

## The Environment (Protection) Act, 1986

This Act is an umbrella act and provides for the protection and improvement of the environment and prevention of hazards to human beings, other living creatures, plants, and property. As per this Act, the Central Government has the authority to prescribe environmental protection standards that are statutory and applicable throughout the country. Environmental protection standards are thus legal and override all standards specified under other acts. The rules prescribed under the Environment Protection Act stipulate that the States can tighten the environmental protection standards but cannot relax them. If there are no relevant state environmental protection standards but only CPCB standards and if the SPCB adopts the CPCB standards, then they become the statutory standard. However, if the SPCB standards differ from the CPCB standards, then the SPCB standards are valid and not the CPCB standards.

The Ministry of Environment and Forests is authorized to lay down the standards and enforce them. Authority has been delegated to the Central/State Boards to implement certain specific provisions of the Environment Protection Act.

The Ministry of Environment, together with the Central and State Boards, ensures implementation of various Acts by exercising control on the activities of industries at different stages, for example, during industrial licensing, before commissioning of the plant, and during plant operation. The environment Protection Act also empowers the Central Government to direct the closure, prohibition, or regulation of any industry, operation and process, including stoppage or regulation of the supply of electricity or water or any other service to the industry. Furthermore, to encourage the industry to control pollution, the Government has provided the following fiscal incentives and tax benefits:

1. A deduction in the computation of taxable income equivalent to the amount paid by a taxpayer to any association or institution for programs of conservation of natural resources.
2. A 100% depreciation allowance on devices and systems installed by industrial units for minimizing environmental pollution or for conservation of natural resources.
3. An exemption from capital gains that arise when buildings, machinery, and plants or land used for the purpose of business are transferred from urban areas to help avoid congestion.
4. A 25% rebate of the cess payable by the consumer for the consumption of water, permissible upon the installation of pollution abatement devices and their efficient operation.
5. Exemption of 27 items of goods relevant to pollution control from the excise duty levied thereon in excess of a 5% ad-valorem tax.
6. Exemption of 35 items of goods relevant to pollution control and safety in chemical industries from customs duty levied thereon in excess of a 35% ad-valorem when imported into India.

At the same time, penal provisions have been made for contravention of the Environment Protection Act. Failure to comply with or contravening to avoid the provisions of this Act or the rules made or orders of direction issued thereunder shall be punishable by imprisonment for a term which may extend to 5 years or a fine which may extend to one hundred thousand rupees (US \$2,600) or both. An additional fine is assessed at the rate of Rs.5000/day (US \$ 130/day) if failure or contravention continues after conviction for the first failure. If the failure or contravention continues beyond a period of 1 year after the date of conviction, the offender may be punished with imprisonment for a term which may extend to 7 years.

Besides laying down environmental protection standards, the Central Government also has the power to prescribe and make rules with respect to matters such as restriction on the location of industries, operations or processes, prevention of accidents that may cause environmental pollution, remedial measures, storage and handling of hazardous substance, and inspection of any premises, plant, equipment, machinery, process, or material.

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