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Amendment to Section 4 of The Patents Act, 1970 — Inventions Relating to Nuclear Energy

Section 4 of the Patents Act, 1970, **has been amended** to permit patents for inventions relating to nuclear energy, subject to Section 38 of the Sustainable Harnessing and Advancement of Nuclear Energy for Transforming India Act, 2025 (Act No. 39 of 2025, hereinafter “**SHANTI Act**”).

The SHANTI Act, brought into effect in India on **December 21, 2025**, has repealed the erstwhile Atomic Energy Act, 1962 and the Civil Liability for Nuclear Damage Act, 2010.

Under the earlier regime, Section 4 of the Patents Act precluded from patentability inventions “relating to atomic energy” that fell within the scope of Section 20(1) of the Atomic Energy Act, 1962. This resulted in categorical exclusion for many nuclear-related innovations. Additionally, mere presence or use of certain elements in inventions relating to altogether different technological domains were often referred to the Department of Atomic Energy for assessment, thereby leading to inordinate delays in processing of such applications.

Now, the Third Schedule to the SHANTI Act has substituted Section 4 of the Patents Act, 1970, with: “**Inventions relating to nuclear energy.**—The patents may be granted for inventions relating to nuclear energy subject to the provisions of this Act and section 38 of the Sustainable Harnessing and Advancement of Nuclear Energy for Transforming India Act, 2025.”

Section 38 of the SHANTI Act establishes a calibrated pathway for protection:

The Central Government may grant patents for inventions “for the peaceful uses of nuclear energy and radiation.” Inventions relating to activities reserved to the Government under sub-section (5) of section 3, or which in the Government’s opinion are sensitive or have national security implications, are not patentable and are deemed to have been made or conceived by the Government. Sub-section (5) of Section 3 of the SHANTI Act prescribes specific facilities and activities that can be set up or undertaken exclusively by the Central Government or any institution or factory wholly

owned by it. These are:

- “(a) the enrichment or isotopic separation of prescribed substance or radioactive substance, unless otherwise notified by the Central Government in this behalf;
- (b) the management of spent fuel, including reprocessing, recycling, separation of radionuclides contained therein and management of high-level radioactive waste arising thereof;
- (c) the production of heavy water and its upgradation by isotopic separation;
- (d) any other facilities or activities as may be notified by the Central Government.”

Applications raising questions on sensitivity or reserved activities must be referred by the Controller to the Central Government for directions. The Government may issue directions to the Controller on any application and may inspect any pending application and specification before acceptance. Stakeholders who believe their invention relates to nuclear energy must communicate its nature and description to the Government before disclosing it to any third party. Foreign filing remains subject to Section 39 of the Patents Act, 1970.

Therefore, **Section 38** permits patents for inventions for the **peaceful uses of nuclear energy and radiation**, while inventions reserved to Government or deemed sensitive or having national security implications are non-patentable and deemed conceived by the Government. As before, if sensitivity or coverage by reserved activities is in issue, the Controller shall refer the application to the Central Government for directions.

Section 4 as amended promotes broader protection for nuclear energy innovations and portfolios in peaceful-use of nuclear and radiation technologies can now be pursued in India. This is a pivotal shift from categorical exclusion to conditional patentability in nuclear energy, and is expected to catalyze innovation and increased private-sector participation while maintaining national security oversight. Additionally, the amendment is expected to put an end to fallacious referrals of random applications to the Department of Atomic Energy.



IP Round Up

Nice Classification Of Trademarks - 13th Edition

The World Intellectual Property Organization has notified substantive revisions to the Nice Classification, the international standard for classifying goods and services in trademark registrations, with the 13th Edition of the classification system "NCL(13-2026)" coming into effect on 1 January 2026. The revised classification reflects evolving commercial practices and technological developments and introduces material changes to the classification of goods and services, including reallocation of certain goods between classes, addition of new goods, and refinement of class headings and explanatory notes.

A notable aspect of NCL(13-2026) is the reclassification of several goods and services to accurately reflect their nature and intended use. By way of illustration:

Eyewear and lenses → from Class 09 → Class 10; Rescue vehicles

→ from Class 09 → Class 12; Electrically heated clothing → from Class 11 → Class 25; Essential oils → from Class 3 → redistributed depending on medical, cosmetic or food use.

In addition, NCL(13-2026) introduces newly specified goods across multiple classes and incorporates terminological updates and clarifications to improve precision and consistency in classification. Class headings and explanatory notes have been refined to reduce ambiguity, particularly in relation to composite and multifunctional goods.

There will be no automatic reclassification for applications or registrations filed before 1 January 2026. All trademark applications filed on or after 1 January 2026 are required to conform strictly to NCL(13-2026), and the revised classification should be borne in mind when conducting searches, advising clients and drafting specifications.

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