

TO BE INTRODUCED IN THE RAJYA SABHA

Bill No. XXII of 2010

**THE CHEMICAL WEAPONS CONVENTION (AMENDMENT)
BILL, 2010**

A

BILL

to amend the Chemical Weapons Convention Act, 2000.

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

1. (1) This Act may be called the Chemical Weapons Convention (Amendment) Act, 2010. Short title and commencement.

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

Amendment of section 9.	2. In the Chemical Weapons Convention Act, 2000 (hereinafter referred to as the principal Act), in section 9, in sub-section (1), after the words "National Authority", the words " or the Central Government" shall be inserted.	34 of 2000.
Substitution of new section for section 16.	3. For section 16 of the principal Act, the following section shall be substituted, namely:—	5
Restriction on transfer of Toxic Chemical or Precursor listed in Schedule 2.	"16. No person shall transfer to, or receive from, a State which is not a party to the Convention, any Toxic Chemical or Precursor listed in Schedule 2 in the Annex on Chemicals to the Convention."	
Amendment of section 18.	4. In section 18 of the principal Act,—	
	(a) in sub-section (1), in the opening portion, for the words "Every person who is", the words "Subject to such exemptions and thresholds as may be prescribed, every person who is" shall be substituted;	10
	(b) in sub-section (2), in the opening portion, for the words "No person, who after the commencement of this Act", the words "Subject to such exemptions and thresholds as may be prescribed, no person, who after the coming into force of this section" shall be substituted;	15
	(c) in sub-section (4), after the words "a certificate of registration", the words "subject to such terms and conditions as may be prescribed" shall be inserted;	
	(d) after sub-section (5), the following sub-section shall be inserted, namely:—	
	"(6) Every person, to whom a certificate of registration is granted under sub-section (4), shall furnish to the Central Government periodically, or, as and when required, such information, declaration or return as may be prescribed."	20
Amendment of section 42.	5. In section 42 of the principal Act, for the words "any person who is not a citizen of a State Party", the words "a State which is not a State Party" shall be substituted.	
Amendment of section 56.	6. In section 56 of the principal Act, in sub-section (2), for clause (c), the following clause shall be substituted, namely:—	25
	"(c) the exemptions and thresholds under sub-sections (1) and (2) of section 18, the form of application, the particulars to be contained in the application form, the form of certificate of registration, the manner of making application, the amount of fee payable, the procedure to be followed in granting or cancelling certificate of registration under sub-section (3) of section 18, the terms and conditions for granting a certificate of registration under sub-section (4) of section 18, the period for which a renewed certificate of registration may be issued and the amount of fee payable therefor under sub-section (5) of section 18 and information, declaration or return to be furnished under sub-section (6) of that section;"	30
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STATEMENT OF OBJECTS AND REASONS

The Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction was signed on behalf of the Government of India at Paris on the 14th day of January, 1993. The Chemical Weapons Convention Act, 2000 was enacted to give effect to the said Convention and to provide for matters connected therewith or incidental thereto.

2. Sub-section (1) of section 9 of the Chemical Weapons Convention Act, 2000 confers power upon the Central Government to appoint such of the officers of the National Authority, as it thinks fit, to be enforcement officers for the purposes of the said Act. It is proposed to amend the said sub-section (1) of section 9 to widen its scope and confer upon the Central Government the power also to appoint any of its officers as enforcement officers under the said Act.

3. Section 16 of the said Act contains provisions for restriction on transfer of any Toxic Chemical or Precursor listed in Schedule 2 in the Annex on Chemicals to the said Convention. It provides that no person shall, three years after the 29th day of April, 1997, transfer to or receive from any person, who is not a citizen of a State Party, any Toxic Chemical or Precursor listed in Schedule 2 in the Annex on Chemicals. It is proposed to amend the said section to provide that no person shall transfer to, or receive from, a State which is not a Party to the Convention, any Toxic Chemical or Precursor listed in Schedule 2 in the Annex on Chemicals.

4. The provisions of the aforesaid Act, except sections 18 and 39, were brought into force on the 1st July, 2005. Section 18 of the aforesaid Act relates to the provisions of registration of person engaged in the production, processing, acquisition, consumption, transfer, import, export or use of any Toxic Chemical or Precursor listed in any of the Schedules 1 or 3 in the Annex on Chemicals to the Convention or, engaged in the production of any Discrete Organic Chemical including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine and section 39 of the aforesaid Act relates to the punishment for infringement of section 18. The existing provisions of section 18 do not specify any threshold limit for registration of chemicals covered under the said Convention. In order to bring the said section 18 of the Act in alignment with the said Convention and for proper implementation of the said Act, it is proposed to amend the said section, *inter alia*, to provide that—

- (a) the scope of sub-sections (1) and (2) shall be subject to such exemption and threshold as may be prescribed by the rules made by the Central Government;
- (b) the grant of a certification of the registration under sub-section (4) of the said section shall be subject to such terms and condition as may be specified by rules made by the Central Government;
- (c) every person to whom the certificate of registration is granted shall furnish to the Central Government periodically or as and when required under sub-section (6) such information, declaration and return as may be prescribed by the rules made by the Central Government.

5. Section 42 of the said Act provides for the punishment for contravention in relation to transfer of Toxic Chemicals, etc., listed in Schedule 2 in the Annex on Chemicals. It provides that whoever, in contravention of any provision of this Act, transfers to or receives from any person who is not a citizen of a State party any Toxic Chemical or Precursor listed in Schedule 2 in the Annex on Chemicals to the Convention, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to term

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of life and shall also be liable to fine which may extend to one lakh rupees. In the light of the amendment proposed in section 16, it is proposed to make necessary consequential amendments in section 42.

6. It is also proposed to make consequential amendments in section 56 of the said Act which empowers the Central Government to make rules.

7. The Bill seeks to achieve the above objectives.

NEW DELHI;

The 24th February, 2010

SRIKANT KUMAR JENA.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to empower the Central Government to appoint the Officers of the Central Government as enforcement officers for the purpose of implementation of the provisions of the Act. Hence, there is no new appointment involved.

2. No recurring or non-recurring expenditure is likely to be involved in implementing the provisions of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to empower the Central Government to appoint, by notification in the Official Gazette, the officers of the Central Government as enforcement officers.

2. Clause 3 of the Bill seeks to empower the Central Government to make rules to provide—

(i) exemptions and thresholds for registration under sub-sections (1) and (2) of section 18;

(ii) the terms and conditions for granting a certificate of registration for the purpose of sub-section (4) of section 18;

(iii) for any information, declaration or return to be furnished periodically by the person to whom a certificate of registration is granted under sub-section (6) of section 18.

3. The matters in respect of which rules may be made or notification may be issued under the aforesaid provisions relate to administrative details and procedure and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE CHEMICAL WEAPONS CONVENTION ACT, 2000

(34 OF 2000)

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<p>9. (1) The Central Government may, by notification in the Official Gazette, appoint such of the officers of the National Authority as it thinks fit to be enforcement officers for the purposes of this Act.</p>				<p>Appointment of enforcement officers.</p>
*	*	*	*	*
<p>16. No person shall, three years after the 29th day of April, 1997, transfer to or receive from any person, who is not a citizen of a State Party, any Toxic Chemical or Precursor listed in Schedule 2 in the Annex on Chemicals to the Convention.</p>				<p>Restriction on transfer of Toxic Chemical or Precursor listed in Schedule 2.</p>
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CHAPTER IV

REGISTRATION OF PERSONS AS PRODUCERS, USERS, ETC.

<p>18. (1) Every person who is engaged in the production, processing, acquisition, consumption, transfer, import, export or use of any Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention or, engaged in the production of any Discrete Organic Chemical including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine shall make, within thirty days from the commencement of this Act, an application for registration of his name, as a producer, processor, acquirer, consumer, transferor, importer, exporter or user of any Toxic Chemical or Precursor or, as the case may be, as a producer of any Discrete Organic Chemicals including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine, to such registration authority as the Central Government may, by notification in the Official Gazette, specify in this behalf.</p>				<p>Registration of persons engaged in production, etc., of any Toxic Chemical or Precursor.</p>
<p>(2) No person, who after the commencement of this Act, desires to produce, process, acquire, consume, transfer, import, export or use any Toxic Chemical or Precursor listed in any of the Schedules 1 to 3 in the Annex on Chemicals to the Convention or, desires to produce any Discrete Organic Chemical including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine, shall commence business unless such person has applied to the registration authority specified under sub-section (1) for registration of his name as a producer, processor, acquirer, consumer, transferor, importer, exporter or user of any Toxic Chemical or Precursor or, as the case may be, as a producer of any Discrete Organic Chemical including Discrete Organic Chemicals containing elements of phosphorous, sulphur or fluorine.</p>				
*	*	*	*	*
<p>(4) On receipt of the application referred to in sub-section (1) or sub-section (2), the registration authority shall, if the application is in the prescribed form, register the name of the applicant and grant him a certificate of registration.</p>				
*	*	*	*	*
<p>42. Whoever, in contravention of any provision of this Act transfers to or receives from any person who is not a citizen of a State Party any Toxic Chemical or Precursor listed in Schedule 2 in the Annex on Chemicals to the Convention, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to term of life and shall also be liable to fine which may extend to one lakh rupees.</p>				<p>Punishment for contravention in relation to transfer of Toxic Chemicals, etc., listed in Schedule 2.</p>
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Power to make rules.

56. (1) * * * * *

(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:—

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(c) the form of application, the particulars to be contained in the application form, the form of certificate of registration, the manner of making application, the amount of fee payable, the procedure to be followed in granting or cancelling certificate of registration under sub-section (3) of section 18 and the period for which a renewed certificate of registration may be issued and the amount of fee payable therefor under sub-section (5) of that section;

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RAJYA SABHA

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to amend the Chemical Weapons Convention Act, 2000.

*(Shri Srikant Kumar Jena, Minister of State in the Ministry of
Chemicals and Fertilizers)*

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