

UNIT 5: ENVIRONMENTAL LAW 06 Hrs Environment Protection Act, 1986: Objects of the Act, definitions of important terms: environment, environment pollutant, environment pollution, hazardous substance and occupier, types of pollution, rules and powers of central government to protect environment in India.

THE ENVIRONMENTAL PROTECTION ACT 1986

OBJECTIVES

As mentioned earlier, the main objective of the Act was to provide the protection and improvement of environment and for matters connected therewith. Other objectives of the implementation of the EPA are:

- To implement the decisions made at the UN Conference on Human Environment held at Stockholm in June 1972.
- To enact a general law on the areas of environmental protection which were left uncovered by existing laws. The existing laws were more specific in nature and concentrated on a more specific type of pollution and specific categories of hazardous substances rather than on general problems that chiefly caused major environmental hazards.
- To co-ordinate activities of the various regulatory agencies under the existing laws
- To provide for the creation of an authority or authorities for environmental protection
- To provide deterrent punishment to those who endanger the human environment, safety and health

DEFINITIONS

Section 2 of the EPA deals with definitions. Some important definitions provided in the Section are:

- Section 2 (a) “**Environment**” includes water, air, and land and the interrelationship that exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property. This definition is not exhaustive but an inclusive one.
- Section 2 (b) “**Environmental Pollutant**” means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be injurious to environment.

- Section 2 (c) “**Environmental Pollution**” means the presence in the environment of any environmental pollutant. This implies an imbalance in the environment. The materials or substances when after mixing in air, water or land alters their properties in such manner, that the very use of all or any of the air-water and land by man and any other living organism becomes lethal and dangerous for health.
- Section 2 (e) “**Hazardous Substance**” means any substance or preparation which, by reasons of its chemical or Physico-chemical properties or handling, is liable to cause harm to human beings, other living creatures, plants, micro-organism, property or environment.

SCOPE AND APPLICABILITY

The Environment (Protection) Act is applicable to the whole of India including Jammu & Kashmir. It came into force on November 19, 1986.

POWERS OF CENTRAL GOVERNMENT TO TAKE MEASURES TO PROTECT AND IMPROVE ENVIRONMENT

According to the provisions of the Act, the Central Government shall have the 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.

Such measures may include measures with respect to all or any of the following matters, namely:

- a. co-ordination of actions by the State Governments, officers and other authorities- (a) under this Act, or the rules made thereunder, or (b) under any other law for the time being in force which is relatable to the objects of this Act;
- b. planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;
- c. laying down standards for the quality of the environment in its various aspects;
- d. laying down standards for emission or discharge of environmental pollutants from various sources whatsoever: Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;

- e. restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;
- f. laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;
- g. laying down procedures and safeguards for the handling of hazardous substances;
- h. examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;
- i. carrying out and sponsoring investigations and research relating to problems of environmental pollution;
- j. inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;
- k. establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;
- l. collection and dissemination of information in respect of matters relating to environmental pollution;
- m. preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;
- n. such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

PREVENTION, CONTROL AND ABETMENT OF ENVIRONMENT POLLUTION

Chapter III of the EPA deals with the prevention, Control and abetment of Environmental Pollution. Some important provisions of this chapter provide that, 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.

No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed.

Where the discharge of any environmental pollutant in excess of the prescribed standards occurs or is apprehended to occur due to an accident or other unforeseen act or event, the person responsible for such discharge and the person in charge of the place at which the discharge occurs shall be bound to prevent or mitigate the environmental pollution, and shall also:

- a. intimate the fact of such occurrence or apprehension of such occurrence; and
- b. be bound, if called upon, to render all assistance. On receipt of such information, the authorities or agencies shall cause such remedial measures to be taken as are necessary to prevent or mitigate environmental pollution.

The expenses incurred by any authority or agency may be recovered from the person concerned as arrears of land revenue or of public demand.

PENALTIES AND OFFENCES

Section 15 provides for Penalties for contravention of the provisions of the Act as well as the Rules, Orders and Directions. Whoever fails to comply with or contravenes any of the provisions, rules, orders or directions of this Act shall 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.

If the failure or contravention continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which, may extend to seven years. • **Offences by Companies**

Offences by Companies are dealt with under Section 16. Where an offence is committed by a company, every person who, at the time the offence was committed, was directly in charge of and was responsible to, the company for the conduct of the business of the company shall be deemed to be guilty of the offence.

If he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence he shall not be liable to any punishment.

Where the offence has been committed with the consent or connivance of or is attributable to any neglect on part of, any director, manager, secretary or other officers of the company, such person shall be deemed to be guilty of the offence