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## Environment (Protection) Act, 1986

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### Introduction

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- **Overview:** The **Environment (Protection) Act (EPA)** was enacted in 1986 with the objective of providing the protection and improvement of the environment.
  - It **empowers the Central Government** to establish authorities charged with the mandate of preventing environmental pollution in all its forms and to tackle specific environmental problems that are peculiar to different parts of the country.
  - The Act is **one of the most comprehensive legislations** with a pretext to protection and improvement of the environment.
- **Background:** The roots of the enactment of the EPA lies in the **United Nations Conference on the Human Environment** held at **Stockholm** in June, 1972 (**Stockholm Conference**), in which India participated, to take appropriate steps for the improvement of the human environment.

The Act implements the decisions made at the **Stockholm Conference**.
- **Constitutional Provisions:**
  - The EPA Act was enacted under **Article 253** of the Indian Constitution which provides for the **enactment of legislation for giving effect to international agreements**.
  - **Article 48A** of the Constitution specifies that the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.
  - **Article 51A** further provides that every citizen shall protect the environment.
- **Coverage:** The Act is applicable to the whole of India including the state of **Jammu & Kashmir**.

### Salient Features of the EPA Act

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- **Powers of the Central Government:** 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 in coordination with the State Governments.
  - The Central government is also empowered to:
    - **Plan and Execute a nation-wide programme** for the prevention, control and abatement of environmental pollution.
    - **Lay down standards for the quality of environment** in its various aspects.
    - Lay down **standards for emission or discharge of environmental pollutants** from various sources.
    - The **restriction of areas** in which any industries, operations or processes or class of industries, operations or processes shall/ shall not be carried out subject to certain safeguards.
  - The Central Government may **appoint officers under this Act** for various purposes and entrust them with the corresponding powers and functions.
  - The central government as per the Act has the power to direct:
    - The closure, prohibition or regulation of any industry, operation or process.
    - The stoppage or regulation of the supply of electricity or water or any other service.
- **Restriction on Pollutant Discharge:** No individual or organisation shall discharge/emit or permit to discharge/emit any environmental pollutant in excess of the prescribed standards.
- **Compliance with Procedural Safeguards:** No individual shall handle or shall be caused to handle any hazardous substance except in accordance with the procedure and without complying with the safeguards, as prescribed.
- **Powers of Entry and Inspection:** Any person empowered by the Central Government shall have a right to enter (with the assistance deemed necessary) at any place:
  - For the inspection of compliance of any orders, notifications and directions given under the Act.
  - For the purpose of examining (and if required seizing) any equipment, industrial plant, record, register, document or any other material object may furnish evidence of the commission of an offence punishable under this Act.
- **Establishment of Environmental Laboratories:** The Central Government, as per the Act, is entitled to:
  - Establish environmental laboratories.
  - Recognise any laboratory or institute as environmental laboratories to carry out the functions entrusted to such a laboratory.
    - The Central Government is also entitled to make rules specifying the functions of environmental laboratories.

- **Appointment of Government Analyst:** A Government Analyst is appointed by the Central Government for the analysing the samples of air, water, soil or other substance sent to a recognised environmental laboratory.
- **Penalties for Offences:** Non-compliance or Contravention to any of the provisions of the Act is considered as an offence.
  - Any offences under the EPA are punishable with the imprisonment of upto five years or a fine upto one lakh rupees or both.
- **Offences by Companies:** If an offence under this Act is committed by a company, every person directly in charge of the company, at the time of the commitment of offence, is deemed to be guilty unless proven otherwise.
- **Offences by Government Departments:** If an offence under this Act has been committed by any Department of Government, the Head of the Department (HoD) shall be deemed to be guilty of the offence unless proven otherwise.
  - Any officer, other than HoD, if proven guilty, shall also be liable to be proceeded against and punished accordingly.
- **Cognizance of offences:** No Court shall take cognizance of any offence under this Act except on a complaint made by:
  - The Central Government or any authority on behalf of the former.
  - A person who has approached the Courts after a 60-day notice has been furnished to the Central Government or the authority on its behalf.

## Drawbacks of the Act

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- **Complete Centralisation of the Act:** A potential drawback of the Act could be its centralization. While such wide powers are provided to the Centre and no powers to the state governments, the former is liable to its arbitrariness and misuse.
- **No Public Participation:** The Act also says nothing about public participation as regards environmental protection.
  - There is a need to involve the citizens in environmental protection to check arbitrariness and raise awareness and empathy towards the environment.
- **Incomplete Coverage of Pollutants:** The Act does not address modern concept of pollution such as noise, overburdened transport system and radiation waves which are also an important cause for the deteriorating environment.

## National Environment Appellate Authority (NEAA) and National Green Tribunal (NGT)

- It was established by the Central Government under the **The National Environment Appellate Authority Act, 1997**.
- NEAA was **established to hear appeals** regarding the restriction of areas in which any industries, processes or operations shall be/shall not be carried out subject to certain safeguards **under the Environment (Protection) Act, 1986**.

- However, NEEA (along with the **National Environment Tribunal**) was found to be inadequate giving rise to the demand for an institution to deal with environmental cases more efficiently and effectively.
  - As a result, the **National Green Tribunal (NGT)** was established in 2010 under the **National Green Tribunal Act 2010** for effective and expeditious disposal of cases relating to environmental protection.
  - Along with the Environment (Protection) Act, 1986, NGT also deals with civil cases under six other laws.

### **Important Notifications Issued Under EPA**

- The **Coastal Regulation Zone Notification (1991)**, which regulates activities along coastal stretches.
  - In December 2018, the Union cabinet approved the **Coastal Regulation Zone (CRZ) Notification, 2018**.
- The **Environmental Impact Assessment** of Development Projects Notification.

### **International Conventions for Environment Protection to which India is a Signatory**

- The **Montreal Protocol to the Vienna Convention** on Substances that deplete the Ozone Layer, 1987.
- **Basel Convention** on Transboundary Movement of Hazardous Wastes, 1989.
- **Rotterdam Convention, 1998**.
- **Stockholm Convention** on Persistent Organic Pollutants (POPs).
- **UN Framework Convention on Climate Change (UNFCCC), 1992**.
- **Convention on Biological Diversity, 1992**
- **UN Convention to Combat Desertification, 1994**
- **International Tropical Timber Agreement and The International Tropical Timber Organisation (ITTO), 1983, 1994:**
  - The ITTO established by the International Tropical Timber Agreement (ITTA), 1983, came into force in 1985 and became operational in 1987.
  - The ITTO **facilitates discussion, consultation and international cooperation on** issues relating to the international trade and **utilization of tropical timber** and the sustainable management of its resource base.
  - The successor agreement to the ITTA (1983) was negotiated in 1994, and came into force on 1 January 1997.
  - The organization has 57 member countries. **India ratified the ITTA in 1996.**