

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th May, 1986/Jyaistha 5.1908 (Saka)

The following Act of Parliament received the assent of the president on the 23rd May, 1986, and is here by published for general information:-

THE ENVIRONMENT (PROTECTION ACT),1986.

No. 29 or 1986

[23rd May, 1986.]

An act to provide for the protection and improvement of environment and matter connected there with:

WHEREAS decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June,1972, in which India participated to take appropriate steps for the protection and improvement of human environment:

AND WHEREAS it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and prevention of hazards to human beings, other living creature, plant and properties.

BE it entered by Parliament in the Thirty-seven Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This act may be called the Environment (Protection) Act, 1986.
(2) It extends to the whole of India.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different areas.
2. In this Act, unless the context otherwise requires,-
 - (a) "environment" includes water, air and land and the interrelationship which exists among and between water, air and land, and human beings, other living creature, plants micro organism and property;
 - (b) "environment pollutant" means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be injurious to environment.
 - (c) "environment pollution" means the presence in the environment of any environmental pollutant.
 - (d) "handling" in relation to any substance, means the manufacture, the processing, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of such substance;
 - (e) "hazardous substance" means any substance or preparation which by reason of chemical or physico-chemical properties or handling, is liable to cause harm to human beings, other living creature plants and micro-organism, property
 - (f) "occupier" in relation to any factory or premise, means a person who has control over the affairs of the factory or the premises and includes, in relation to any substance, person in possession of the substance;
 - (g) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

GENERAL POWERS OF THE CENTRAL GOVERNMENT

3. (1) Subject to the previous of this Act, the Central Government shall have power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution
- (2) In particular and without prejudice to the generality of provision of subsection (1) such measures may include measures with respect to all or any of the following, matters namely:-
- (i) co-ordination of actions by the State Government, officer and other authorities-
 - (a) Under this Act, or rules made thereunder: or
 - (b) Under any other law for the time being in force which is reliable to the objects of this Act:
 - (ii) Planning and extension of nation-wide programme for the prevention, control and abatement of environmental pollution:
 - (iii) laying down standards for the quality of environment in its various aspects;
 - (iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever :

Provide that different standards for emission or discharge may be laid down under this clause from different sources having regard to quantity or composition of the emission or discharge of environmental pollutants from such sources:
 - (v) restrictions of areas in witch any industries, operations or process, or class of industries, operations or process shall not be carried out or shall be carried out subject to certain safeguard.
 - (vi) laying down procedures safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents.
 - (vii) laying down procedures and safeguards for the handling of hazardous substances:
 - (viii) examination of such manufacturing processes, material and substance as you likely to cause environmental pollution.
 - (ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution.:
 - (x) inspection of any premises, plants, equipment, machinery, manufacturing or other processes, materials or substances and giving by order, of such direction to such authorities officers and persons as it may consider necessary to take steps, for prevention, control and abatement of environmental pollution.
 - (xi) establishment or recognition of environmental laboratories and institute to carry out functions entrusted to such environmental laboratories and institute under this Act;
 - (xii) collection and dissemination of information in respect of matters relating to environmental pollution;
 - (xiii) preparation of manual, codes or guide relating to the prevention control and abatement of environmental pollution;
 - (xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provision of this Act
- (3) The Central Government may, if it consider it necessary or expedient so to do for the purposes of this Act, by the order, published in the official Gazette, constitute or authorities or authorities by such name as may be specified in the order for the purpose of exercising and performing such of the

powers and functions (including the power to issue directions under the section 5) of The Central Government under this Act and for taking measure with respect to such of the matter referred to sub section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in order as if such authority or authorities had been expedient by this Act to exercise those powers perform those functions of take such measures.

4. (1) Without prejudice to the previous of sub-section (3) of section 3, the Central Government may appoint officer with such directions as it think for the purpose of this Act may entrust to them such or the powers functions under this Act as it may deem fit.
 - (2) The officers under subsection (1) shall be subject to the general control and direction of the Central Government or, if so directed by that Government also of the authority or authorities, if any, constructed under sub-section (3) of section 3 or of any other authority or others.
5. Notwithstanding any thing contained in any other law but subject to the provisions of this Act, the Central Government may in exercise of its powers and performance of its functions under this Act issue directions in writing to any person officer or any such person, officer or authority shall be bound to comply with such direction.

Explanation - For the avoidance of doubts it is hereby declared that the power to issue directions under the section includes the power to direct --

- (a) the closer prohibition or regulation of any industry, operation or process; or
 - (b) stoppage or regulation of the supply of electricity or water or any other service.
6. (1) The Central Government may be notification in the official Gazette make rule in respect of all or any other matter referred to in section 3.
- (2) In particular and without per-justice to the generality of the for going power, such rule may provide for all or any of the following matters, namely:-
- (a) the standards of quality of air, water or soil for various areas and purposes;
 - (b) the maximum allowable limits of the concentration of various environmental pollutants and safeguards for the handling of hazardous substances;
 - (c) the procedures and safeguard for handling hazardous substances;
 - (d) the prohibition and restriction on the handling of hazardous substance in different areas;
 - (e) the prohibition and restrictions on the location of industries and the carrying on of the process and operations in different areas
 - (f) the procedures and safeguard for the prevention of accidents which may cause environmental pollution and for providing for re-medical measures for such accidents.

CHAPTER III

PREVENTION, CONTROL AND ABATEMENT OF ENVIRONMENTAL CONTROL

7. No person carrying on any industry operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed.
8. No person shall handle or cause to be handled any hazardous substance expert in accordance with such procedure and after complying with such safeguards may be prescribed.
9. (1) Where the discharge of any environmental pollutant is excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event the person responsible for such discharge and person in the charge of the place at which such discharge occur or apprehended to occur shall be bound to prevent or mitigate the environmental pollution caused as a result of such discharge and shall also forthwith---

- (a) intimate the fact of such occurrence or apprehension of such occurrence; and
 - (b) be bound, if call upon, to render all assistance, to such authorities or agencies as may be prescribed.
- (2) On receipt of information with respect to fact or apprehension of any occurrence of the nature referred to in sub-section (1) whether through intimation under that sub section or otherwise, the authorities or agencies referred to in subsection (1) shall, as elate as practicable, cause such remedial meanness to be taken as are necessary to prevent or mitigate the environmental pollution.
- (3) The expenses if any, incurred by any authority or agency with respect to remedial measures referred to in sub-section (2) together with interest (at such reasonable rate as the Government may by order fix) from the date when demand for the expenses is made until it is paid, may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand.
10. (1) subject to provision of this section, any person empowered by the Central Government in this behalf shall have a right to enter, at all reasonable times with such assistance as he consider necessary, any place
- (a) for the purpose of performing any of the functions of the Central Government entrusted to him
 - (b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules, made thereunder or any notice, order direction or authorisation served, made given or granted under this Act is being or has been complied with;
 - (c) for the purpose of examining and testing any equipment, industrial plan, record, register, document or any other material object or for conducting a search of any building in witch he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to committed and for seizing any such equipment, industrial plant record, register, document or other material object if he has reason to believe that it under this Act or rules made thereunder or that such seizure is necessary to prevent or migrate environmental pollution.
- (2) Every person carrying on any industrial operation or process or handling any hazardous substance shall be bound to render all assistance to the person empowered by the Central Government under sub-section to do so without any reasonable cause or excuse, he shall guilty of an offence under this Act.
- (3) If any person willfully delays or obstructs any person empowered by the Central Government under the sub-section (1) in the performance of this functions, he shall be guilty of an offence under this Act.
- (4) The provision of the code of Criminal Procedure, 1973, or, in relation to State of Jammu and Kashmir, or any area in which that Code is not in force the provision of any corresponding law in force in the State of area shall so far as may be apply to any search for seizure under this section as they apply to any search or seizure made under the authority of warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provision of the said law.
11. (1) The Central Government or any officer empowered by it in this be half, shall have power to take, for the purpose of analysis samples of air water, soil or other substance from any factory, premises or other place in such manner as prescribed.
- (2) The result of any analysis of sample taken under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provision of sub-section (3) and (4) are complied with
- (3) Subject to the provision of sub-section (4) the person taking the sample under sub-section (1) shall---
- (a) serve on the occupier or his agent or person in charge of the place, a notice, then and there in such form as may be prescribed, of his intention
 - (b) in the presence of the occupier or his agent or person collect sample for analysis.

- (c) cause the sample to be placed in the container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent or person;
 - (d) send without delay, the container or containers to the laboratory established or recognised by The Central Government under section 12.
- (4) When sample is taken for analysis under sub-section (1) and the person taking sample serves on the occupier or his agent or his person will notice under clause (a) of sub-section (b) then
- (a) in the case where the occupier his agent or person willfully absent himself the person taking sample shall collect the sample for analysis to be placed in a container or containers shall be marked and sealed and shall also be signed by the person taking the sample, and
 - (b) in the case where the occupier or his agent or person present at time of taking the sample refuses to sign the mark and sealed container or containers of the sample as required under clause (c) of section (3) the marked and sealed container or containers shall be signed by the person taking the samples and the container or containers shall be sent without delay by the person taking the sample for the analysis to the laboratory established or recognised under the section 12 and such person shall inform The Central Government appointed or recognised under the section 13 writing about willful absence of the occupier or his agent or person or as the case may be his refusal to sign the container or containers
12. (1) The Central Government may by notification in the Official Gazette--
- (a) establish one or more environmental laboratories;
 - (b) recognise one or more laboratories or institutes as environmental laboratory under this Act.
- (2) The Central Government may by notification in the Official Gazette, make rule specifying
- (a) the function of the environmental laboratory;
 - (b) the procedure for the submission to the said laboratory of samples of air, water, soil or other substance for analysis or tests, the form of the laboratory report thereon and fees payable for such report;
 - (c) such other matters as may be, necessary or expedient to enable that laboratory to carry out its functions.
13. The Central Government may by notification in the official Gazette, appoint or recognise, such persons as it thinks fit and having pose of analysis of samples of air, water soil or other substance sent for analysis to any environmental laboratory established or recognised under the sub-section (1) of section 12.
14. Any document purporting a report signed by a Government analyst may be used as a evidence of the facts stated therein any proceeding under this Act.
15. (1) Whoever fails to comply with or contravenes or directions issued provision of this Act, or the rules made or order or decisions issued thereunder, shall, in respect of each failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both, and in the case of failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.
- (2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for the term which may extend to seven years.
16. (1) Where any offence under this Act has been committed by a company, every person who at the time offence was committed, was directly in charge of and was responsible to the company for the conduct of the business of the company, as well as company shall be deemed to guilty of the offence and shall be liable to be proceeded against and punish accordingly;

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

- (2) Notwithstanding anything contained in this sub-section (1) where an offence under this Act has been committed by company, such director, manager secretary or other officer of the company, such director, manager secretary or other officer shall also deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section,-

(a) "company" means any body corporate and includes a firm and other association of individuals;

(b) "director" in the relation to a firm, means a partner in the firm.

17. (1) Where an offence under this Act has been committed by any Department of Government the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercise all due diligence to prevent the commission of such offence.

- (2) Notwithstanding any thing contained in sub-section (1), where an offence under this Act has been committed by a Department of Government and it is proved that offence has been committed with the consent or convenience of, or is attributable to any neglect on the part of any officer other than Head of Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER IV

MISCELLANEOUS

18. No suit prosecution or other legal proceeding shall lie against the Government or any officer or other employee of the Government or any authority constituted under this Act or any member, officer or other employee of such authority in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.
19. No court shall take cognizance of any offence under this Act except on complaint made by
- (a) the Central Government or any authority or officer authorised in this behalf by that Government ; or
- (b) any person who has given the notice of not less than sixty days in the manner prescribed of the alleged offence and of his intention to make a complaint to the Central Government or the authority of the officer authorised as aforesaid.
20. The Central Government may in relation to its functions under this Act, from the time to time require any person, officer, State Government or authority to furnish to it or any prescribed authority or officer any reports, returns, statistics, accounts and other information and such person, officer, State Government or other authority shall be bound to do so.
21. All the members of the authority, constituted, if any under section 3 and all officer and other employees of such authority when acting or purporting to act in pursuance of any provisions of this Act or the rules made or orders or directions issued thereunder shall be deemed to be the public servants within the meaning of the section 21 of Indian Penal Code.
22. No civil court shall have jurisdiction enter win any suit or proceeding in respect of any thing done action taken or order or direction issued by the Central Government or any other authority or officer in pursuance of any power conferred by or in relation to its or his functions under this Act.
23. Without prejudice to the provision of subsection (3) of section 3, the Central Government may, by notification in the official Gazette, delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act except to power to constitute an authority under sub-section (30 of section 3 and to make rule under the section 25 as it may deem necessary or expedient. to any officer, Central Government or other authority.

24. (1) Subject to provision of sub-section (2), the provision of this Act and the rules or orders made therein shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act
- (2) Where any act or omission constitutes an offence punishable under this Act and also under any other Act then offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act.
25. (1) The Central Government may, by notification in the official Gazette, make rule for carrying out the purposes of this Act.
- (2) In particular and with out prejudice to the generality of the fore-going power, such rule may provide for all or any of the following matters namely:-
- (a) the standards in excess of which environmental pollutants shall not be discharge or emitted under section 7
 - (b) the procedure in the accordance with the safeguards in compliance with which hazardous substance shall be handled or cause to be handled under section 8;
 - (c) the authorities or agencies to which intimation of the fact of occurrence or apprehension of occurrence of the discharge of any environmental pollutant in excess of prescribed standards shall be given and to whom all assistance shall be bound to be rendered under the sub-section (1) of section 9;
 - (d) the manner in which samples of air, water, soil or other sub-stance for the purpose of analysis shall be taken under the sub-section (1) of section 11.
 - (e) the form in which notice of intention to have sample analysed shall be served under the clause (a) of sub-section (3) of section 11;
 - (f) the function of the environmental laboratories, the procedure for the submission to such laboratories of sample of air, water, soil and other substances for analysis or test; the form of laboratory report ; the fees payable for such report and other matter to enable such other laboratories to carry out their functions under sub-section (2) of section 12
 - (g) the qualification of Government Analyst appointed or recognised for the purpose of analysis of samples of air, water, soil or other substances under section 13
 - (h) the manner in which the offence and of the intention to make complaint to the Central Government shall be given under the clause (b) of section 19.
 - (i) the authority of officer to whom any reports, returns, statistics, accounts and other information shall be furnished under section 20;
 - (j) any other matter which is required to be, or may be, prescribed .
26. Every rule 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 session or the successive sessions aforesaid, both Houses agree in making any modification in rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be 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.

C.RAMAN MENON,
Additional Secy. to the Govt. of India