

Environment Protection Act, 1986 – An overview

In India, environmental protection was not much of an issue till the mid-1980's. That is, environmental protection as a whole was never seriously considered. The government did enact various legislation pertaining to the environment in the 1970's and 80's: the Water Act, 1974; the Air Act, 1981; Indian Forest Policy, 1988. But it took two major pushes, one from the international community and one from the national community, to create the Environment Protection Act.

The international impetus came in the form of the **Stockholm conference** in 1972, to discuss Humans and their role in the Environment. This legislation was a way to implement India's promises for protecting the environment. The process received a major push when the **Bhopal Gas Tragedy** happened in 1984, leading to thousands of deaths overnight in a gas leak that happened in Bhopal. The lack of legislation pertaining to such accidents was the reason the perpetrators as well as the company went scott-free. India was furious, spurring the government into action.

The EPA 1986 came into force in all of India in November of 1986, under an official notification. The Act contains 26 sections divided into 4 chapters. The Act has its genesis in Indian Constitution's Article 48(A) and Article 51(A)g. The Act is a part of Article 253 of the Indian Constitution.

The Act is special for many reasons. *First, it has the sole aim of ensuring the protection of the environment, the prevention and reduction of environmental pollution and provides the authority to take strict action against perpetrators.* Second, it is an Act that takes precedence over other Acts. This means that if an offence is committed that is liable to be booked under multiple legislation including this Act, the EPA 1986 will be given the highest priority. Third, this Act forced the country to take note of environmental pollution in a serious way.

Salient features of the Environment Protection Act, 1986

- The Act covers all forms of pollution; air, water, soil and noise.
- It provides the safe standards for the presence of various pollutants in the environment.
- It prohibits the use of hazardous material unless prior permission is taken from the Central Government.
- It allows the central government to assign authorities in various jurisdictions to carry out the laws of this Act.

Under **Chapter II- General Powers of the Central Government, section 3** specifies the following points, among others-

1. The central government has the authority to lay down the standards for different pollutants, and also the safe limit of emissions or discharge of wastes from industries.
2. It can restrict the areas in which industries can operate.

3. It has the power to lay down the safety measures and procedures for the prevention of accidents, and specify the protocol and remedies if such an accident occurs.
4. The central government has the responsibility to carry out and fund research on environmental pollution.
5. It needs to establish environmental laboratories.
6. It is responsible for the collection and dissemination of information related to environmental pollution.

The specification of the standards for pollutants and the safe limits for emission/discharge is given under **Chapter II, Section 6- To regulate environmental pollution.**

Chapter III of the legislation- Prevention, Control and Abatement of Environment pollution, has sections specifying the powers and steps that the government can take to tackle environment pollution. Some important sections under this chapter are-

Section 10- Powers of entry and Inspection:

This allows any person appointed by the central government the right to enter, within reasonable hours, at any place for-

1. Inspection
2. To perform the duties entrusted to him/her.
3. Examining and testing any equipment, industrial plan, record, register or document.

Section 11- Power to take samples and and procedure to be followed in connection therewith:

1. The samples can be collected by the appointed authority.
2. The results of such testing can be submitted as evidence during an investigation.

Section 12- Environmental Laboratories:

The central government can establish environmental labs or declare existing labs as environmental labs. Such labs carry out all the testing of samples pertaining to any investigation under this Act. They also act as the official environmental referrers, for the central government.

Section 15- Penalties:

1. The penalty for the contravention under this Act is imprisonment of 5 years, or fine of Rs. 1 lakh or both.
2. Failure to comply with this punishment will result in a further penalty of 5000/- per day, followed by an extended imprisonment of 7 years.
3. If the offence is committed by a company, the company as well as the director, officer in charge and any other relevant personnel is liable to be held guilty under this Act.
4. If the offence is conducted by a government department, the HOD and any other relevant officer shall be held guilty. The HOD can be exempted if he/she can prove that the offence took place without their knowledge, or if they can prove that they did their utmost to prevent the offence.

5. The section also states that a case/prosecution cannot be filed if the government entity or an officer of the government did actions under good faith.

Section 22-Bar of Jurisdiction:

This is an important part of the Act, which prevents any Indian Court to take up a case/prosecution against an officer who is doing his duty to uphold the laws under this Act.

It is possible that a scientist testing the samples from a guilty industry be called to court by that industry on accounts of malpractice. This sort of threat will prevent the scientist from doing his duty honestly. The Bar of Jurisdiction prevents such a possibility.

The rules made under this Act can be amended by the Indian Parliament and the law is applicable everywhere in India.

References:

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