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PART II — Section 2

प्राधिकार से प्रकाशित

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हस भाग में धिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 6th May, 2002.

BILL No. 38 OF 2002

A Bill to provide for the establishment of the Petroleum Regulatory Board to regulate the refining, processing, storage, transportation, distribution, marketing and sale of petroleum and petroleum products excluding production of crude oil and natural gas so as to, protect the interests of consumers and entities engaged in specified activities relating to petroleum and petroleum products, ensure uninterrupted and adequate supply of petroleum and petroleum products in all parts of the country, promote competitive markets and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Petroleum Regulatory Board Act, 2002.
- (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.
- (4) It applies to refining, processing, storage, transportation, distribution, marketing and sale of petroleum and petroleum products excluding production of crude oil and natural gas.

Short title,
extent,
commence-
ment and
application.

Definitions.

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

(a) “appointed day” means the date with effect from which the Board is established under sub-section (1) of section 3;

(b) “authorised entity” means an entity authorised to market any notified petroleum or petroleum products, or to establish and operate liquefied natural gas terminals, or to lay, build, operate or expand a common carrier under section 19 or, as the case may be, section 20.

(c) “auto liquefied petroleum gas” means a mixture of certain light hydrocarbons derived from petroleum, which are gaseous at normal ambient temperature and atmospheric pressure but may be condensed to the liquid state at normal ambient temperature by the application of moderate pressure, and which conform to such specifications for use as fuel in vehicles, as the Central Government may, in consultation with Bureau of Indian Standards, notify from time to time;

(d) “Board” means the Petroleum Regulatory Board established under sub-section (1) of section 3;

(e) “bulk sale” means sale of petroleum products other than retail sale;

(f) “Bureau of Indian Standards” means the Bureau of Indian Standards set up under section 3 of the Bureau of Indian Standards Act, 1986;

63 of 1986.

(g) “Chairperson” means the Chairperson of the Board appointed under section 4;

(h) “common carrier” means such pipelines for transportation of petroleum and petroleum products by more than one entity as the Board may declare or authorise from time to time under sub-section (3) of section 20, but does not include pipelines laid to supply—

(i) petroleum products to a specific consumer, or

(ii) crude oil;

(i) “compressed natural gas” means natural gas used as fuel for vehicles, typically compressed to the pressure of 200-250 bars in the gaseous state;

(j) “dealer” means a person, association of persons, firm, company or co-operative society, by whatsoever name called or referred to, and appointed by an oil company to purchase, receive, store and sell motor spirit, high speed diesel, auto liquefied petroleum gas or compressed natural gas;

(k) “distributor” means a person, association of persons, firm, company or co-operative society, by whatsoever name called or referred to, and appointed by an oil company to purchase, receive, store and sell to consumers liquefied petroleum gas in cylinders;

(l) “entity” means a person, association of persons, firm, company or co-operative society, by whatsoever name called or referred to, other than a dealer or distributor, and engaged in refining, processing, storage, transportation, distribution, marketing, import and export of petroleum and petroleum products including laying of pipelines for transportation of petroleum and petroleum products, or establishing and operating a liquefied natural gas terminal;

(m) “exchange of products” shall mean giving and receiving of a petroleum product in accordance with an agreement entered into by the concerned entities;

(n) “high speed diesel” means any hydrocarbon oil (excluding mineral colza oil and turpentine substitute), which conforms to such specifications for use as fuel in compression ignition engines, as the Central Government may, in consultation with the Bureau of Indian Standards, notify from time to time;

(o) "kerosene or superior kerosene oil" means a middle distillate mixture of hydrocarbons which conforms to such specifications, as the Central Government may, in consultation with the Bureau of Indian Standards, notify from time to time;

(p) "liquefied petroleum gas" means a mixture of light hydrocarbons containing propane, isobutane, normal butane, butylenes, or such other substance which is gaseous at normal ambient temperature and atmospheric pressure but may be condensed to liquid state at normal ambient temperature by the application of pressure and conforms to such specifications, as the Central Government may, in consultation with the Bureau of Indian Standards, notify from time to time;

(q) "marketing service obligations" means obligations to set up marketing infrastructure, retail outlets in remote areas, maintain minimum stock of notified petroleum and petroleum products and such other obligations as may be provided by regulations;

(r) "maximum retail price" means the maximum price fixed by an entity at which the petroleum and petroleum products may be sold to the retail consumers and includes all taxes, cess and levies, local or otherwise and freight or commission payable to the dealers;

(s) "member" means a member of the Board appointed under section 4 and includes the Chairperson;

(t) "motor spirit" means any hydrocarbon oil (excluding crude mineral oil) used as fuel in spark ignition engines which conforms to such specifications, as the Central Government may, in consultation with the Bureau of Indian Standards, notify from time to time;

(u) "natural gas" means gas consisting of methane, ethane, propane, butane, pentane and other gas with similar characteristics produced from gas wells, gas condensate wells or oil wells and includes —

(i) any residual gas which is obtained after processing such gas upon removal of liquefied hydrocarbon and impurities therefrom ;

(ii) gas in liquid state, namely, liquefied natural gas ;

(iii) methane obtained from coal seams, namely, coal bed methane; and

(iv) compressed natural gas;

(v) "notification" means a notification published in the Official Gazette and the expression "notified" with its cognate meanings and grammatical variation, shall be construed accordingly;

(w) "notified petroleum and petroleum products" means such petroleum and petroleum products as the Central Government may notify from time to time in the Official Gazette, after being satisfied that it is necessary or expedient so to do for maintaining or increasing their supplies or for securing their equitable distribution and availability at fair price;

(x) "oil company" means a company registered under the Companies Act, 1956 and includes an association of persons, society or firm by whatsoever name called or referred to for carrying out an activity relating to petroleum and petroleum products;

(y) "petroleum" means any liquid hydrocarbon or mixture of hydrocarbons, and any inflammable mixture (liquid, viscous or solid) containing any liquid hydrocarbon, including crude oil, liquefied petroleum gas and natural gas, and the expression 'petroleum product' shall mean any product manufactured from petroleum;

(z) "prescribed" means prescribed by rules made by the Central Government under this Act;

(za) "public distribution system" means the system of distribution, marketing or selling of petroleum products, at the Government controlled or declared price through a distribution system approved by the Central or State Government;

(zb) "regulations" means regulations made by the Board under this Act;

(zc) "retail outlet" means filling station where one or more dispensing pumps have been provided for sale of motor spirit, high speed diesel, auto liquefied petroleum gas or compressed natural gas, and includes distributorship for liquefied petroleum gas or dealership for kerosene;

(zd) "retail sale" means sale of motor spirit, high speed diesel, auto liquefied petroleum gas and compressed natural gas from retail outlet;

(ze) "retail service obligations" means obligations of dealers and distributors for maintaining supplies to consumers throughout the specified working hours and of specified quality, quantity and display of maximum retail price of notified petroleum and petroleum products as may be provided by regulations;

(zf) "rules" means rules made by the Central Government under this Act;

(zg) "Secretary" means the Secretary of the Board;

(zh) "transportation rate" in relation to common carrier means such rate for moving each unit of petroleum or petroleum products as the authorised entity may fix in accordance with the regulations made by the Board.

CHAPTER II

PETROLEUM REGULATORY BOARD

Establishment and incorporation of the Board.

3. (1) With effect from such date as the Central Government may, by notification, appoint there shall be established, for the purposes of this Act, a Board to be called the Petroleum Regulatory Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The Board shall consist of a Chairperson and other members not exceeding four in number, to be appointed by the Central Government.

(4) The head office of the Board shall be at New Delhi.

Qualifications for appointment of Chairperson and other members.

4. The Central Government shall appoint the Chairperson and other members of the Board from amongst persons of eminence in the fields of petroleum industry, management, finance, law, administration or consumer affairs.

Term of office, conditions of service, etc., of Chairperson and other members.

5. (1) Before appointing any person as the Chairperson or other member the Central Government shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as Chairperson or such other member.

(2) The Chairperson and other members shall hold office for a term of five years from the date on which they enter upon their offices or until they attain the age of sixty-five years, whichever is earlier:

Provided that the Chairperson and other members shall not be eligible for re-appointment.

Explanation.— For the purpose of this section, appointment of a member as Chairperson shall not be deemed to be re-appointment.

(3) A person in the service of the Central Government, a State Government or an undertaking, corporation or company owned or controlled by the Central Government or a State Government shall resign or retire from such service before joining as the Chairperson or other member as the case may be.

(4) The salary and allowances payable to and the other terms and conditions of service of the Chairperson and the other members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or other member shall be varied to his disadvantage after appointment.

(5) The Chairperson or other member may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, the Chairperson or such other member shall be deemed to have vacated his office.

(6) The Chairperson or any other member, upon ceasing to hold office as such, shall —

(a) be ineligible for further employment under the Central Government or any State Government; and

(b) not accept any commercial employment for a period of two years from the date he ceases to hold such office.

Explanation.—For the purposes of this section, “commercial employment” means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and also includes setting up practice either independently or as partner of a firm or as an advisor or a consultant.

6. The Chairperson shall have the powers of general superintendence and directions in the conduct of the affairs of the Board and shall, in addition to presiding over the meetings of the Board, exercise and discharge such other powers and functions of the Board, as may be assigned to him by the Board.

Powers of
Chairperson.

7. The Central Government may remove from office the Chairperson or any member, who

Removal of
Chairperson
or any other
member from
office

(a) has been adjudged as insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that a person shall not be removed from his office as Chairperson or other member under clause (d) or clause (e) unless he has been given a reasonable opportunity of being heard in the matter.

8. (1) The Board shall meet at such times and places, and shall observe such procedure in regard to the transaction of business at its meetings as may be provided by regulations.

Meetings of
the Board

(2) The Chairperson or, if he is unable to attend a meeting of the Board, the senior-most member present, reckoned from the date of appointment to the Board shall preside at the meeting:

Provided that in case of common date of appointment of members, the member senior in age shall be considered as senior to the other members.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of the members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.

(4) All orders and decisions of the Board shall be authenticated by the Secretary or any other officer of the Board duly authorised by the Chairperson in this behalf.

Vacancies,
etc., not to
invalidate
proceedings of
the Board.

9. No act or proceeding of the Board shall be invalid merely by reason of —

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and
other
employees of
the Board.

10. (1) The Board may appoint a Secretary to exercise and perform under the control of the Chairperson, such powers and duties as may be specified by regulations:

Provided that the first Secretary to the Board shall be appointed by the Central Government.

(2) The Board may, with the prior approval of the Central Government, determine the number, nature and categories of other officers and employees required to assist the Board in the discharge of its functions.

(3) The salary and allowances payable to and the other terms and conditions of service of the Secretary, the others officers and employees of the Board shall be such as may be prescribed.

(4) The Board may, in consultation with the Central Government, appoint consultants required to assist in the discharge of its functions on such terms and conditions as may be determined by regulations.

Regional
offices of the
Board.

11. (1) The Board may have regional offices at such places as it may think necessary having regard to public interest and magnitude of the work.

(2) The regional offices of the Board shall perform such functions as may be provided by regulations.

CHAPTER III

FUNCTIONS AND POWERS OF THE BOARD

Functions of
the Board.

12. The Board may—

(a) protect the interest of consumers by fostering fair trade and competition amongst the entities;

(b) authorise entities to—

(i) market notified petroleum and petroleum products;

(ii) establish and operate liquefied natural gas terminals;

(iii) lay, build, operate or expand a common carrier;

(c) declare pipelines as common carrier;

(d) regulate—

(i) access to common carrier by regulations so as to ensure fair trade and competition amongst entities;

(ii) transportation rates for common carrier by regulations;

(e) in respect of notified petroleum and petroleum products —

(i) ensure adequate availability;

(ii) ensure display of information about the maximum retail prices fixed by the entity for consumers at retail outlets;

(iii) monitor prices and take corrective measures to prevent profiteering by the entities;

(iv) secure equitable distribution;

(v) provide by regulations and enforce, retail service obligations for retail outlets and marketing service obligations for entities;

(f) levy fees and other charges as determined by regulations;

(g) maintain a data bank of information on activities relating to petroleum and petroleum products;

(h) perform such other functions as may be entrusted to it by the Central Government to carry out the provisions of this Act.

13. (1) The Board shall have jurisdiction to —

(a) decide any dispute or matter arising amongst entities or between an entity and any other person on issues relating to refining, processing, storage, transportation, distribution, marketing and sale of petroleum and petroleum products according to the provisions of Chapter V;

(b) receive any complaint from any person regarding profiteering by an entity or contravention of —

(i) retail service obligations;

(ii) marketing service obligations;

(iii) display of maximum retail price at retail outlets;

(iv) terms and conditions subject to which a pipeline was declared as common carrier, or authorisation was granted to an entity for laying, building, operating or expanding a pipeline as common carrier or for establishing a liquefied natural gas terminal or for marketing notified petroleum and petroleum products;

(v) any other provision of this Act or the rules or the regulations or orders made thereunder.

(2) While deciding a complaint under sub-section (1), the Board may pass such orders and issue such directions as it deems fit or refer the matter for investigation according to the provisions of Chapter V.

14. (1) The Board shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely, —

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

Powers
regarding
complaints
and
resolution of
disputes by
the Board.

Procedure of
the Board.

- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) dismissing an application for default or deciding it *ex parte*;
- (f) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;
- (g) granting interim relief; and
- (h) any other matter which may be prescribed.

(2) Every proceeding before the Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code and the Board shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.
2 of 1974.

(3) The Board shall be guided by the principles of natural justice and subject to other provisions of this Act and of any rules made thereunder, shall have powers to regulate its own procedure including the places at which it shall conduct its business.

CHAPTER IV

AUTHORISATIONS

Register of authorisations.

15. (1) For the purpose of this Act, a record called the register of authorisations shall be kept at the office of the Board containing details of entities authorised for marketing notified petroleum and petroleum products, or for establishing and operating liquefied natural gas terminals, or for laying, building, operating or expanding a common carrier, as may be provided by the Board by regulations.

(2) A copy of any entry in the register purporting to be maintained by the Board and certified as such by an officer authorised by the Board, shall be admitted in evidence in all courts and in all proceedings without further proof or production of the original.

(3) The register shall be open to public inspection at the office of the Board.

(4) Any person may, on application to the Board, and on payment of such fee as may be determined by the Board, obtain a certified copy of any entry in the register.

Authorisation.

16. No entity shall —

- (a) market any notified petroleum or petroleum product;
- (b) lay, build, operate or expand any pipeline as a common carrier; and
- (c) establish or operate a liquefied natural gas terminal, without obtaining authorisation under this Act:

Provided that an entity marketing any notified petroleum and petroleum product, and establishing or operating a liquefied natural gas terminal on the appointed day shall be deemed to have such authorisation subject to the provisions of this Chapter.

Application for authorisation.

17. (1) An entity which proposes to market any notified petroleum or petroleum products, or to establish and operate a liquefied natural gas terminal shall apply in writing for authorisation for operating such activity to the Board:

Provided that an entity marketing any notified petroleum or petroleum product, or establishing or operating a liquefied natural gas terminal on the appointed date shall furnish the particulars of such activities to the Board within six months from the appointed day.

(2) An entity which is laying, building, operating or expanding, or which proposes to lay, build, operate or expand, a pipeline as a common carrier shall apply in writing for obtaining an authorisation under this Act.

(3) Every application under sub-sections (1) and (2) shall be made in such form and manner and accompanied with such fee as the Board may provide by regulations.

(4) Subject to the provisions of this Act, the Board may either reject or accept an application made to it, subject to such amendments or conditions, if any, as it may think fit.

(5) In the case of refusal or conditional acceptance of an application, the Board shall record in writing the grounds for such rejection or conditional acceptance.

18. When an application for authorisation for marketing notified petroleum and petroleum products, or for establishing and operating a liquefied natural gas terminal, or for laying, building, operating or expanding a common carrier is accepted whether absolutely or subject to conditions or limitations, the Board shall, as soon as may be, cause such acceptance to be known to the public in such form and manner as may be provided by the regulations.

Publicity of applications.

19. The Board may, after hearing the parties interested, grant authorisation subject to such terms and conditions as it may specify.

Grant of authorisation.

20. (1) If the Board is of the opinion that it is necessary or expedient, to declare a pipeline for transportation of petroleum and petroleum products as a common carrier, or that an entity be authorised to lay, build and operate or expand a pipeline as common carrier, it may give wide publicity of its intention to do so and invite objections and suggestions within a specified time from all persons and entities likely to be affected by such declaration, or authorisation.

Declaring, laying, building, etc., of common carrier.

(2) For the purposes of sub-section (1), the Board shall provide an opportunity of hearing to the entity owning, laying, building, operating or expanding the pipeline, as the case may be, and fix the terms and conditions subject to which the pipeline may be declared as a common carrier, or an entity may be authorised for laying, building, operating or expanding a pipeline as a common carrier and pass such orders as it deems fit having regard to the public interest, competitive transportation rates and right of first use.

(3) The Board may, subject to the terms and conditions fixed under sub-section (2), by notification —

(a) declare a pipeline as common carrier; or

(b) authorise an entity to lay, build, operate or expand a pipeline as a common carrier.

(4) For the purposes of this section, the Board shall be guided by the objectives of promoting competition in marketing among entities, avoiding infructuous investment, maintaining or increasing supplies or for securing equitable distribution and availability of petroleum and petroleum products at fair price throughout the country and follow such principles as the Board considers appropriate in carrying out its functions under this section by regulations.

21. (1) The entity laying, building, operating or expanding a pipeline for transportation of petroleum and petroleum products shall have right of first use for its own requirement and the remaining capacity shall be used amongst entities as the Board may, after issuing a declaration under section 20, determine having regard to needs of fair competition in marketing and availability of petroleum and petroleum products throughout the country.

Right of first use, etc.

(2) An entity other than an entity authorised to operate shall pay transportation rate for use of common carrier to the entity operating it as an authorised entity.

(3) An entity authorised to lay, build, operate or expand a pipeline as common carrier shall be entitled to institute proceedings before the Board to prevent, or to recover damages for, the infringement of any right relating to authorisation.

Explanation. — For the purposes of this sub-section, “the infringement of any right” means doing of any act by any person which interferes with common carrier or causes prejudice to the authorised entity.

Suspension or
cancellation
of
authorisation.

22. The Board may, on application of an affected party or on its own motion, if it is satisfied that the entity in favour of which authorisation has been granted under section 19 or under section 20 has failed to comply with any conditions of authorisation, after giving an opportunity of hearing to such entity, suspend authorisation for such period as it may think fit or cancel the authorisation:

Provided that where the Board is of the opinion that an authorised entity persistently acts in a manner prejudicial to the interests of consumers, it may take action for the suspension of the authorisation immediately subject to the opportunity of hearing being given subsequently, after which action so taken may be confirmed or revoked.

CHAPTER V

SETTLEMENT OF DISPUTES

Board to settle
disputes.

23. (1) If any dispute arises, in respect of matters referred to in sub-section (2) among entities or between an entity and any other person, such dispute shall be decided by a Bench consisting of two members nominated by the Chairperson:

Provided that if the members of the Bench differ on any point or points, they shall state the point or points on which they differ and refer the same to a third member for hearing on such point or points and such point or points shall be decided according to the opinion of that member.

(2) The Bench constituted under sub-section (1) shall exercise, on or from the appointed day, all such jurisdiction, powers and authority as were exercisable by a civil court on any matter relating to—

(a) refining, processing, storage, transportation and distribution of petroleum and petroleum products by the entities;

(b) marketing and sale of petroleum and petroleum products including the quality of service and security of supply to the consumers by the entities; and

(c) authorisation issued by the Board under section 19 or section 20.

(3) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or the Monopolies and Restrictive Trade Practices Act, 1969, the Board shall have the power to decide matters referred to in sub-section (2) and on or after the appointed date, neither the Civil Court nor the Monopolies and Restrictive Trade Practices Commission shall have any jurisdiction in the matter referred to in sub-section (2).

5 of 1908.
54 of 1969.

Filing of
complaints.

24. (1) A complaint may be filed before the Board by any person in respect of matters relating to entities or between entities on matters arising out of the provisions of this Act:

Provided that the complaints of individual consumers maintainable before the consumer dispute redressal forums under the Consumer Protection Act, 1986 shall not be taken up by the Board but shall be heard and disposed of by the consumer forums only.

68 of 1986

Explanation.—For the purposes of this sub-section, the expression “the consumer dispute redressal forums” shall mean the district forum, State Commission and the National Commission, as the case may be, constituted under the provisions of the Consumer Protection Act, 1986.

68 of 1986.

(2) Every complaint made under sub-section (1) shall be filed within sixty days from the date on which any act or conduct constituting a contravention took place and shall be in such form as may be provided by the regulations:

Provided that the Board may entertain a complaint after the expiry of the said period if it is satisfied that there was sufficient cause for not filing the complaint within that period.

(3) On receipt of a complaint under sub-section (1), if the Board is of the opinion that there is a *prima facie* case against an entity, it may either investigate on its own or refer the

matter for investigation under this Chapter, to an Investigating Officer having jurisdiction; and, where the matter is referred to such Investigating Officer, on receipt of report from him, the Board may hear and dispose of the complaint as a dispute where it falls under sub-section (2) of section 23 and in other case, it may pass such orders and issue such directions as it deems fit.

25. (1) For the purposes of provisions of section 24, the Board shall, subject to the provisions of sub-section (3), appoint by general or special order, an officer of the Board as an Investigating Officer for holding an inquiry in the manner provided by the regulations.

Power to investigate.

(2) The Investigating Officer shall give the person referred to in sub-section (1) a reasonable opportunity for making a representation in the matter.

(3) No person shall be appointed as an Investigating Officer unless he possesses such qualification and experience as may be determined by the Board by regulations.

(4) Where more than one investigating officer is appointed, the Board shall specify, by order, the matters and local limits of jurisdiction with respect to which such officers shall exercise their jurisdiction.

26. The Board shall, while deciding a dispute under this Chapter have due regard to the provisions of this Act, and also to the following factors, namely:—

Factors to be taken into account by the Board.

(a) the amount of disproportionate gain made or unfair advantage derived, wherever quantifiable, as a result of the default;

(b) the amount of loss caused to an entity as a result of the default;

(c) the repetitive nature of the default.

27. In case any complaint is filed before the Board by any person or if the Board is satisfied that any person has contravened a direction issued by the Board under this Act to provide access to, or to adhere to the transportation rate in respect of a common carrier, or to display maximum retail price at retail outlets, or violates the terms and conditions subject to which authorisation has been granted under section 19 or section 20 or the retail service obligations or marketing service obligations, or does not furnish information, document, return or report required by the Board may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of civil penalty an amount which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with additional penalty which may extend to six thousand rupees for per every day during which the failure continues after contravention of the first such direction.

Penalty for contravention of directions given by the Board.

28. Any person aggrieved by any decision or order of the Board or its Bench constituted under sub-section (1) of section 23, may file an appeal to the High Court within thirty days from the date of communication of the decision or order of the Board to him.

Appeals.

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

29. Every order made by

(a) the Board under this Act; or

(b) the High Court in any appeal,

Order passed under the Act deemed to be a decree.

shall, on a certificate issued by an officer of the Board or the Registrar of the High Court, as the case may be, shall be executable in the same manner as if it were a decree of the Court:

Provided that where an appeal lies against an order of the Board and no appeal is preferred then the order of the Board shall be deemed to be a decree under this section on the expiry of the period allowed for preferring appeal against such order before the High Court.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by
Central
Government.

30. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as are required to pay salaries and allowances payable to the Chairperson and the other members and the administrative expenses including the salaries, allowances and pensions payable to the officers and employees of the Board.

Fund.

31. (1) There shall be constituted a Fund to be called the Petroleum Regulatory Board Fund and there shall be credited thereto—

(i) all grants, fees, penalties and charges received by the Board under this Act; and

(ii) all sums received by the Board from such other sources as may be approved by the Central Government.

(2) The Fund shall be applied for making payments towards—

(i) the salaries and allowances payable to the Chairperson and other members and the administrative expenses including the salaries, allowances and pensions payable to the officers and employees of the Board;

(ii) the expenses incurred or to be incurred in carrying out the provisions of this Act.

Accounts and
audit.

32. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and inspection of offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Annual report
and its laying
before
Parliament.

33. (1) The Board shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities including information relating to the proceedings and policies during the previous years as may be prescribed. Such report shall also contain statements of annual accounts of the Board.

(2) A copy of the report shall be forwarded to the Central Government and the Central Government shall cause such report to be laid, as soon as may be after it is received before each House of Parliament.

CHAPTER VII

POWER OF CENTRAL GOVERNMENT

Power of
Central
Government
to issue
directions.

34. (1) The Central Government may, from time to time, by writing, issue to the Board such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order.

(2) Without prejudice to the foregoing provision, the Central Government may, if it finds necessary or expedient so to do, for maintaining or increasing supplies of petroleum or petroleum products or both or for securing their equitable distribution and availability at fair price, issue policy directives to the Board in writing and such policy directives shall be binding upon the Board:

Provided that the Board shall, as far as practicable, be given an opportunity of expressing its views before any directive is issued under this sub-section.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

35. In the event of war, natural calamity, strike, industrial unrest, joint action by any group leading to disruption of supply, and any other circumstance affecting public interest, the Central Government may, with a view to ensuring continuous supply of petroleum or petroleum products and their equitable distribution, by notification, for such limited period as may be provided in the notification, in public interest, either take over the control and management of any storage site, facilities and business premises of any entity and retail outlets or suspend its operation or entrust to any agency of the Central or State Government to manage it in the manner directed by the Central Government:

Taking over control and management of facilities and business premises of any entity and retail outlets in public interest.

Provided that the affected entities shall be given an opportunity of hearing before issuing orders to take over the control and management of retail outlets and other business premises:

Provided further that in case of urgency or in cases where the circumstances do not permit serving of notice for want of sufficient time or otherwise upon the entity against whom the order is directed, the opportunity of hearing may be dispensed with in the public interest in order to maintain the uninterrupted supply of petroleum or petroleum products for a specified period.

CHAPTER VIII

OFFENCES AND PUNISHMENT

36. If a person violates directions of the Board, such person shall be punishable with fine which may extend to one lakh rupees and in case of second and subsequent offence with a fine which may extend to two lakh rupees and in case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which the default continues.

Punishment for contravention of directions of the Board.

37. If an entity markets any notified petroleum or petroleum products without a valid authorisation, such entity shall be punishable with imprisonment which may extend to three years or with fine which may extend to two lakh rupees, or with both, and, for the second and subsequent offence with an imprisonment which may extend to five years, or with fine which may extend to five lakh rupees, or with both.

Punishment for unauthorised activities.

38. If a person establishes or operates a liquefied natural gas terminal without obtaining authorisation required under section 16, such person shall be liable for punishment with an imprisonment for a term which may extend to three years or penalty of rupees ten lakh or both.

Punishment for establishing or operating a liquefied natural gas terminal without authorisation.

39. If a person lays, builds, operates or expands a common carrier without obtaining authorisation required under section 16, such person shall be liable for punishment with an imprisonment for a term which may extend to three years or penalty of rupees ten lakh or both.

Punishment for laying, building, operating or expanding a common carrier without authorisation.

Punishment
for wilful
damages to
common
carrier.

40. Every person who wilfully removes, destroys or damages any pipeline or other work of the common carrier for supplying petroleum and petroleum products shall for each such offence be punishable with imprisonment which may extend to three years or with fine which may extend to two lakh rupees or with both, and, for the second and subsequent offence with imprisonment which may extend to five years, or with fine which may extend to five lakh rupees, or with both.

Offences by
companies.

41. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the 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.

CHAPTER IX

MISCELLANEOUS

Maintenance
of data bank
and
information.

42. (1) The Board shall maintain a data bank and information system relating to activities of entities dealing with petroleum and petroleum products in such form and manner as may be provided by regulations.

(2) The Board shall have power to verify the data supplied by the entities and appoint any person or persons for the purpose and take such measures as it may consider necessary.

Obligations of
entities.

43. (1) Every entity shall—

(a) maintain such documentary records as may be specified by the Board by regulations;

(b) allow inspection of such facilities and documentary records, as may be specified by the Board, by any person authorised by the Board;

(c) commence operation of activities for which authorisation has been granted within such period as may be specified by the Board in the document of authorisation;

(d) register—

(i) agreements with the Board relating to use of pipelines for supply of petroleum and petroleum products; or

(ii) any other document which the Board may determine by regulations;

(e) comply with marketing service obligations and retail service obligations.

(2) The Board may call for any information from any entity including information which is considered necessary for ensuring transparency or ascertaining true ownership of the entity.

(3) The Board or any officer authorised by the Board shall have the power to inspect and obtain information, wherever necessary, from the entities.

1 of 1956. (4) For the effective enforcement of the terms and conditions of authorisation, the Board or any officer authorised by it for that purpose, shall have all the powers of an inspecting officer as provided under section 209A of the Companies Act, 1956.

(5) It shall be the duty of every entity to carry out the directions of the Board given under this section.

(6) The Board shall maintain confidentiality in respect of any information and record received by it from the entities and shall not disclose information contained therein to any person or authority except on the grounds of public interest.

44. The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any matter in connection with proposed or existing activities under this Act, as the Central Government may, from time to time, require.

Furnishing of returns, etc., to Central Government.

45 of 1860. 45. The Chairperson, members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Chairperson, members, etc., to be public servants.

46. No suit, prosecution or other legal proceeding shall lie against the Central Government, Board, or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Protection of action taken in good faith.

47. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Board is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Civil courts not to have jurisdiction.

48. (1) No court shall take cognizance of any offence punishable under Chapter VIII save on a complaint made by the Board.

Cognizance of certain offences.

(2) No court inferior to that of a Chief Metropolitan Magistrate or of a Chief Judicial Magistrate shall try any offence punishable under Chapter VIII.

(3) Every offence punishable under section 37, section 38, section 39 or section 40 shall be cognizable.

49. The Board may, by general or special order in writing, delegate to any member or officer of the Board subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle a dispute under Chapter V and to make regulations under section 51), as it may deem necessary.

Delegation.

50. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

Power of Central Government to make rules.

(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 salary and allowances payable to and the other conditions of service of the Chairperson and the other members under section 5;

(b) the salary and allowances payable to and the other conditions of service of the Secretary, officers and other employees of the Board under sub-section (3) of section 10;

(c) any other matters in respect of which the Board may exercise the powers of a civil court under clause (h) of sub section (1) of section 14;

(d) the manner in which the accounts of the Board shall be maintained under section 32;

(e) the time and manner in which the annual report of the Board shall be prepared under section 33;

(f) the time and manner in which returns and statements are to be furnished by the Board to the Central Government under section 44;

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

Power of the Board to make regulations.

51. (1) The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the time and places of meetings of the Board and the procedure to be followed at such meetings under section 8, including quorum necessary for the transaction of business;

(b) the powers and duties of the Secretary under sub-section (i) of section 10;

(c) the terms and conditions of the consultants appointed under sub-section (4) of section 10;

(d) the functions and powers of regional offices of the Board under section 11,

(e) regulating open access to and transportation rate for the common carrier under clause (d) of section 12;

(f) marketing service obligations for entities and retail service obligations for retail outlets under sub-clause (v) of clause (e) of section 12;

(g) levy of fees and other charges under clause (f) of section 12;

(h) the procedure to be followed by the Board including the places at which it shall conduct its business under section 14;

(i) the manner of maintaining the register of authorisation under section 15;

(j) the form and manner of making application and the fee which shall accompany such application, under sub-section (3) of section 17;

(k) the form and manner of causing wide publicity of an application for authorisation under section 18;

(l) the guiding principles and objectives for declaring, or authorising to lay, build, operate or expand a common carrier under section 20;

(m) the form in which a complaint may be made under sub-section (2) of section 24;

(n) the manner of holding an inquiry by an Investigating Officer under sub-section (1) of section 25;

(o) the qualification and experience required for appointment of Investigating Officer under sub-section (3) of section 25;

(p) the form and manner of maintaining data bank and information system by the Board under sub-section (1) of section 42;

(q) maintenance of documentary records by an entity as specified under clause (a) of sub-section (1) of section 43;

(r) any other type of documents which are to be registered with the Board under clause (d) of sub-section (1) of section 43;

(s) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.

52. Every rule and regulation made 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 regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 or regulation.

Rules and regulations to be laid before Parliament

53. (1) Where, before the commencement of this Act, an agreement or agreements have been entered into between one oil company and another for the purpose of sharing of petroleum products or the sharing of infrastructure facilities among the oil companies and such agreements have been approved by the Central Government, the Board may monitor the implementation of such agreements for the transition period.

Transitional arrangements.

(2) The Board shall monitor setting up of dealerships and distributorships of motor spirit, high speed diesel, superior kerosene oil and liquefied petroleum gas by the entities without affecting in any manner whatsoever on the retail network of the existing entities.

Explanation I.—For the purposes of this section the expression “transition period” shall mean a period of two years commencing from 1st day of April, 2002 and, where the Central Government thinks fit so to do, it may extend the period of two years by a further period of one year having regard to availability of petroleum and petroleum products at fair price throughout the country.

Explanation II.—For the purposes of this section, “infrastructure facilities” shall mean facilities at ports, refineries, terminals, depots and aviation fuelling stations including hydrant lines and shall include loading and unloading facilities.

54. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as it may deem necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of two years from the date of 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.

STATEMENT OF OBJECTS AND REASONS

Consequent upon the Government decision for phased dismantling of Administered Pricing Mechanism and full deregulation of petroleum sector from April 2002, marketing and pricing of all petroleum products except Public Distribution System (PDS) Kerosene and LPG (Domestic) have been decontrolled with effect from 1st April, 2002. One of the basic objectives of this Bill is to provide for a regulatory mechanism which would facilitate uninterrupted and adequate supply of petroleum and petroleum products in all parts of the country including remote areas at fair price, promote competitive markets and access to monopolistic infrastructure in the nature of common carrier on non-discriminatory basis by all entities. With respect to such petroleum and petroleum products as may be notified by the Government from time to time, the Bill also entails provision of retail service obligations for retail outlets and marketing service obligations for entities. To prevent exploitation of consumers in the deregulated scenario, the Regulatory Board shall ensure that each marketing entity displays for the information of customers the maximum retail prices for the notified petroleum and petroleum products, and take steps in accordance with regulations, to prevent profiteering by the entities. Provisions have been made in this Bill to ensure redressal of grievances and protection of consumer interest as also resolution of disputes among entities or between an entity and any other person.

2. These objectives are intended to be achieved by:—

(a) setting up of a Petroleum Regulatory Board to oversee and regulate the refining, processing, storage, transportation, distribution, marketing and sale of petroleum and petroleum products. The Board would operate at an arm's lengths from the Central Government;

(b) giving power to the Central Government to broadly lay down policy framework;

(c) making provision for the Central Government to intervene in matters adversely affecting public interest in certain exigencies;

(d) maintaining a data bank of information on activities relating to petroleum and petroleum products to enable planning and development thereof.

3. The Bill seeks to achieve the above objects.

RAM NAIK.

NEW DELHI;

The 24th April, 2002.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. P-45011/32/97-Mkt. (Dist), dated the 28th April, 2002 from Shri Ram Naik, Minister of Petroleum and Natural Gas to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the Petroleum Regulatory Board Bill, 2002 recommends the introduction and consideration of the Petroleum Regulatory Board Bill, 2002 in the House under article 117(1) and (3) of the Constitution of India.

Notes on clauses

Clause 1.—This clause provides for the short title, application of the proposed legislation to the entire country in the areas of refining, processing, storage, transportation, distribution, marketing and sale of petroleum and petroleum products excluding production of crude oil and natural gas, and empowers the Central Government to appoint the date of commencement of the proposed legislation by notification in the Official Gazette.

Clause 2.—This clause defines the various expressions occurring in the proposed legislation.

Clause 3.—This clause provides for the composition, establishment and incorporation of the Petroleum Regulatory Board with its head office in New Delhi. The Board will be a body corporate having perpetual succession, a common seal and shall by the said name sue and be sued. The Board shall consist of a Chairperson and not more than four other members.

Clause 4.—This clause lays down the qualifications of the Chairperson and other members of the Board. It provides that the Central Government shall appoint the Chairperson and other members of the Board from amongst persons of eminence in the fields of petroleum industry, management, finance, law, administration or consumer affairs.

Clause 5.—This clause provides that the Chairperson and the other members shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of 65 years, whichever is earlier and that he will not be eligible for reappointment. Further, it provides for the fixation of salary and allowances payable to and the other terms and conditions of service of the Chairperson and other members. It also deals with the procedure of resignation by the Chairperson or other members of the Board. This clause also states that the Chairperson or the other members ceasing to hold office in the Board shall be ineligible for further employment under the Central Government, State Government and will not accept any commercial employment for a period of two years from the date he ceases to hold such office.

Clause 6.—This clause lays down the powers of the Chairperson with regard to functioning of the Board in addition to presiding over the meetings of the Board.

Clause 7.—This clause deals with the circumstances under which the Chairperson and other members of the Board may be removed from office and the procedure to be followed in such removal.

Clause 8.—This clause empowers the Board to determine the procedure for the transaction of business in its meetings including times and places of such meetings.

Clause 9.—This clause enumerates the circumstances under which the acts or proceedings of the Board shall not be invalidated.

Clause 10.—This clause makes provisions for the appointment of Secretary, other officers and employees of the Board and for the determination of the salaries and allowances and the other terms and conditions of service of the Secretary, other officers and employees of the Board. It also provides for appointment of consultants as may be required to assist the Board.

Clause 11.—This clause provides for the establishment of regional offices of the Board. The functions of the regional offices shall be determined by the Board by regulations.

Clause 12.—This clause lays down the powers and functions of the Board. The functions of the Board, *inter alia*, shall be to—

(a) protect the interest of consumers by fostering fair trade and competition amongst the entities;

(b) authorise entities to market notified petroleum and petroleum products, or to establish and operate liquefied natural gas terminals, or to lay, build, operate or expand a common carrier;

(c) declare pipelines as common carrier;

(d) regulate access to common carrier and transportation rates for common carrier;

(e) ensure adequate availability and display of information about the maximum retail prices fixed by the entity of such petroleum and petroleum products as may be notified by the Central Government;

(f) monitor prices of notified petroleum and petroleum products and take corrective measures to prevent profiteering by the entities;

(g) lay down and enforce retail service obligations for retail outlets and marketing service obligations for entities;

(h) levy fees and other charges as determined by regulations;

(i) maintain a data bank of information on activities relating to petroleum and petroleum products;

(j) perform such other functions as may be entrusted to it by the Central Government to carry out the provisions of this Bill.

Clause 13.—This clause seeks, *inter alia*, to empower the Board to settle any dispute or matter arising amongst entities or between an entity and any other person on issues relating to refining, processing, storage, transportation, distribution, marketing and sale of petroleum and petroleum products. The Board shall also receive any complaint from any person regarding contravention of certain provisions of the proposed legislation and pass suitable orders to decide the complaint.

Clause 14.—This clause contains the procedures and powers of the Board in the discharge of its functions under the proposed legislation.

Clause 15.—This clause provides for maintenance of records including a register of authorisation containing details of entities authorised by the Board to undertake any activity requiring authorisation under the proposed legislation.

Clause 16.—This clause provides that no entity shall market any notified petroleum or petroleum product, or lay, build, operate or expand any pipeline as a common carrier, or establish or operate a liquefied natural gas terminal, without obtaining authorisation under this Bill. However, an entity marketing any notified petroleum and petroleum product, and establishing or operating a liquefied natural gas terminal on the appointed day shall be deemed to have such authorisation.

Clause 17.—This clause contains provisions relating to filing an application by an entity for grant of authorisation by the Board.

Clause 18.—This clause provides for causing due publicity by the Board of an application for grant of authorisation.

Clause 19.—This clause seeks to empower the Board to grant authorisation subject to such terms and conditions as it may specify, after hearing the interested parties.

Clause 20.—This clause contains the procedure for declaring, laying, building, operating or expanding a pipeline as common carrier by the Board.

Clause 21.—This clause makes, *inter alia*, provision for giving the right of first use for own requirement of the owner of a pipeline. It also provides for payment of transportation rates for use of common carrier to the authorised entity.

Clause 22.—This clause seeks to empower the Board to suspend or cancel the authorisation granted by it on failure to comply with any condition of authorisation.

Clause 23.—This clause makes detailed provisions for settlement of disputes among entities or between an entity and any other person. This clause, *inter alia*, provides that such disputes shall be decided by a Bench consisting of two members nominated by the Chairperson. This clause also provides that neither the civil court nor the Monopolies and Restricted Trade Practices Commission shall have any jurisdiction in the matters which the Board is empowered to decide.

Clause 24.—This clause contains detailed provisions for filing of complaint before the Board by any person in respect of matters relating to entities or between entities on matters arising out of the provisions of this Bill. The provisions of this clause shall not be applied in respect of complaint of an individual consumer maintainable before a consumer dispute redressal forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission. It further provides for investigation of such a complaint by the Board or an Investigating Officer of the Board and procedure for passing order thereon by the Board.

Clause 25.—This clause seeks to provide for appointment of Investigating Officer by the Board. It further states that in case of more than one Investigating Officer, the Board shall specify the matters and local limits of their jurisdiction.

Clause 26.—This clause provides for the factors that need to be taken into account by the Board to decide a dispute.

Clause 27.—This clause seeks to empower the Board to impose civil penalty for contravention of its direction.

Clause 28.—This clause contains provisions for filing an appeal to the High Court by any person aggrieved by any decision or order of the Board.

Clause 29.—This clause states that every order made by the Board or the High Court shall be executable in the same manner as a decree of the civil court.

Clause 30.—This clause contains provisions for grants of such sum of money as the Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board to pay salaries and allowances payable to the Chairperson and the members and the administrative expenses including the salaries, allowances and pensions payable to the officers and employees of the Board.

Clause 31.—This clause provides for constitution of a Fund called the Petroleum Regulatory Board Fund. It also provides for grants, fees, penalties and charges to be credited thereto and all payments should be made therefrom.

Clause 32.—This clause provides for usual provisions regarding maintenance of proper accounts and other relevant records by the Board as may be prescribed by the Central Government. The accounts of the Board should be audited and certified by the Comptroller and Auditor-General of India which would be laid before Parliament by the Central Government.

Clause 33.—This clause provides for furnishing of annual report by the Board to the Central Government. A copy of the annual report is required to be laid, as soon as may be after it is received, before each House of Parliament.

Clause 34.—This clause empowers the Central Government to issue directions in writing to the Board from time to time.

Clause 35.—This clause confers power on the Central Government to take over control and management of facilities and business premises of any entity and retail outlets in public interest after affording an opportunity of hearing to the affected entities.

Clause 36.—This clause provides for punishment for contravention of directions of the Board.

Clause 37.—This clause provides for punishment for marketing any notified petroleum or petroleum products without a valid authorisation.

Clause 38.—This clause provides for punishment for establishing or operating a liquefied natural gas terminal without authorisation.

Clause 39.—This clause provides for punishment for laying, building, operating or expanding a common carrier without authorisation.

Clause 40.—This clause provides for punishment for wilful damages to common carrier.

Clause 41.—This clause provides that any offence committed by a company and punishable under the Bill would cover the person in charge of the company.

Clause 42.—This clause provides for maintenance of data bank and information by the Board relating to activities of entities dealing with petroleum and petroleum products. Further, the Board shall have power to verify the data supplied by the entities.

Clause 43.—This clause provides for obligations of entities which, *inter alia*, include commencement of activities for which authorisation has been granted within time specified by the Board, maintenance of documentary records as specified by the Board, and allow inspection of such facilities and documentary records by any person authorised by the Board. The entity shall also register documents as may be specified by the Board. The Board may call for any information from an entity and shall also have the power to inspect and obtain information from any authorised entity.

Clause 44.—This clause provides for furnishing of returns and statements and other particulars by the Board to the Central Government.

Clause 45.—This clause specifies that the Chairperson, members, officers and other employees of the Board shall be deemed to be public servants.

Clause 46.—This clause contains the usual provisions relating to the protection of action taken in good faith.

Clause 47.—This clause specifies that no civil court shall have jurisdiction in respect of any matter which the Board is empowered by or under this Bill to determine.

Clause 48.—This clause lays down that a court shall take cognizance of any offence punishable under the provisions of this Bill only on a complaint made by the Board. This clause further states that no court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under the Bill. Every offence punishable under the proposed legislation shall be cognizable.

Clause 49.—This clause provides for delegation of certain powers of the Board.

Clause 50.—This clause confers on the Central Government the power to make rules for carrying out the provisions of the Bill.

Clause 51.—This clause empowers the Board to make regulations in respect of certain matters consistent with the proposed legislation and the rules made thereunder.

Clause 52.—This clause lays down that the rules and regulations made under the Bill would be laid before Parliament.

Clause 53.—This clause seeks to empower the Board to monitor the implementation of agreements entered into between one oil company and another for sharing of petroleum products or infrastructure facilities as approved by the Central Government for the transition period. The Board shall also monitor setting up of dealerships and distributorships by the entities without affecting the retail network of the existing entities during the transition period. The expression “transition period” shall mean a period of two years commencing from 1.4.2002 and, where the Central Government thinks fit so to do, it may extend the period of two years by a further period of one year.

Clause 54.—This clause seeks to empower the Central Government to remove difficulties which may arise in giving effect to the provisions of this Bill.

FINANCIAL MEMORANDUM

The Bill provides for the establishment of a Petroleum Regulatory Board to regulate the petroleum sector activities and for that purpose to levy fee and other charges.

2. Sub-clause (1) of clause (3) of clause 3 of the Bill provides for the establishment of the Board. Sub-clause (3) of clause 3 provides for the composition of the Board. Clause 4 provides for the appointment by the Central Government of the Chairperson and other members of the Board. Sub-clause (4) of clause 5 provides that the salary and other conditions of service of the Chairperson and members shall be such as may be prescribed. Sub-clause (1) of clause 10 provides for the appointment by the Board of the Secretary to the Board provided that the first Secretary to the Board shall be appointed by the Central Government; Sub-clause (2) thereof clause 10 provides for appointment by the Board of other officers and employees against posts created with the approval of Central Government while Sub-clause (3) provides that the salary and other conditions of service of Secretary, officers and employees of the Board shall be such as may be prescribed. Sub-clause (4) of the said clause 10 provides for the appointment by the Board, in consultation with Central Government, of consultants. Sub-clause (1) of clause 11 provides for establishment of regional offices of the Board at such locations as may be found necessary.

3. The aforementioned provisions of the Bill will involve expenditure towards meeting the salaries, allowances and other remuneration of Chairperson, members, officers, consultants and other employees of the Board, etc. Clause 30 of the Bill provides that the Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as are required to pay salary and allowances payable to the Chairperson and the other members and the administrative expenses. This expenditure has to be met by the Board from out of the Petroleum Regulatory Board Fund constituted under clause 31 of the Bill which will mainly consist of grants, etc. made to the Board by the Central Government, after due appropriation by Parliament.

4. It is not possible to give an exact estimate of this expenditure at this stage as the exact structure of the Board would emerge later in consultation with the Board once it is established. So far as the expenditure on salaries and allowances of Chairperson, other members, officers, other employees and of consultants, and other administrative expenses is concerned, it is estimated that the same would involve an expenditure of Rs. 7 crore during the first year of functioning of the Board. With the expansion of the activities of the Board, this expenditure which is of a recurring nature, may increase by a modest amount. It is not possible to estimate at this stage the extent to which this expenditure would increase. In addition to the aforementioned recurring expenditure, it is estimated that there would be a non-recurring expenditure of Rs. 3 crore towards the establishment of the office of the Board, etc.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 50 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. The matters in respect of which rules may be made relate, among others, to the salary and other conditions of service of the Chairperson, members, Secretary, officers and other employees of the Board, the form and manner in which accounts of the Board shall be maintained and returns and statements are to be made to the Central Government and other matters of a procedural or administrative nature. The matters in respect of which provisions may be made in the rules are generally matters of procedure or detail.

2. Clause 51 of the Bill empowers the Board to make regulations to carry out the provisions of the Bill. The matters in respect of which regulations may be made relate, among others, to the procedure to be followed at meetings of the Board, terms and conditions of consultants appointed by the Board, marketing service obligations for entities and retail service obligations for retail outlets, regulating open access to and transportation tariffs for the common carrier, the guiding principles for declaring or authorising to lay, build, operate or expand a common carrier. The form in which a complaint may be made, the manner of holding an inquiry by an Investigating Officer, etc. The matters in respect of which provisions may be made in the regulations are generally matters of procedure or detail to carry out the purposes of the Bill.

The delegation of legislative power is, therefore, of a normal nature.

G. C. MALHOTRA,
Secretary-General.

