the State Authority.

29

30

SERVER1/BILL\_2004/RS/944RS1.P65

*Clause 16* seeks to enjoin upon the State Government concerned to provide the State Authority with such officers, consultants and other employees, as it considers necessary for carrying out the functions of the State Authority.

*Clause 17* seeks to provide for the constitution of an advisory committee by the State Authority and also seeks to enable the State Government to prescribe allowances and to make payment of such allowances to the members of the advisory committee.

*Clause 18* seeks to lay down the responsibility and functions of the State Authority and provides for exercise of the powers of the State Authority by its Chairperson in the case of emergency, subject to *post facto* ratification by the State Authority.

*Clause 19* seeks to provide for laying down detailed guidelines by the State Authority for minimum standards of relief, which will not be less than the minimum

standards laid down in the guidelines by the National Authority.

*Clause 20* seeks to provide for the constitution of the State Executive Committee to assist the State Authority. It also seeks to authorise the State Government to prescribe the powers, functions and procedure of the State Executive Committee. In addition, delegation of powers and functions to the State Executive Committee by the State Authority is envisaged.

*Clause 21* seeks to specify the responsibility and functions of the State Executive Committee.

*Clause 22* seeks to make it mandatory for the State to have the State Disaster Management Plan. It lays down the broad coverage of the plan as well as the requirements of consultation in the preparation of the State Plan. It provides for annual review and updating the State Plan. It enjoins upon the State Government to make provisions for financing the activities to be carried out under the State Plan. It also provides for the departments of the State Government to draw up their own plans in accordance with the State Plan.

*Clause 23* seeks to lay down the powers and functions of the State Executive Committee in the event of a disaster or a threatening disaster situation.

*Clause 24* seeks to provide for the establishment of the District Disaster Management Authority for every District and provides its composition.

*Clause 25* seeks to provide power to prescribe the powers and functions of the Chairperson of the District Authority.

*Clause 26* seeks to provide for the frequency and venue of the meetings of the District Authority.

*Clause 27* seeks to empower the District Authority to constitute committees or subcommittees and also enables it to make payment of allowances to any person associated as an expert with these committees, at the rates to be prescribed by the State Government.

*Clause 28* seeks to enjoin upon the State Government to provide the District Authority with officers, consultants and other employees for carrying out its functions.

*Clause 29* seeks to provide the power to prescribe the powers and functions of the District Authority.

*Clause 30* seeks to make it mandatory to have a disaster management plan for every district. It lays down the broad aspects to be covered by the District Plan, mandates consultation with zila parishad and the municipality in the preparation of the plan, and provides for annual review and updating the

31

SERVER1/BILL\_2004/RS/944RS1.P65

plans. It also seeks to authorise the District Authority to review the implementation of the District Plan and issue directions to different departments of the Government in the district for its implementation.

*Clause 31* seeks to make it mandatory for every office of the Government of India and of the State Government at the district level and the local authorities to prepare a disaster management plan. It seeks to lay down the broad coverage of the plan and provides for coordination of its preparation and implementation with local authority, communities and other stakeholders. It also provides for the regular review and updating the plan.

*Clause 32* seeks to empower the District Authority to give directions to any officer or any department at the district level or any local authority to take necessary measures for prevention or mitigation of a disaster or to effectively respond to it.

*Clause 33* seeks to lay down the powers and functions of the District Authority in the event of any threatening disaster situation or disaster.

*Clause 34* seeks to enjoin upon the Central Government to take measures, as it deems necessary or expedient, for the purpose of disaster management. It also specifies some of the matters with respect to which such measures are required to be taken by the Central Government.

*Clause 35* seeks to specify the responsibility of the Ministries or Departments of the Government of India in regard to prevention, mitigation, preparedness and response. It also spells out some of the actions to be taken by the Ministries or Departments for this purpose.

*Clause 36* seeks to make it mandatory for every Ministry or Department of the Government of India to prepare a disaster management plan. It specifies certain aspects for which the particulars are to be included in the plan. It also provides for annual review and updating of the plan and for approval of the original or updated plan by the National Authority. It enjoins upon the Ministries or Department concerned to make provision for financing of the activities specified in the plan and to furnish a status report regarding the implementation the plan to the National Authority, as and when required by it.

*Clause 37* seeks to make it mandatory for the State Governments to take measures for the purpose of disaster management. It also specifies some of the matters with respect of which such measures are required to be taken by the State Governments.

*Clause 38* seeks to specify the responsibility of every department of the Government of a State in regard to prevention, mitigation, preparedness and response to disasters.

*Clause 39* seeks to make it mandatory for every department of a State Government to prepare a disaster management plan and make provisions for financing of the plan. It also lays down the broad coverage of the plan, provides for annual review and updating of the plan and furnishing of a status report on its implementation to the State Executive Committee, and enjoins upon the State Government to make provisions for financing the activities specified therein.

*Clause 40* seeks to specify the functions of the local authority in regard to disaster management.

*Clause 41* seeks to provide for the constitution of the National Institute of Disaster Management by the Central Government and seeks to lays down the responsibility and possible functions of the Institute.

32

SERVER1/BILL\_2004/RS/944RS1.P65

*Clause 42* seeks to enjoin upon the Central Government to provide the National Institute with officers, consultants and other employees for carrying out its functions.

*Clause 43* seeks to provide for the constitution of the National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

*Clause 44* seeks to vest the general superintendence, direction and control of the National Disaster Response Force in the National Authority and the command and supervision of the Force in an officer to be appointed by the Central Government as the Director General of the National Disaster Response Force.

*Clause 45* seeks to provide for the constitution of the National Disaster Response Fund.

*Clause 46* seeks to provide for the constitution of the National Disaster Mitigation Fund.

*Clause 47* seeks to provide for the establishment of the State Disaster Response Fund, the District Disaster Response Fund, the State Disaster Mitigation Fund and the District Disaster Mitigation Fund.

*Clause 48* seeks to enjoin upon every Ministry or Department of the Government of India to make provision of funds in its annual budget for the purposes of carrying out the activities or programmes set out in its disaster management plan. It seeks to lay down a similar obligation for departments of the State Governments.

*Clause 49* seeks to empower the National Authority or State Authority or District Authority to authorise emergency procurement of provisions or material for

rescue and relief by the concerned Departments or authority.

*Clauses 50 to 58* seek to lay down what will constitute an offence in terms of obstruction of the functions under the Act, false claim for relief, misappropriation of relief material or funds, issuance of false warning, failure of an officer to perform the duty imposed on him under the Act without due permission or lawful excuse, or his connivance at contravention of the provisions of the Act. The clauses also provide for penalties for these offences.

*Clauses 59 to 76* are of miscellaneous in nature. Clause 59 seeks to prohibit discrimination in the distribution of compensation and relief to victims of disaster on the ground of sex, caste, community, descent or religion. Clauses 60 to 68 deal with the power to issue directions by the Central Government; obligation of any officer or authority of the Union or a State to make available officers and employees to perform any of the functions in connection with disaster prevention or mitigation; power to seek amendment of any rules, regulations, instructions etc. for the purpose of prevention or mitigation of disasters; power to requisition resources, premises, provisions, vehicles, etc. for rescue operations or rehabilitation; payment of compensation for the resources so requisitioned; settlement of disputes relating to the amount of compensation or entitlement thereto; giving of directions to media for communication of warning regarding a threatening disaster situation or disaster; authentication of orders or decisions; delegation of powers; and preparation of annual report by the National Authority and its laying on the table of both Houses of Parliament. Clauses 69 to 72 contain provisions regarding bar on jurisdiction of courts in regard to action taken or directions issued in pursuance of the powers conferred or functions assigned by the Act; overriding effect to the Act; and immunity from legal process for action taken in good faith under the provisions of the Bill. Clauses 74 and 75 provide for making of rules by the Central Government and the State Government for carrying out the

33

SERVER1/BILL\_2004/RS/944RS1.P65

purposes of the Act; some of the matters to be covered by these rules; laying of these rules before each House of Parliament and the State Legislature; making of rules by State Government to carry out the provisions of the Act; some of the matters to be covered by these rules; laying of these rules before the State Legislature. Clause 76 seeks to empower the Central Government or the State Government to make orders, not inconsistent with the provisions of the Act, for removal of any difficulty in implementation of the provisions of the Act, within two years from the commencement of the Act.

#### FINANCIAL MEMORANDUM

The following provisions included in the Bill will involve expenditure from the Consolidated Fund of India :—

1. Clause 5 states that the Central Government shall provide the National Authority with such officers, consultants and employees, as it may consider necessary for carrying out the functions of the National Authority.
2. Clause 7 provides that the National Authority may constitute an advisory committee consisting of experts in the field of disaster management and that members of the advisory committee shall be paid such allowances as may be prescribed by the Central Government.
3. Clause 9 (1) provides for constitution of one or more sub-committees by the National Executive Committee. Clause 9(3) provides that any person associated as an expert with any sub-committee may be paid such allowances as may be prescribed by the Central Government.
4. Clause 11(5) provides that appropriate provisions shall be made by the Central Government for financing the measures to be carried out under the National Plan.
5. Clause 12 provides that the National Authority shall lay down guidelines for the

minimum standards of relief to be provided to persons affected by disaster.

6. Clause 13 provides that the National Authority may, in cases of disasters of severe magnitude, give directions regarding relief in repayment of loans or for grant of fresh loans to the persons affected by disaster on such concessional terms as may be appropriate.

7. Clause 35(2)(c) provides for the Central Government to ensure that appropriate allocation of funds for prevention of disaster, mitigation, capacity-building and preparedness by the Ministries or Departments of the Government of India is made.

8. Clause 35 (2)(f) provides for deployment of naval, military and air forces, other armed forces of the Union or any other civilian personnel as may be required for the purposes of this Act.

9. Clause 35(2)(h) provides that the Central Government may take measures to establish institutions for research, training, and developmental programmes in the field of disaster management.

10. Clause 35(3) provides that the Central Government may extend such support to other countries affected by a major disaster as it may deem appropriate.

11. Clause 36 (e) states that it shall be the responsibility of every Ministry/Department of the Government of India to allocate funds for measures for prevention or disaster mitigation, capacity-building and preparedness.

12. Clause 43 States that the Central Government shall provide the National Institute of Disaster Management with such officers or consultants and employees as it may consider necessary for carrying out its functions.

13. Clause 44 provides for the constitution of a National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

14. Clause 46 states that the Central Government may constitute a Fund to be called the National Disaster Response Fund for meeting any threatening disaster situation and

34

35

SERVER1/BILL\_2004/RS/944RS1.P65

there shall be credited thereto an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

15. Clause 47 states that the Central Government may constitute a Fund to be called the National Disaster Mitigation Fund for projects exclusively for the purpose of mitigation and there shall be credited thereto such amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

16. Clause 49 states that every Ministry or Department of the Government of India shall make provisions, in its annual budget, for funds for the purposes of carrying out the activities and programmes set out in its disaster management plan.

17. Clause 50 provides for immediate procurement of provisions or materials or the immediate application of resources necessary for rescue or relief by the National Authority or by concerned department or authority which may be authorised by it to make the emergency procurement.

18. Clause 51 provides that whenever any resource, premises or Vehicle is requisitioned for rescue operations, there shall be paid to the persons interested compensation for such premise or Vehicle.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 74 of the Bill provides that the Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

The rules to be made under this Bill may include the composition and number of the members of the National Authority under sub-clause (2) of clause 3, the allowances to be paid to the members of the advisory committee under sub-clause (2) of clause 7, the powers and functions of the Chairperson of the National Executive Committee under sub-clause (3) of clause 8 and the procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions under sub-clause (4) of clause 8, the allowances to be paid to the persons associated with the sub-committee under sub-clause (3) of clause 9, the manner of constitution of the Force, the conditions of service of the members of the



Force, including disciplinary provisions under sub-clause (2) of clause 44, the form in which and the time within which annual report is to be prepared under clause 69, and any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules under sub-clause (2) of clause 74.

2. Clause 75 of the Bill provides that the State Government may, by notification in the official Gazette, make rules to carry out the provisions of this Act.

The rules to be made under this Bill may include the composition and number of the members of the State Authority under sub-clause (2) of clause 14, the allowances to be paid to the members of the advisory committee under sub-clause (2) of clause 17, the powers and functions of the Chairperson of the State Executive Committee under sub-clause (3) of clause 20, and the procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions under sub-clause (4) of clause 20, allowances to be paid to the persons associated with the sub-committee under sub-clause (3) of clause 21, the composition and the number of members of the District Authority under sub-clause (2) of clause 25, and the powers and functions to be exercised and discharged by the Chief Executive Officer of the District Authority under sub-clause (3) of clause 25, any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules under sub-clause (2) of clause 75.

3. The matters in respect of which provisions may be made in the rules to be framed under the proposed legislation are generally matters of procedure of detail. The delegation of legislative power is, therefore, of a normal character.

36

## THE DISASTER MANAGEMENT BILL, 2005

### ARRANGEMENT OF CLAUSES

#### CHAPTER I

##### PRELIMINARY

##### CLAUSES

1. Short title, extent and commencement.
2. Definitions.

#### CHAPTER II

##### THE NATIONAL DISASTER MANAGEMENT AUTHORITY

3. Establishment of National Disaster Management Authority.
4. Meetings of National Authority.
5. Appointment of officers and other employees of the National Authority.
6. Powers and functions of National Authority.
7. Constitution of advisory committee by National Authority.
8. Constitution of National Executive Committee.
9. Constitution of sub-committees.
10. Powers and functions of National Executive Committee.
11. National Plan.
12. Guidelines for minimum standards of relief.
13. Relief in loan repayment, etc.

#### CHAPTER III

##### STATE DISASTER MANAGEMENT AUTHORITIES

14. Establishment of State Disaster Management Authority.
15. Meetings of the State Authority.
16. Appointment of officers and other employees of State Authority.
17. Constitution of advisory committee by the State Authority.
18. Powers and functions of State Authority.
19. Guidelines for minimum standard of relief by State Authority.
20. Constitution of State Executive Committee.
21. Constitution of sub-committees by State Executive Committee.
22. Functions of the State Executive Committee.
23. State Plan.

24. Powers and functions of State Executive Committee in the event of threatening disaster situation.

#### CHAPTER IV

##### DISTRICT DISASTER MANAGEMENT AUTHORITY

25. Constitution of District Disaster Management Authority.

26. Powers of Chairperson of District Authority.

27. Meetings.

TO BE INTRODUCED IN THE RAJYA SABHA

#### **Bill No. LV of 2005**

##### CLAUSES

28. Constitution of advisory committees and other committees.

29. Appointment of officers and other employees of District Authority.

30. Powers and functions of District Authority.

31. District Plan.

32. Plans by different authorities at district level and their implementation.

33. Requisition by the District Authority. .

34. Powers and functions of District Authority in the event of any threatening disaster situation or disaster.

#### CHAPTER V

##### MEASURES BY THE GOVERNMENT FOR DISASTER MANAGEMENT

35. Central Government to take measures.

36. Responsibilities of Ministries or Departments of Government of India.

37. Disaster management plans of Ministries or Departments of Government of India.

38. State Government to take measures.

39. Responsibilities of departments of the State Government.

40. Disaster management plan of departments of State.

#### CHAPTER VI

##### LOCAL AUTHORITIES

41. Functions of the local authority.

#### CHAPTER VII

##### NATIONAL INSTITUTE OF DISASTER MANAGEMENT

42. National Institute of Disaster Management.

43. Officers and other employees of the National Institute.

#### CHAPTER VIII

##### NATIONAL DISASTER RESPONSE FORCE

44. National Disaster Response Force.

45. Control, direction, etc.

#### CHAPTER IX

##### FINANCE, ACCOUNTS AND AUDIT

46. National Mitigation Fund.

47. National Fund for Disaster Management.

48. Establishment of funds by State Government.

49. Allocation of funds by Ministries and Departments.

50. Emergency procurement and accounting.

#### CHAPTER X

##### OFFENCES AND PENALTIES

51. Punishment for obstruction, etc.

52. Punishment for false claim.

53. Punishment for misappropriation of money or material, etc.

54. Punishment for false warning.

55. Offences by Ministries or Departments of the Government.

56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.

(ii)

##### CLAUSES

57. Penalty for contravention of any order regarding requisitioning.

58. Offence by companies.
59. Previous sanction for prosecution.

#### CHAPTER XI

##### MISCELLANEOUS

60. Prohibition against discrimination.
61. Power to issue direction by the Central Government.
62. Powers to be made available for rescue operations.
63. Making or amending rules, etc., in certain circumstances.
64. Power of requisition of resources, provisions, vehicles, etc., for rescue operations, etc.
65. Payment of compensation.
66. Direction to media for communication of warnings, etc.
67. Authentication of orders or decisions.
68. Delegation of powers.
69. Annual report.
70. Bar of jurisdiction of court.
71. Act to have overriding effect.
72. Action taken in good faith.
73. Immunity from legal process.
74. Power of Central Government to make rules.
75. Power of State Government to make rules.
76. Power to remove difficulties.

(iii)

#### RAJYA SABHA

---

A

#### BILL

to provide for the effective management of disasters and for matters connected therewith or incidental thereto.

---

*(Shri Shivraj V. Patil, Minister of Home Affairs)*

MGIPMRND—944RS—9.05.2005.

#### STATEMENT OF OBJECTS AND REASONS

The Government have decided to enact a law on disaster management to provide for requisite institutional mechanisms for drawing up and monitoring the implementation of the disaster management plans, ensuring measures by various wings of Government for prevention and mitigating effects of disasters and for undertaking a holistic, coordinated and prompt response to any disaster situation.

2. The Disaster Management Bill, 2005 provides for setting up of a National Disaster Management Authority under the Chairmanship of the Prime Minister, State Disaster Management Authorities under the Chairmanship of the Chief Ministers and District Disaster Management Authorities under the Chairmanship of District Magistrates. The Bill also provides for concerned Ministries or Departments to draw up department-wise plans in accordance with the national disaster management plan. It provides for constitution of a National Disaster Response Force and setting up the National Institute of Disaster Management. The Bill provides for the constitution of the National Fund for Disaster Response and the National Fund for Disaster Mitigation and similar Funds at the State and District levels. The Bill provides for specific role for Local Bodies in disaster management including Panchayati Raj Institutions as well as Urban Local Bodies like Municipalities.

3. The proposed enactment will facilitate effective steps for the mitigation of disasters, prepare for and coordinate effective response to disasters, as also matters connected therewith or incidental thereto.

4. The Bill seeks to achieve the above objects.

SHIVRAJ PATIL.

NEW DELHI;

*The 8th May, 2005*

NOTES ON CLAUSES

*Clause 3* seeks to establish the National Disaster Management Authority (hereinafter called the National Authority) and provide for its composition.

*Clause 4* seeks to make provisions for the meetings of the National Authority.

*Clause 5* seeks to create an obligation on the Central Government to provide the National Authority with officers, consultants and other employees, as considered necessary by it, for carrying out the functions of the National Authority.

*Clause 6* seeks to lay down the responsibility and functions of the National Authority and provides for exercise of the powers of the Authority by its Chairperson, in the case of emergency, subject to *post facto* ratification by the National Authority.

*Clause 7* seeks to provide for constitution of an advisory committee by the National Authority and also the Central Government to prescribe allowances to be paid to the members of the advisory committee.

*Clause 8* seeks to provide for the constitution of the National Executive Committee to assist the National Authority. It also seeks to authorise the Central Government to prescribe the powers, functions and procedure of the National Executive Committee.

*Clause 9* seeks to provide for the constitution of sub-committees by the National Executive Committee and enables the Central Government to prescribe and make payment of allowances to any person associated as an expert in any sub-committee.

*Clause 10* seeks to prescribe the powers and functions of the National Executive Committee.

*Clause 11* seeks to make it mandatory to prepare the National Disaster Management Plan for the whole of the country. It lays down the broad coverage of the plan and the requirements of consultation in the preparation of the plan. It provides for annual review and updating of the National Plan. It enjoins upon the Central Government to make provisions for financing the activities to be carried out under the National Plan. It also provides for the Ministries or Departments of the Government of India to draw up their own plans in accordance with the National Plan.

*Clause 12* seeks to provide for laying down the guidelines by the National Authority for minimum standards of relief and spells out certain important aspects to be included in the guidelines.

*Clause 13* seeks to empower the National Authority, in cases of disasters of severe magnitude, to give directions regarding relief in repayment of loans or for grant of fresh loans on concessional terms to the persons affected by such disasters.

*Clause 14* seeks to provide for the establishment of the State Disaster Management Authority (hereinafter called the State Authority) by the State Government and provides for the composition of the State Authority.

*Clause 15* seeks to provide for the frequency, venue and presiding authority for the meetings of the State Authority.

29

30

SERVER1/BILL\_2004/RS/944RS1.P65

*Clause 16* seeks to enjoin upon the State Government concerned to provide the State Authority with such officers, consultants and other employees, as it considers necessary for carrying out the functions of the State Authority.

*Clause 17* seeks to provide for the constitution of an advisory committee by the State Authority and also seeks to enable the State Government to prescribe allowances and to make payment of such allowances to the members of the advisory committee.

*Clause 18* seeks to lay down the responsibility and functions of the State Authority

and provides for exercise of the powers of the State Authority by its Chairperson in the case of emergency, subject to *post facto* ratification by the State Authority.

*Clause 19* seeks to provide for laying down detailed guidelines by the State Authority for minimum standards of relief, which will not be less than the minimum standards laid down in the guidelines by the National Authority.

*Clause 20* seeks to provide for the constitution of the State Executive Committee to assist the State Authority. It also seeks to authorise the State Government to prescribe the powers, functions and procedure of the State Executive Committee. In addition, delegation of powers and functions to the State Executive Committee by the State Authority is envisaged.

*Clause 21* seeks to specify the responsibility and functions of the State Executive Committee.

*Clause 22* seeks to make it mandatory for the State to have the State Disaster Management Plan. It lays down the broad coverage of the plan as well as the requirements of consultation in the preparation of the State Plan. It provides for annual review and updating the State Plan. It enjoins upon the State Government to make provisions for financing the activities to be carried out under the State Plan. It also provides for the departments of the State Government to draw up their own plans in accordance with the State Plan.

*Clause 23* seeks to lay down the powers and functions of the State Executive Committee in the event of a disaster or a threatening disaster situation.

*Clause 24* seeks to provide for the establishment of the District Disaster Management Authority for every District and provides its composition.

*Clause 25* seeks to provide power to prescribe the powers and functions of the Chairperson of the District Authority.

*Clause 26* seeks to provide for the frequency and venue of the meetings of the District Authority.

*Clause 27* seeks to empower the District Authority to constitute committees or subcommittees and also enables it to make payment of allowances to any person associated as an expert with these committees, at the rates to be prescribed by the State Government.

*Clause 28* seeks to enjoin upon the State Government to provide the District Authority with officers, consultants and other employees for carrying out its functions.

*Clause 29* seeks to provide the power to prescribe the powers and functions of the District Authority.

*Clause 30* seeks to make it mandatory to have a disaster management plan for every district. It lays down the broad aspects to be covered by the District Plan, mandates consultation with zila parishad and the municipality in the preparation of the plan, and provides for annual review and updating the

31

SERVER1/BILL\_2004/RS/944RS1.P65

plans. It also seeks to authorise the District Authority to review the implementation of the District Plan and issue directions to different departments of the Government in the district for its implementation.

*Clause 31* seeks to make it mandatory for every office of the Government of India and of the State Government at the district level and the local authorities to prepare a disaster management plan. It seeks to lay down the broad coverage of the plan and provides for coordination of its preparation and implementation with local authority, communities and other stakeholders. It also provides for the regular review and updating the plan.

*Clause 32* seeks to empower the District Authority to give directions to any officer or any department at the district level or any local authority to take necessary measures for prevention or mitigation of a disaster or to effectively respond to it.

*Clause 33* seeks to lay down the powers and functions of the District Authority in the

event of any threatening disaster situation or disaster.

*Clause 34* seeks to enjoin upon the Central Government to take measures, as it deems necessary or expedient, for the purpose of disaster management. It also specifies some of the matters with respect to which such measures are required to be taken by the Central Government.

*Clause 35* seeks to specify the responsibility of the Ministries or Departments of the Government of India in regard to prevention, mitigation, preparedness and response. It also spells out some of the actions to be taken by the Ministries or Departments for this purpose.

*Clause 36* seeks to make it mandatory for every Ministry or Department of the Government of India to prepare a disaster management plan. It specifies certain aspects for which the particulars are to be included in the plan. It also provides for annual review and updating of the plan and for approval of the original or updated plan by the National Authority. It enjoins upon the Ministries or Department concerned to make provision for financing of the activities specified in the plan and to furnish a status report regarding the implementation the plan to the National Authority, as and when required by it.

*Clause 37* seeks to make it mandatory for the State Governments to take measures for the purpose of disaster management. It also specifies some of the matters with respect of which such measures are required to be taken by the State Governments.

*Clause 38* seeks to specify the responsibility of every department of the Government of a State in regard to prevention, mitigation, preparedness and response to disasters.

*Clause 39* seeks to make it mandatory for every department of a State Government to prepare a disaster management plan and make provisions for financing of the plan. It also lays down the broad coverage of the plan, provides for annual review and updating of the plan and furnishing of a status report on its implementation to the State Executive Committee, and enjoins upon the State Government to make provisions for financing the activities specified therein.

*Clause 40* seeks to specify the functions of the local authority in regard to disaster management.

*Clause 41* seeks to provide for the constitution of the National Institute of Disaster Management by the Central Government and seeks to lays down the responsibility and possible functions of the Institute.

32

SERVER1/BILL\_2004/RS/944RS1.P65

*Clause 42* seeks to enjoin upon the Central Government to provide the National Institute with officers, consultants and other employees for carrying out its functions.

*Clause 43* seeks to provide for the constitution of the National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

*Clause 44* seeks to vest the general superintendence, direction and control of the National Disaster Response Force in the National Authority and the command and supervision of the Force in an officer to be appointed by the Central Government as the Director General of the National Disaster Response Force.

*Clause 45* seeks to provide for the constitution of the National Disaster Response Fund.

*Clause 46* seeks to provide for the constitution of the National Disaster Mitigation Fund.

*Clause 47* seeks to provide for the establishment of the State Disaster Response Fund, the District Disaster Response Fund, the State Disaster Mitigation Fund and the District Disaster Mitigation Fund.

*Clause 48* seeks to enjoin upon every Ministry or Department of the Government of India to make provision of funds in its annual budget for the purposes of

carrying out the activities or programmes set out in its disaster management plan. It seeks to lay down a similar obligation for departments of the State Governments.

Clause 49 seeks to empower the National Authority or State Authority or District Authority to authorise emergency procurement of provisions or material for rescue and relief by the concerned Departments or authority.

Clauses 50 to 58 seek to lay down what will constitute an offence in terms of obstruction of the functions under the Act, false claim for relief, misappropriation of relief material or funds, issuance of false warning, failure of an officer to perform the duty imposed on him under the Act without due permission or lawful excuse, or his connivance at contravention of the provisions of the Act. The clauses also provide for penalties for these offences.

Clauses 59 to 76 are of miscellaneous in nature. Clause 59 seeks to prohibit discrimination in the distribution of compensation and relief to victims of disaster on the ground of sex, caste, community, descent or religion. Clauses 60 to 68 deal with the power to issue directions by the Central Government; obligation of any officer or authority of the Union or a State to make available officers and employees to perform any of the functions in connection with disaster prevention or mitigation; power to seek amendment of any rules, regulations, instructions etc. for the purpose of prevention or mitigation of disasters; power to requisition resources, premises, provisions, vehicles, etc. for rescue operations or rehabilitation; payment of compensation for the resources so requisitioned; settlement of disputes relating to the amount of compensation or entitlement thereto; giving of directions to media for communication of warning regarding a threatening disaster situation or disaster; authentication of orders or decisions; delegation of powers; and preparation of annual report by the National Authority and its laying on the table of both Houses of Parliament. Clauses 69 to 72 contain provisions regarding bar on jurisdiction of courts in regard to action taken or directions issued in pursuance of the powers conferred or functions assigned by the Act; overriding effect to the Act; and immunity from legal process for action taken in good faith under the provisions of the Bill. Clauses 74 and 75 provide for making of rules by the Central Government and the State Government for carrying out the

33

SERVER1/BILL\_2004/RS/944RS1.P65

purposes of the Act; some of the matters to be covered by these rules; laying of these rules before each House of Parliament and the State Legislature; making of rules by State Government to carry out the provisions of the Act; some of the matters to be covered by these rules; laying of these rules before the State Legislature. Clause 76 seeks to empower the Central Government or the State Government to make orders, not inconsistent with the provisions of the Act, for removal of any difficulty in implementation of the provisions of the Act, within two years from the commencement of the Act.

#### FINANCIAL MEMORANDUM

The following provisions included in the Bill will involve expenditure from the Consolidated Fund of India :—

1. Clause 5 states that the Central Government shall provide the National Authority with such officers, consultants and employees, as it may consider necessary for carrying out the functions of the National Authority.
2. Clause 7 provides that the National Authority may constitute an advisory committee consisting of experts in the field of disaster management and that members of the advisory committee shall be paid such allowances as may be prescribed by the Central Government.
3. Clause 9 (1) provides for constitution of one or more sub-committees by the National Executive Committee. Clause 9(3) provides that any person associated as an expert

with any sub-committee may be paid such allowances as may be prescribed by the Central Government.

4. Clause 11(5) provides that appropriate provisions shall be made by the Central Government for financing the measures to be carried out under the National Plan.

5. Clause 12 provides that the National Authority shall lay down guidelines for the minimum standards of relief to be provided to persons affected by disaster.

6. Clause 13 provides that the National Authority may, in cases of disasters of severe magnitude, give directions regarding relief in repayment of loans or for grant of fresh loans to the persons affected by disaster on such concessional terms as may be appropriate.

7. Clause 35(2)(c) provides for the Central Government to ensure that appropriate allocation of funds for prevention of disaster, mitigation, capacity-building and preparedness by the Ministries or Departments of the Government of India is made.

8. Clause 35 (2)(f) provides for deployment of naval, military and air forces, other armed forces of the Union or any other civilian personnel as may be required for the purposes of this Act.

9. Clause 35(2)(h) provides that the Central Government may take measures to establish institutions for research, training, and developmental programmes in the field of disaster management.

10. Clause 35(3) provides that the Central Government may extend such support to other countries affected by a major disaster as it may deem appropriate.

11. Clause 36 (e) states that it shall be the responsibility of every Ministry/Department of the Government of India to allocate funds for measures for prevention or disaster mitigation, capacity-building and preparedness.

12. Clause 43 States that the Central Government shall provide the National Institute of Disaster Management with such officers or consultants and employees as it may consider necessary for carrying out its functions.

13. Clause 44 provides for the constitution of a National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

14. Clause 46 states that the Central Government may constitute a Fund to be called the National Disaster Response Fund for meeting any threatening disaster situation and

34

35

SERVER1/BILL\_2004/RS/944RS1.P65

there shall be credited thereto an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

15. Clause 47 states that the Central Government may constitute a Fund to be called the National Disaster Mitigation Fund for projects exclusively for the purpose of mitigation and there shall be credited thereto such amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

16. Clause 49 states that every Ministry or Department of the Government of India shall make provisions, in its annual budget, for funds for the purposes of carrying out the activities and programmes set out in its disaster management plan.

17. Clause 50 provides for immediate procurement of provisions or materials or the immediate application of resources necessary for rescue or relief by the National Authority or by concerned department or authority which may be authorised by it to make the emergency procurement.

18. Clause 51 provides that whenever any resource, premises or Vehicle is requisitioned for rescue operations, there shall be paid to the persons interested compensation for such premise or Vehicle.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 74 of the Bill provides that the Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

The rules to be made under this Bill may include the composition and number of the members of the National Authority under sub-clause (2) of clause 3, the allowances to be paid to the members of the advisory committee under sub-clause (2) of clause 7, the powers



and functions of the Chairperson of the National Executive Committee under sub-clause (3) of clause 8 and the procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions under sub-clause (4) of clause 8, the allowances to be paid to the persons associated with the sub-committee under sub-clause (3) of clause 9, the manner of constitution of the Force, the conditions of service of the members of the Force, including disciplinary provisions under sub-clause (2) of clause 44, the form in which and the time within which annual report is to be prepared under clause 69, and any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules under sub-clause (2) of clause 74.

2. Clause 75 of the Bill provides that the State Government may, by notification in the official Gazette, make rules to carry out the provisions of this Act.

The rules to be made under this Bill may include the composition and number of the members of the State Authority under sub-clause (2) of clause 14, the allowances to be paid to the members of the advisory committee under sub-clause (2) of clause 17, the powers and functions of the Chairperson of the State Executive Committee under sub-clause (3) of clause 20, and the procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions under sub-clause (4) of clause 20, allowances to be paid to the persons associated with the sub-committee under sub-clause (3) of clause 21, the composition and the number of members of the District Authority under sub-clause (2) of clause 25, and the powers and functions to be exercised and discharged by the Chief Executive Officer of the District Authority under sub-clause (3) of clause 25, any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules under sub-clause (2) of clause 75.

3. The matters in respect of which provisions may be made in the rules to be framed under the proposed legislation are generally matters of procedure of detail. The delegation of legislative power is, therefore, of a normal character.

36

## THE DISASTER MANAGEMENT BILL, 2005

### ARRANGEMENT OF CLAUSES

#### CHAPTER I

##### PRELIMINARY

##### CLAUSES

1. Short title, extent and commencement.
2. Definitions.

#### CHAPTER II

##### THE NATIONAL DISASTER MANAGEMENT AUTHORITY

3. Establishment of National Disaster Management Authority.
4. Meetings of National Authority.
5. Appointment of officers and other employees of the National Authority.
6. Powers and functions of National Authority.
7. Constitution of advisory committee by National Authority.
8. Constitution of National Executive Committee.
9. Constitution of sub-committees.
10. Powers and functions of National Executive Committee.
11. National Plan.
12. Guidelines for minimum standards of relief.
13. Relief in loan repayment, etc.

#### CHAPTER III

##### STATE DISASTER MANAGEMENT AUTHORITIES

14. Establishment of State Disaster Management Authority.
15. Meetings of the State Authority.
16. Appointment of officers and other employees of State Authority.
17. Constitution of advisory committee by the State Authority.
18. Powers and functions of State Authority.

19. Guidelines for minimum standard of relief by State Authority.
20. Constitution of State Executive Committee.
21. Constitution of sub-committees by State Executive Committee.
22. Functions of the State Executive Committee.
23. State Plan.
24. Powers and functions of State Executive Committee in the event of threatening disaster situation.

#### CHAPTER IV

##### DISTRICT DISASTER MANAGEMENT AUTHORITY

25. Constitution of District Disaster Management Authority.
26. Powers of Chairperson of District Authority.
27. Meetings.

TO BE INTRODUCED IN THE RAJYA SABHA

#### **Bill No. LV of 2005**

##### CLAUSES

28. Constitution of advisory committees and other committees.
29. Appointment of officers and other employees of District Authority.
30. Powers and functions of District Authority.
31. District Plan.
32. Plans by different authorities at district level and their implementation.
33. Requisition by the District Authority. .
34. Powers and functions of District Authority in the event of any threatening disaster situation or disaster.

#### CHAPTER V

##### MEASURES BY THE GOVERNMENT FOR DISASTER MANAGEMENT

35. Central Government to take measures.
36. Responsibilities of Ministries or Departments of Government of India.
37. Disaster management plans of Ministries or Departments of Government of India.
38. State Government to take measures.
39. Responsibilities of departments of the State Government.
40. Disaster management plan of departments of State.

#### CHAPTER VI

##### LOCAL AUTHORITIES

41. Functions of the local authority.

#### CHAPTER VII

##### NATIONAL INSTITUTE OF DISASTER MANAGEMENT

42. National Institute of Disaster Management.
43. Officers and other employees of the National Institute.

#### CHAPTER VIII

##### NATIONAL DISASTER RESPONSE FORCE

44. National Disaster Response Force.
45. Control, direction, etc.

#### CHAPTER IX

##### FINANCE, ACCOUNTS AND AUDIT

46. National Mitigation Fund.
47. National Fund for Disaster Management.
48. Establishment of funds by State Government.
49. Allocation of funds by Ministries and Departments.
50. Emergency procurement and accounting.

#### CHAPTER X

##### OFFENCES AND PENALTIES

51. Punishment for obstruction, etc.
52. Punishment for false claim.
53. Punishment for misappropriation of money or material, etc.
54. Punishment for false warning.
55. Offences by Ministries or Departments of the Government.

56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.

(ii)

CLAUSES

57. Penalty for contravention of any order regarding requisitioning.

58. Offence by companies.

59. Previous sanction for prosecution.

CHAPTER XI

MISCELLANEOUS

60. Prohibition against discrimination.

61. Power to issue direction by the Central Government.

62. Powers to be made available for rescue operations.

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

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

65. Payment of compensation.

66. Direction to media for communication of warnings, etc.

67. Authentication of orders or decisions.

68. Delegation of powers.

69. Annual report.

70. Bar of jurisdiction of court.

71. Act to have overriding effect.

72. Action taken in good faith.

73. Immunity from legal process.

74. Power of Central Government to make rules.

75. Power of State Government to make rules.

76. Power to remove difficulties.

(iii)

RAJYA SABHA

---

A

BILL

to provide for the effective management of disasters and for matters connected therewith or incidental thereto.

---

(*Shri Shivraj V. Patil, Minister of Home Affairs*)

MGIPMRND—944RS—9.05.2005.