

try or stoppage of water or electricity supply etc., the penalty is imprisonment for one and a half years to six years and fine. If it continues there is an additional fine of Rs. 5000/- per day and if it continues beyond one year then the penalty is imprisonment of two to seven years on conviction.

- (d) In case of permitting polluting material into any stream, well or land the penalty is imprisonment for one and a half years to six years or fine or both

On subsequent conviction the offender is penalised to imprisonment for two to seven years and fine, and the names of the offenders are published in newspapers at offender's expense.

Cognizance of an offence shall be taken by a court on a complaint by

- (1) a Board or an officer authorised by the Board
- (2) any person intending to make a complaint and who has given at least 60 days notice of the offence.

6.13. THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

6.13.1. Objectives of the Act

This Act has been passed to provide for the following:

- (a) prevention, control and abatement of air pollution.
- (b) maintaining the quality of air.
- (c) establishment of Boards for the prevention and control of air-pollution.

6.13.2. Definition of Pollution Under this Act

'Air-pollution' means the presence of any air pollutant in the atmosphere.

'Air-pollutant' means any solid, liquid or gaseous substances (including noise) present in the atmosphere in such concentrations as may be or tend to be injurious to human beings or other living creatures or property or environment.

'Control-equipment' means any apparatus, device, equipment or system to control the quality and manner of emission of any air pollutant and includes any device used for securing the efficient operation of any industrial plant.

6.13.3. Powers and Functions of Boards

(1) Constitution and Functions of Central Boards

To have an integrated approach for tackling the problems related to pollution, this Act provides that the Boards for the prevention and control of water pollution, constituted under Section 3 and 4 of the Water (Prevention and Control of Pollution) Act, 1974, shall also act as Air Pollution Control Boards under this Act as:

- (a) the Central Board for the Prevention and Control of Air Pollution under Section-3.
- (b) the State Board for the Prevention and Control of Air Pollution under Section-4.

in those states in which State Boards for water pollution are not established, separate State Boards for Air Pollution Control will be established under Section 5 of this Act.

Provisions regarding composition of the Board, essential qualifications, meetings, committees etc., are identical to those relating to Boards under the Water Pollution Control Act.

The functions of the various boards for control of air pollution are also identical to the functions of the Boards for Control of Water Pollution except that they aim to control air pollution whereas the Boards under Water Pollution Act aim to control water pollution.

(2) Powers of the Board

(A) **Power to Declare Air Pollution Control Areas:** Under Section 19.1, the State Govt., after consultation with the State Board may:

- (a) declare any area or areas as Air Pollution Control Areas by notification in the official gazette.
- (b) prohibit use of any fuel or appliance causing or likely to cause air pollution in an Air Pollution Control Area.
- (c) prohibit burning of any material causing or likely to cause pollution in an Air Pollution Control Area.

(B) **Power to Establish Standards for Emission of Air Pollutants from Automobiles :** Under Section 20.2 the Boards have the power to ensure that the standards for emission of air pollutants, from automobiles laid down by the State Board under clause (vii) of sub-section (1) of Section 17, are complied with.

(C) **Power to Restrict Use of Certain Industrial Plants :** Under Section 21.3 of this Act, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an Air Pollution Control Area, and,

Under Section 22.4 of this Act, no person operating any industrial plant in any Air Pollution Control Area shall discharge or cause or permit to be discharged, the emission of any air pollutant in excess of the standards laid down by the State Board under clause (vii) of sub-section (1) of Section 17.

(D) **Power of Entry and Inspection :** Under Section 24.5 of this Act, any person empowered by a State Board shall have the right to enter any place for

- (a) performing any of the functions of the State Board entrusted to him.
- (b) examining and testing any control equipment, industrial plant, record, register, documents etc.
- (c) seizing any such control equipment if he has reasons to believe that it may furnish evidence of the commission of an offence punishable under this Act.

(E) **Power to Take Samples:** Under section 26 of this Act, any officer empowered by the State Board shall have the power to take, for the purpose of analysis, samples of air or emission from any chimney, flue or duct etc. and send the same for analysis to the laboratory established or recognised by the State Board.

(3) Penalties for Violations of the Provisions Under the Act

Except for the fact that there is no provision for publication of names of offenders under this Act, the penalties for defaults or violations of the provisions under the Act are the same as under the Water Act.

The main drawback of these Acts lies in giving the defaulter 60 days notice before taking him to court as by the time the case is filed in court, the offender may destroy the evidence, in which case it becomes difficult to prove the offence. Another drawback is that no consent or permission is required to be taken from the Board for establishing an industry outside the Air Pollution Control Area even though its emission may be reaching the Air Pollution Control Area also.

Yet another drawback lies in the fact that discharge of any air pollutant into the atmosphere by a ship or aircraft is excluded from the purview of the Act.

6.14. WILDLIFE PROTECTION ACT, 1972.

6.14.1. Objectives of this Act

According to Section 1 of this Act, the objectives of Wildlife Protection Act, 1972, are the following:

- (a) to maintain essential ecological processes and life-supporting systems.
- (b) to preserve the biodiversity.
- (c) to ensure a continuous use of species *i.e.* protection and conservation of wild life.

6.14.2. Definition of Important Terms Used Under this Act

- (A) "*Wildlife*" has been defined to include any animal, bees, butterflies, crustacea, fish, moths and aquatic and land vegetation which forms part of any habitat.
- (B) The term "*Habitat*" includes land, water or vegetation which is the natural home of any wild animal.
- (C) "*Hunting*" means
 - (a) to capture, kill, poison, share and trap any wild animal or trying to do so.
 - (b) to injure, destroy or take away any part of the body of such animal and