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CHAPTER

Compliances relating to Environmental Laws (Provisions applicable for setting up of Business)

Chapter Coverage

S. No.	Topic
18.1	Water (Prevention and Control of Pollution) Act, 1974
18.2	Air (Prevention and Control of Pollution) Act, 1981
18.3	Environment Protection Act, 1986
18.4	Public Liability Insurance Act, 1991
18.5	National Green Tribunal Act, 2010
18.6	Checklist of Compliances under other Environmental Law

Regulatory Framework Coverage

Water (Prevention and Control of Pollution) Act, 1974
Air (Prevention and Control of Pollution) Act, 1981
Environment Protection Act, 1986
Public Liability Insurance Act, 1991
National Green Tribunal Act, 2010

18.1 Water (Prevention and Control of Pollution) Act, 1974

Relevant Provisions	<ul style="list-style-type: none">◆ Water Prevention and Control of Pollution Act, 1974 (the "Water Act") has been enacted to provide for the prevention and control of water pollution and to maintain or restore wholesomeness of water in the country. It further provides for the establishment of Boards for the prevention and control of water pollution with a view to carry out the aforesaid purposes.◆ Water Act prohibits the discharge of pollutants into water bodies beyond a given standard, and lays down penalties for non-compliance.◆ At the Centre, the Water Act has set up the CPCB which lays down standards for the prevention and control of water pollution.◆ At the State level, SPCBs function under the direction of the CPCB and the State Government.◆ To provide information to the SPC, access to the SPCB for taking samples and allow entry SPCB to ascertain that the provisions of the Act are being complied with.
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Checklist under Water (Prevention and Control of Pollution) Act, 1974	<ol style="list-style-type: none">1. Whether the company complied with the direction of State Board or any other officer empowered.2. The State Board or any officer authorized in this behalf have taken (i) Samples of water from any stream or well. (ii) Samples of any sewage or trade effluent passing from any plant or vessel or over any place into any such stream or well.3. Person authorized by the State Board have inspected the premises of the company to determine whether an order or direction is being complied with or for the purposes of examining plant, premises or any material object or for search and seizure of any material object which may furnish evidence of Commission of an offence under the Act.
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	<p>4. Company has got any direction from the State Board or any officer empowered by it for abstracting water from any such stream or well in the area in quantities which are substantial in relation to the flow or volume of that stream or well or is discharging sewage or trade effluent into any such stream or well to give such information as to the abstraction or the discharge at such times and in such form as may be specified in the directions.</p> <p>5. Any Notice has been received by the company from state board for not taking prior consent required as per Section 25 (1) to establish any industry, operation or process, or any treatment and disposal system or any extension /addition thereto /using the new/ altered outlet for discharge of sewage or started new discharge of sewage, as the case may be.</p> <p>6. The company has received order from State Board to remove the matter, which is, or may cause pollution; or remedy or mitigate the pollution, or issue prohibition orders to the concerned persons from discharging any poisonous or noxious or polluting matter.</p> <p>7. The company has received an order under section 33(2) restraining the company from polluting the water in any stream or well.</p> <p>8. The company has received any directions in writing for the closure, prohibition or regulation of any industry, operation or process; or the stoppage or regulation of supply of electricity, or water or any other service under section 33A.</p>
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Question For Practice

Ques 1: Discuss Checklist under Water (Prevention and Control of Pollution) Act, 1974?

Hint: Refer Topic Checklist under Water (Prevention and Control of Pollution) Act, 1974 in Topic 18.1 Water (Prevention and Control of Pollution) Act, 1974.

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

Relevant Provisions	<ul style="list-style-type: none"> ◆ Air (Prevention and Control of Pollution) Act, 1981 is an act to provide for the prevention, control and abatement of air pollution and for the establishment of Boards at the Central and State levels with a view to carrying out the aforesaid purposes. ◆ The act empowers the State Government after consultation with the SPCBs to declare any area or areas within the State as air pollution control area or areas. ◆ Under the Act, establishing or operating any industrial plant in the pollution control area requires consent from SPCBs. SPCBs are also expected to test the air in air pollution control areas, inspect pollution control equipment and manufacturing processes.
Checklist under Air (Prevention and Control of Pollution) Act 1981	<ul style="list-style-type: none"> ◆ The Company has established any industrial plant in an air pollution control area. If yes, whether the company has taken previous consent of the State Pollution Control Board. ◆ The Company has made an application for consent of the State Board in the prescribed form and the application contained the prescribed particulars. ◆ The company has got consent in writing from the State Board. Whether the consent given to company has been cancelled by State Board before the expiry of the period for which it is granted for non-fulfilment of conditions subject to which the consent was granted. ◆ The Company has got any order from court restraining the company discharging or causing or permitting to be discharged the emission of any air pollutants. ◆ The Company has received any direction from the State Board for supply of any information (including information regarding the types of atmosphere and the level of the emission of such air pollutants). ◆ Whether any person authorized in this behalf by the State Board has inspected the premises of the company for the purpose of verifying the correctness of information supplied.

	<ul style="list-style-type: none"> ◆ The Company has complied with the following conditions as laid in the consent by the State Board namely: ◆ Installation and operation of control equipment of such specification as the State Board may approve. ◆ Alteration or replacement of the existing control equipment if any, in accordance with the directions of State Board; ◆ Keeping in control equipment referred above in good running condition; ◆ Erection or re-erection of chimney, wherever necessary of such specifications as the state board may approve on this behalf ◆ Such other conditions as the State Board may specify in this behalf.
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Question For Practice

Ques 1: Discuss Checklist under Air (Prevention and Control of Pollution) Act, 1981?

Hint: Refer Topic Checklist under Air (Prevention and Control of Pollution) Act, 1981 in Topic 18.2 Air (Prevention And Control Of Pollution) Act, 1981.

18.3 Environment Protection Act, 1986

Relevant Provisions	<ul style="list-style-type: none"> ◆ Environment Protection Act, 1986 provides for the protection and improvement of environment. ◆ Environment Protection Act establishes the framework for studying, planning and implementing long-term requirements of environmental safety and laying down a system of speedy and adequate response to situations threatening the environment. ◆ Under this Act one is necessitated to: <ul style="list-style-type: none"> ■ comply with the directions issued by the Central Government. ■ direction may include closure, prohibition or regulation of any industry or stoppage or regulation of the supply of electricity, water or any other service. ■ prevent discharges or emissions excess of the prescribed standards. ■ furnish information of any accidental or unforeseen event. ■ allow entry and inspection to ascertain compliance. ■ allow samples to be taken ■ submit an "Environmental Statement" every year to the SPCB. ■ obtain prior "Environmental Clearances" from MoEF in case of a new project or for modernization/expansion of the existing project.
Penalty	<ul style="list-style-type: none"> ◆ In case of any non-compliance or contravention of the Environment Act, or of the rules or directions under the said Act, the violator will be punishable with imprisonment up to five years or with fine up to ₹ 1,00,000 or with both. ◆ In case of continuation of such violation, an additional fine of up to Rs. 5,000 for every day during which such failure or contravention continues after the conviction for the first such failure or contravention will be levied.
Checklist under Environment Protection Act, 1986	<ul style="list-style-type: none"> ◆ The Company has received any direction from the Central Government in writing for the closure, prohibition or regulation of any industry, operation /process/ stoppage/ regulation of the supply of electricity/water/any other service under section 5 of the Act. ◆ The company complied with the directions received from Central Government under section 5 of the Act.

- ◆ The Company does not discharge or emit or permit to be discharged or emitted any environmental pollutants in excess of such standards as specified under section 7 of the Environment (Protection) Act, 1986 read with rule 3A of the Environment (Protection) Rules, 1986.
- ◆ The Central Government or any officer empowered by it in this behalf have taken samples of air, water, soil or other substance from any factory, premises or other place in such manner as may be prescribed for the purpose of analysis.
- ◆ Any person empowered by the Central Government has carried out inspection for determining whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorization served, made, given or granted under this Act is being or has been complied with.
- ◆ The Company complied with the safeguard measure as prescribed for handling any hazardous substance.
- ◆ The Company has submitted an environmental audit report for the financial year ending the 31st March in Form V to the concerned State Pollution Control Board on or before the 30th Day of September.
- ◆ In case of discharge of environmental pollutant in excess of prescribed standard, Company has given intimation of the fact of such occurrence or apprehension of such occurrence to all the following authorities/ agencies.

Question For Practice

Ques 1: Discuss Checklist under Environment Protection Act, 1986.

Hint: Refer Topic Checklist under Environment Protection Act, 1986.

18.4 Public Liability Insurance Act, 1991

Relevant Provisions	<ul style="list-style-type: none"> ◆ Public Liability Insurance Act, 1991 is to provide the compensation for damages to victims of an accident of handling any hazardous substance. It is also called to save the owner of production/storage of hazardous substance from hefty penalties. First time owner is put on anvil to provide the compensation/relief, when death or injury to any person or damage to any property has resulted from an accident of hazardous substance. ◆ Owner shall buy one or more insurance policies before he/she starts handling any hazardous substance. In case any accidents come in knowledge of Collector then he/she verifies the occurrence of accident and order for relief as he/she deems fit.
Salient features of compliance under this Act	<ul style="list-style-type: none"> ◆ Owner to provide relief in case of death or injury or damage to property from an accident on the principle of no fault. ◆ Owner to draw insurance policies more than the paid-up capital but less than Rs. 50 crores. ◆ 'Paid-up Capital' is the market value of all assets and stocks on the date of insurance. ◆ Owner to pay additional amounts as contribution to the 'Environmental Relief Fund'. ◆ Owner to provide any information required for ascertaining compliance with the provisions of the Act. ◆ Owner to allow entry and inspection to ascertain compliance with the provisions of the Act. ◆ Owner to pay the amount of an award as specified by the Collector. ◆ Compliance with the directions issued in writing by the Central Government, directions may include:

	<ul style="list-style-type: none"> ■ Prohibition or regulations of handling of any hazardous substances, or ■ Stoppage or regulation of the supply of electricity, water or any other service.
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QUESTIONS

Ques 1: Write a short note on : Public Liability Insurance.

Hint: Refer Topic 18.4 Public Liability Insurance Act, 1991.

Ques 2: Public Liability Insurance intends to provide protection to the general public against any unforeseen industrial accident. Elucidate

Hint: The Public Liability Insurance Act, 1991 has been passed in background of Bhopal Gas Tragedy in the factory of Union Carbide in the night of 2.12.1984 and caustic chlorine plant accident in Delhi. Growth of hazardous industries and processes accompany risk of accident not only to workman but also to innocent members of public. Mandatory public liability insurance is felt necessary to provide for liability of such hazards to victims of the accident.

The owner shall buy one or more insurance policies before he/she starts handling any hazardous substance. When any accident comes to the knowledge of the Collector, then he/she shall verify the occurrence of accident

18.5 National Green Tribunal Act, 2010

Relevant Provisions	<ul style="list-style-type: none"> ◆ The National Green Tribunal (NGT), 2010 was established keeping in mind Rio Conference of 1992 and based on the international environment principles of 'polluter pays principle' and 'Sustainable Development'. ◆ This was established to deal with environment related disputes, a speedy disposal of these cases and giving relief and compensation for damages to persons and property and for matters connected or incidental thereto. ◆ NGT Act, 2010 comprises of a chairman who could be a sitting or a retired judge of the Supreme Court and various other members and experts provided under the provisions of the tribunal. ◆ National Green Tribunal Act, 2010 has been enacted with the objectives to provide for establishment of a National Green Tribunal (NGT) for the effective and expeditious disposal of cases relating to environment protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.
Objective of National Green Tribunal (NGT)	<ul style="list-style-type: none"> ◆ Effective and speedy disposal of the cases relating to environment protection and conservation of forests and other natural resources. ◆ All the previous pending cases will also be heard by the Tribunal. ◆ It aims at enforcing all the legal rights relating to the Environment. ◆ It accounts for providing compensation and relief to effected people for damage of property.
Power of National Green Tribunal (NGT)	<p>NGT has a power to hear all civil matters which are related to environment and questions regarding the enforcement and implementation of laws which fall under the seven categories of laws namely:</p> <ul style="list-style-type: none"> ◆ The Water (Prevention and Control of Pollution) Act, 1974; ◆ The Water (Prevention and Control of Pollution) Cess Act, 1977; ◆ The Forest (Conservation) Act, 1980; ◆ The Air (Prevention and Control of Pollution) Act, 1981; ◆ The Environment (Protection) Act, 1986; ◆ The Public Liability Insurance Act, 1991; ◆ The Biological Diversity Act, 2002.

QUESTION

Ques 1: Harpreet is doing Masters Degree and he is studying about environmental legislations. He is enquiring about 'Green Tribunal'. Brief him about Green Tribunal and its objectives.

Hint: Refer Topic Objective of National Green Tribunal (NGT).

18.6 Checklist of Compliances under Other Environmental Law**(A) Waste Management**

1. Are appropriate Waste Management practises being followed?
2. Is the full Duty of Care being completed?
3. Has the legal compliance of waste carriers been checked?
4. Are waste transfer notes being retained?
5. Is hazardous waste being disposed of according to legislative rule?
6. Are all waste streams being segregated effectively?
7. Does the organization need to register as a producer of hazardous waste?
8. Are good housekeeping and recycling measures being followed to prevent waste being needlessly sent to landfill?

(B) Water

1. Are only authorised discharges to surface water or controlled waters being made?
2. Are good housekeeping procedures being followed to avoid unnecessary consumption of water?

(C) AIR EMISSIONS

1. Is there any waste being burnt on site?
2. Has all equipment been checked to ensure there are no unnecessary emissions to air?

(D) CONTAMINATION

1. Are all chemical substances and fuel being stored appropriately?
2. Is all pollution control equipment working effectively?
3. Are spill kits present and accessible?
4. Are all hazardous or contaminated materials being disposed of correctly?
5. Is there any evidence of past unreported spills?
6. Are all necessary employees aware and knowledgeable of spill procedures?
7. Are all chemicals being stored and handled in accordance with the product data sheets and/or guidance information?

(E) NOISE

1. Have noise mitigation measures been followed?
2. Are there ear plugs available in workshops?

(F) ASBESTOS

1. Is Asbestos Register up-to date?
2. Are legislative procedures relating to asbestos being followed?

Question For Practice

Ques 1: Discuss Checklist of Compliances under Other Environmental Law for following:

- (a) Waste Management.**
- (b) Contamination.**

Hint: Refer Topic 18.6 Checklist of Compliances under Other Environmental Law.