



The environment protection act, 1986

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Abstract

In the wake of the Bhopal Gas tragedy, the Government of India enacted the Environment (Protection) Act I 1986 under Article 253 of the constitution. The purpose of the Act is to implement the decisions of the United Nations Conference on Human Environment of 1972, in so far as they relate to the protection and improvement of the human environment and the prevention of hazards to human beings, other living creatures, plants and property. The Act came into force w.e.f. 19.11.1986 and extends to the whole of India.

Keywords: environment protection act, 1986 nature and scope

Introduction

In the wake of the Bhopal Gas tragedy, the Government of India enacted the Environment (Protection) Act I 1986 under Article 253 of the constitution. The purpose of the Act is to implement the decisions of the United Nations Conference on Human Environment of 1972, in so far as they relate to the protection and improvement of the human environment and the prevention of hazards to human beings, other living creatures, plants and property. The Act came into force w.e.f. 19.11.1986 and extends to the whole of India.

Definitions

“Environment” includes water, air and land and the inter-relationship which exists among the water, air and land, and human beings, other living creatures, plants, micro-organisms and property. [Section 2(a)] “Environment pollutant” means any solid, liquid or gaseous substance present in such concentration as may be or tend to be, injurious to environment. [Section 2 (b)],

“Handling” in relation to any substance, means the manufacture, processing, treatment, package, storage transportation, use, collection, destruction, conversion, offering for sale, transfer etc. of such substance. [section 2(d)].

“Hazardous substance” means any substance or preparation which, by reason of its chemical or physico-chemical properties is hazardous to the safety of life and property [Section 2(e)].

“Occupier” in relation to any factory or premises, means a person who has control over the affairs of the factory or the premises and includes, possession of the substance. [Section 2 (f)].

Nature and Scope

The Act is an umbrella legislation designed to provide a framework for central Government and coordination of the activities of various central and state authorities established under previous laws such as the Water Act and the Air Act.

The Act fixes responsibility on persons carrying on industrial operations or handling hazardous substances to comply with certain safeguards for the prevention, control, and abatement of environmental pollution and also it ensures them to furnish certain information to the authorities in certain cases. The central Government has been granted general powers under the Act for taking all necessary measures for protecting the quality of environment, for laying down standards for emission or discharge of environmental pollutants, for prevention of accidents and in respect of handling hazardous substances, requiring persons to furnish certain information, issuing directions to persons, planning nationwide pollution control programmes, co-ordination of the actions of various agencies and authorities under the Act etc. The central Government may also notify rules, orders, directions, guidelines etc. under the Act.

Although various existing legislations dealt with several environmental matters, their focus was either on specific type of pollution or on specific categories of hazardous substances some major environmental hazards were not covered by these enactments. Moreover, control mechanism against build up of hazardous substances and linkages in handling matters of industrial and environmental safety were inadequate. Therefore the need was felt for a general legislation for environmental protection.

Objectives

The objectives of the Act are as follows:

1. To co-ordinate the activities of the various regulatory agencies already in existence.
2. Creation of an authority or authorities with adequate powers for environmental protection.
3. Regulation of discharge of environmental pollutants and handling of hazardous substances, and
4. Speedy response in the event of accidents treating environmental and deterrent punishment to those who endanger human environment safety and health.

General Power of the Central Government

1. Coordination 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.
2. Planning and execution of a nationwide programme for the prevention, control and abatement of environment pollution;
3. Laying down standards for the quality of environment in its various aspects;
4. Laying down standards for emission or discharges of environmental pollutants for various sources whatsoever.
5. 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;
6. Laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents:
7. Laying down procedures and safeguards for the handling of hazardous substances;
8. Examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;
9. Carrying out and sponsoring investigation and research relating to problems of environmental pollution;
10. 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;
11. Establishment or recognition of environmental laboratories and institutes to carry out the function entrusted to such environmental laboratories and institutes under this Act;
12. Collection and dissemination of information in respect of matters relating to environmental pollution;
13. Preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;
14. 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.

Section 3 gives powers to the Government to take measures to protect and improve the environment including the laying down of standards for emission or discharge of environment pollutants, restricting the operations of factories, etc. The Central Government may appoint officers with such designation as it thinks fit for the purpose of this Act and may entrust to them such powers and functions under this Act as it may deem fit (Sec. 4).

Sections 4, 5, 6 give the Government wide powers to appoint officers, give directions and make rules in order to effect a clean environment. Section 7 states that those carrying on industries shall not allow emissions to be discharged in excess of the standards laid down. Section 8 states that no person shall handle hazardous substances except in accordance with safeguards. Section 9-13 give the Government powers of entry and inspection, powers to take samples for testing, set up

laboratories and appoint analysts of any matter which it suspects may be a pollutant.

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