National Measures on Antarctic Legislation

National Measures on Antarctic Legislation

Abstract

The aim of the Indian Antarctic Act, 2022 is to provide for national measures for protecting the Antarctic environment and dependent and associated ecosystems and to give effect to the Antarctic Treaty, the Convention on the Conservation of Antarctic Marine Living Resources and the Protocol on Environmental Protection to the Antarctic Treaty. In the Act, provisions are made for the penalty for contravention of certain activities, involving a person, vessel or aircraft.

Introduction

India signed the Antarctic Treaty on the 19th of August, 1983 and in due course was accorded the status of a consultative party on the 12th of September, 1983. Further, on the 17th of June, 1985 India ratified the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) and became a member of the Commission for Conservation of Antarctic Marine Living Resources. Finally, India signed the Madrid Protocol which came into force on the 14th of January, 1998.

According to Article 13 of the Protocol on Environmental Protection to Antarctica Treaty, it is incumbent upon each State Party to undertake appropriate measures as may be within its competence, including the adoption of laws and regulations, administrative actions and enforcement measures, to ensure compliance with the provisions of this Protocol. Since India has provisions for the protection of the environment in its Constitution, it is imperative to have its national measures that ensure the protection of the Antarctic environment along with its dependent and associated ecosystem

The need to establish a regulatory framework for the management of various Indian activities in Antarctica in consonance with its obligations under various instruments of the Antarctic Treaty System made it necessary to promulgate the Indian Antarctic Act, 2022. This Act assented to by the Hon’ble President of India on 6th August 2022after passing by the Parliament.

Objectives of the Act

The objectives set forth by Indian Antarctic Act, 2022 are as follows:

(a) to ensure the fulfilment of obligations as stipulated by the Antarctic Treaty, to the Convention on the Conservation of Antarctic Marine Living Resources, and to the Protocol on Environmental Protection to the Antarctic Treaty;

(b) to promote Antarctica as a natural reserve, devoted to peace and science and ensure that the Antarctic does not become the scene or object of international discord;

(c) to ensure the comprehensive protection of the Antarctic environment as well as the dependent and associated ecosystems; and

(d) to facilitate and promote research in Antarctica by institutions and individuals permitted under the provisions of the Act.

To whom, Act shall Apply

This Act applies to Indian citizens who are part of the Indian Antarctic expedition or any other foreign nationals who are part of the Indian Antarctic expedition but not have obtained authorisation from another party to the Protocol. Additionally, it is also applicable to the vessels and aircraft engaged in an Indian expedition or any vessel or aircraft registered in India but are part of expediting another party to the Protocol. This Act is applicable within the Antarctic region including the CCAMLR region.

Implementing Authority

The Committee on Antarctic Governance and Environment Protection (CAG-EP) under the auspices of the Ministry of Earth Sciences is designated as the apex decision-making body and shall facilitate programs and activities permitted under the Law. It shall; provide a stable, transparent and accountable process for the sponsorship and supervision of Antarctic research and expeditions; shall nsure the protection and preservation of the Antarctic environment; shall ensure compliance by Indian citizens engaged in the Antarctic programs and activities with relevant rules and internationally agreed standards.

Salient Features of the Act

(A) General Provisions:

(a) provides all essential permissions and prohibitions for certain activities as required under the Antarctic Treaty, the Protocol, the Convention and amendments made thereto as applicable to India;

(b) expounds upon the scope, programmes and activities to promote scientific research in the Antarctic;

(c) establishes the Committee on Antarctic Governance and Environment Protection (CAG-EP) and provides for its objectives, functions, powers, funds etc ;

(d) delineates provisions for the issuance and regulation of permits;

(e) provides for permit procedures, including environmental impact assessment such as initial environmental evaluation and comprehensive environmental evaluation;

(f) delineates provisions for the waste management plans and emergency plans, waste incineration provisions, disposal of liquid wastes, storage of wastes in general, work sites and waste disposal sites;

(g) provides general regulation concerning the the prevention of marine pollution in the Antarctic;

(h) provides for inspections in India and inspections in Antarctica;

(i) provisions relating to liability for an environmental emergency and emergencies in Antarctica in general.

(B) Permit and Prohibitions

Under this Act, certain activities are not allowed until its Permitted. Permit required for performing certain activities in Antarctica. No person in Antarctica shall without a permit or under the written authorisation of another party to the Protocol; kill, injure capture, handle or molest native mammals or native birds, remove or damage the native plant, fly or land a helicopter or other aircraft that disturbs concentration of native birds, use vehicle or vessel, etc., use explosive or firearm, wilfully disturb in a manner that disturbs any concentration of native birds or seals.

Any person shall not engage in activity that results in a significant adverse change of the habitat of any specially protected species, native birds, native plants, or native invertebrates or removes soil or any biological material native to Antarctica. It also includes that no person shall introduce into any part of Antarctica any microscopic organism of a species which is not indigenous to Antarctica, except in accordance with a permit or under the written authorisation of another party to the Protocol. It has also provisions that certain activities are prohibited in Antarctica.

(C) Penalty and Punishment against Offence

In the Act, provisions are made for the penalty for contravention of certain provisions involving a person, vessel or aircraft. These penalties and punishments demarcated from moderate to severe subjected to the gravity of violations of provisions of the Act for Antarctic environmental degradation.

Enforcement of Rules and Act

The rules thereunder Indian Antarctic Act, 2022 are framed and in the process of notification and implementation.