

Chapter 5

ENVIRONMENT (PROTECTION) ACT, 1986

Introduction

- **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

- **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

- **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, NEAA (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.**

Water (Prevention and Control of Pollution) Act, 1974

Introduction

The Act came into force in 1974 and is applicable to the states of Assam, Bihar, Madhya Pradesh, Gujrat, Haryana, Tripura, West Bengal, Jammu and Kashmir, Rajasthan, Kerala, and the union territories. It could also be adopted by any state through a resolution passed declaring to adopt the Act. [The Water \(Prevention and Control\) Act, 1974](#) was introduced to prevent and control water pollution and to restore and maintain the wholesomeness of water for the establishment.

The Act also confers some powers to the established bodies such as the central board and the state board to control pollution of the water bodies.

Definitions

[Section 2](#) of the Act contain certain definitions:

1. “Board “means either the central board or the state board.
2. Section 2 (e) of the Act defines what is pollution, according to Section 2(e) pollution means any contamination of water or alteration of the physical, chemical and biological properties of water or disposing of any sewage waste in water which is likely to cause nuisance or renders such water to be harmful to public health or safety or to domestic, industrial or other legitimate use or harmful to the life and health of the animals and aquatic plants.
3. Includes- watercourse (flowing or dry), inland water whether natural or artificial, subterranean water or sea or tidal waters as the state may prescribe from time to time.
4. According to [Section 2 \(b\)](#) Central Board means Central Pollution Control Board.
5. According to [Section 2 \(h\)](#) State Board means State Pollution Control Board.

Agencies for controlling Water Pollution

There are two agencies set up as per the Act for controlling and preventing water pollution.

Central Board- Central Pollution Control Board

Constitution and Composition ([Section 3](#))

The Central Government through a notice in the official gazette has the power to assign or set up a Central Board named as Central Pollution Control Board. As far as the composition of the board is concerned the Central Board is to contain the following members:

1. A chairman who has the knowledge or has practical experience in dealing with cases relating to environmental protection. The chairman is to be appointed by the central government only.
2. Not more than 5 officials to represent the central government.

3. Not more than 5 members to be nominated by the central government from the members of the State Board.
4. Maximum 3 members appointed by the central government to represent the interests of agriculture, fisheries, trade or any other interest as the government may seem fit.
5. 2 persons to represent the companies or corporations owned, controlled or by the central government.
6. A full-time member secretary having complete knowledge, experience and qualification of scientific management and prevention of environmental pollution.

Functions of Central Board (Section 16)

- Advise the Central Government on any matter concerning the prevention and control of water pollution.
- Coordinate the activities of the State Boards and resolve disputes among them. Provide technical assistance and guidance to the State Boards, carry out and sponsor investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution.
- Plan and organize the training of persons engaged or to be engaged in for the prevention, control or abatement of water pollution on such terms and conditions as the Central Board may specify.
- Organize through mass media a comprehensive program regarding the prevention and control of water pollution.

State Board- State Pollution Control Board

Constitution and Composition (Section 4)

1. The state government through an official notice in the Gazette has the power to assign or set up a state board named as State Pollution Control Board. The composition of the state board is as follows:
2. A Chairman who either has the knowledge or some experience in dealing with cases relating to environmental pollution.
3. Not more than 5 members appointed by the state government to represent the government.
4. Not more than 2 persons by the state government who are functioning as members of the local authorities within the state
5. Not more than 3 persons nominated by the state government to represent the interest of fisheries, agriculture, trade and any other interest as the government may seem fit.
6. 2 persons from companies, corporations which are either controlled, owned or managed by the state.
7. A member secretary who has the knowledge, qualifications, and experience in dealing with cases pertaining to environmental pollution.

Functions of State Board (Section 17)

1. To plan a comprehensive program for preventing and controlling the pollution of the wells and streams in the state and to secure its execution.

2. To advise the State Government on matters relating to prevention and controlling water pollution.
3. Collaborating with the central board to train persons employed or to be employed in preventing, controlling water pollution.
4. To lay down, modify the effluent standards of sewage and trade effluents and for the quality of receiving water resulting from the discharge of effluents and to classify waters of the state.
5. To evolve methods of utilizing the sewage and suitable trade effluents in agriculture.
6. The state Board has the authority to set up laboratories to enable the board to perform its function efficiently, including collecting samples of water from any stream or sewage or trade effluents.

Prevention and Control of Water Pollution

According to Section 19 of the Act, the state board has the power to limit the territorial jurisdiction of any order passed by it in matters relating to prevention and controlling water pollution. This means that the orders passed by the state board will only apply in the areas that are affected by water pollution. It is up to the state board to determine which area is to be declared water polluted and which is not, this can be done by making reference to a map or making reference to a line of any watershed or the boundary of any district.

The Air (Prevention and Control of Pollution) Act, 1981

The Air (Prevention and Control of Pollution) Act of 1981, or the Air Act, in short, was a law passed by the Parliament of India to prevent and control the harmful effects of air pollution in India. This act is seen as the first concrete step taken by the government of India to combat air pollution.

Why should you read about the Air Act 1981?

- A study has been released in the Lancet Journal in January 2021 about air pollution and its effects on pregnancy. According to the report, air pollution in India increases the risk of pregnancy losses in India and a few other nations in South Asia.
- India cities of Delhi, Kolkata and Mumbai make in the list of top 10 world's most polluted cities. It has been reported in the recent IQAir's [World Air Quality Report](#).
- The issue of [stubble burning](#) is a recurrent topic in the news.

Why was the Air (Prevention and Control of Pollution) Act of 1981 passed?

The effects of climate change caused by all forms of pollution became all too apparent in the early 1970s. To mitigate their harmful effects it was believed that nations would need to pass their own laws. Thus during the [United Nations General Assembly](#) on Human Environment held in Stockholm in June 1972, a resolution was passed which implored the nations of the world to preserve natural resources such as air.

India itself had issues regarding air pollution due to a wide variety of factors such as stubble burning, improper industrial practices, environmental factors etc. To combat these factors a special law was enacted under the [Constitution of India](#), which was the Air (Prevention and Control of Pollution) Act of 1981.

What are the definitions under the Air Act?

The following are the definitions under the Air (Prevention and Control of Pollution) Act.

- Section 2(a) defines an '[air pollutants](#)' as any solid liquid or gaseous substance which may cause harm or damage the environment, humans, plants, animals or even damage property. A 1987 amendment to the act also added 'noise' in the list of harmful substances.
- The air act defines 'air pollution' as the presence of any dangerous pollutant that makes the air unbreathable

Section 2 (g) of the Act also set up the [Central Pollution Control Board \(CPCB\)](#) whose powers extended to the whole of India. To carry out the directives of the CPCB the act also called for the setting up of the State Pollution Control Board (SPCB) for the individual states of India

To know what are the [Pollution Measurements](#) adopted by the CPCB visit the linked article

Air (Prevention and Control of Pollution) Act 1981 – UPSC Notes:-

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Penalties and Procedure under the Air Act

The failure to comply with the Central Pollution Control Board directives would result in imprisonment of 1 year. It can be extended to 6 years with a fine with the additional fine of 5000Rs per day added provided the directives are still not met.

For more notes on [UPSC Polity](#), visit the linked article

Any environmental complaint will only be taken into consideration by a court if it is made by the following:

- An officer authorised by the CPCB
- A person who has made a complaint to the board or an officer authorised by it. The complaint must be made within sixty days of the offence committed

Get [important acts in India](#) in the linked article.

Frequently Asked Questions on Air (Prevention and Control of Pollution) Act, 1981

Q 1. What are the key features of the Air (Prevention and Control of Pollution) Act, 1981?

Ans. The key features of the Act include:

- Advising Central Government of Air and Air Pollution related issues
- Research about the causes and impact of Air Pollution
- Spread awareness to stop air pollution
- To establish central and State Boards and empower them to monitor air quality and control pollution

Q 2. How can air pollution harm the environment?

Ans. Air pollution can lead to global warming, smog, respiratory problems, change in climate and affect the overall biodiversity and ecosystem.

Case studies:

Environmental Impact Assessment and Environmental Management Plan: A Case Study of Kachchh, Gujarat, India.

An India Case Study on COMPREHENSIVE EIA OF THERMAL POWER PLANT

Environmental impact assessment and environmental management plan - a case study of magnesite and dunite mine, South India

ENVIRONMENTAL IMPACT ASSESSMENT OF KERALA COMMUNITY IRRIGATION PROJECT – A CASE STUDY