

IA-Z-11013/20/2022-IA-II(IND-I) [177428]
Government of India
Ministry of Environment, Forest and Climate Change
(Impact Assessment Division)

Indira ParyavaranBhawan
JorBagh Road, Aliganj
New Delhi-110003

Dated: 1st July, 2022

NOTICE FOR PUBLIC CONSULTATION

Subject: Proposal for amendment in the Environment (Protection) Act, 1986 - regarding.

The **Environmental (Protection) Act, 1986 (EPA)** came into force on 19th November, 1986. The EPA, 1986 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.

2. In order to decriminalize the existing provisions of the EPA, 1986, this Ministry is examining the proposals to make amendments in the EPA, 1986 based on inputs received from various stakeholders. Accordingly, a brief note on the proposal under consideration for amendment in the EPA, 1986 is enclosed herewith as **Annexure** for comments/ suggestions from the general public, Government of States and Union Territories, industry associations, and other persons and entities concerned.

3. In view of the above, it is requested that comments/ suggestions on the above may be sent **on or before 21.07.2022**. The comments/ suggestions may be sent by e-mail in MS-Office Word file to the following ID: **diriapolicy-moefcc@gov.in**

4. The subject of the e-mail should be "Comments/ suggestions on the proposed amendment in the Environment (Protection) Act, 1986".

5. Alternatively, comments/ suggestions may also be sent by post to the following address:

Shri Sundar Ramanathan
Additional Director/Scientist 'E',
Ministry of Environment, Forest and Climate Change
Room No. V-305,
Vayu Wing, Indira Paryavaran Bhawan,
Jorbagh, Aliganj Road,
New Delhi-110003.

The envelope may kindly be superscribed on the top with "Comments/ suggestions on the proposed amendment in the Environment (Protection) Act, 1986".

Encl.: As above.

Yours faithfully,



(SundarRamanathan)
Additional Director/Scientist 'E'

Note for consultation on proposal to make amendment in the Environment
(Protection) Act, 1986

The Environmental (Protection) Act, 1986 (EPA) was enacted under Article 253 of the Indian Constitution and came into force on 19th November of 1986. The Act contains 26 sections divided into 4 chapters. The EPA, 1986 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.

2. In case of any non-compliance or contravention of the provisions of the EPA, 1986, or of the rules or directions issued under the said Act, the violator will be punishable with imprisonment up to five years or with a fine up to Rs 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. Further, if the violation continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.
3. In this regard, concerns were raised with regard to the present penal provisions and suggestions have been received for decriminalization of the existing provisions of the EPA, 1986 in order to weed out fear of imprisonment for simple violations.
4. The substantive changes in the proposed amendment of the Environmental Protection Act, 1986 are on the following lines:
 - i. Failure or contravention or non-compliance of the provisions of EPA such as submit reports, furnish information etc. would be dealt through imposing penalty through a duly authorised Adjudicating Officer. However, in case of serious violations which lead to grievous injury or loss of life, they shall be covered under the provision of Indian Penal Code, 1860 read with Section 24 of EP Act.
 - ii. Creation of fund "Environmental Protection Fund" in which the amount of penalty imposed by the Adjudicating Officer after adjudicating the damage to the environment, shall be remitted.
5. The details of the amendment proposed in the relevant sections of EPA, 1986 are appended below for comments/suggestions.

Proposed Amendment in the Environment (Protection) Act 1986

THE ENVIRONMENT (PROTECTION) ACT, 1986			
Section	Existing Provision	Proposed Provision	Comments
The following sections are proposed to be substituted			
Section 10 POWERS OF ENTRY AND INSPECTION.	<p>(1) Subject to the provisions of this section, any person empowered by the Central Government in this behalf shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place—</p> <p>(a) for the purpose of performing any of the functions of the Central Government entrusted to him;</p> <p>(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;</p> <p>(c) for the purpose of examining and testing any equipment,</p>	<p>In the Environment Protection) Act, 1986, (hereinafter called as the Principal Act), in section 10, for sub-sections (2), (3) and sub-section (4), the following shall be substituted, namely: -</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
	<p>industrial plant, record, register, document or any other material object or for conducting a search of any building in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such equipment, industrial plant, record, register, document or other material object if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution.</p> <p>(2) Every person carrying on any industry, operation or process of handling any hazardous substance shall be bound to render all assistance to the person empowered by the Central Government under sub-section (1)</p>	<p>“(2) Every person carrying on any industry, operation or process of handling any hazardous substance shall render assistance, as may be required, to the person empowered by the Central Government under sub-section (1) for carrying out functions under that sub-</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
	<p>for carrying out the functions under that sub-section and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Act.</p> <p>(3) If any person willfully delays or obstructs any persons empowered by the Central Government under sub-section (1) in the performance of his functions, he shall be guilty of an offence under this Act.</p> <p>(4) The provisions of the Code of Criminal Procedure, 1973, or, in relation to the State of Jammu and Kashmir, or an area in which that Code is not in force, the provisions of any corresponding law in force in that State or area shall, so far as may be, apply to any search or</p>	<p>section and if he fails to do so without any reasonable cause , he shall be liable to pay the penalty under section 14B.</p> <p>(3) If any person willfully delays or obstructs any persons empowered by the Central Government under sub-section (1) in the performance of his functions under sub-sections (1) and (2),he shall be liable to pay the penalty under section 14B.</p> <p>(4) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search or seizures under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.".</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
	<p>seizures under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or as the case may be, under the corresponding provision of the said law.</p>		
<p>Section 15 PENALTY FOR CONTRAVENTION OF THE PROVISIONS OF THE ACT AND THE RULES, ORDERS AND DIRECTIONS.-</p>	<p>(1) Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.</p>	<p>In the principal Act, for section 15, the following sections shall be substituted, namely: - "15. (1) Where any person contravenes or does not comply with any of the provisions of this Act or the rules made or orders or directions issued thereunder for which no penalty is provided, he shall be liable to pay the penalty in respect of each such contravention or non-compliance which shall not be less than five lakh rupees and may extend to five crore rupees: Provided that where the amount of the damage caused due to such contravention or non-compliance by that person is more than the amount of penalty, such person shall be liable to pay the penalty equal to the amount of the damage caused</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
	<p>(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.</p>	<p>(2) Where any person continues contravention or non-compliance under sub-section (1), he shall be liable to pay an additional penalty, which shall not be less than fifty thousand rupees for each day during which such contravention or non-compliance continues and may extend to five lakh rupees.</p>	
<p>Amendment of section 25 POWER TO MAKE RULES</p>	<p>25. POWER TO MAKE RULES. - (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely – (a) the standards in excess of which environmental pollutants shall not be discharged or emitted under section 71 ; (b) the procedure in accordance with and the safeguards in compliance with which hazardous substances shall be</p>	<p>6.In the Principal Act, in section 25, after clause (g), the following clauses shall be inserted, namely: - “(ga) manner of holding inquiry by the adjudicating officer under sub-section (1) of section 15C;” (gb) manner of administration of the Fund under sub-section (3) of section 17A; (gc) form for maintenance of accounts of the Fund and for preparation of annual statement of accounts under section 17B;</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
	<p>handled or caused to be handled under section 8;</p> <p>(c) the authorities or agencies to which intimation of the fact of occurrence or apprehension of occurrence of the discharge of any environmental pollutant in excess of the prescribed standards shall be given and to whom all assistance shall be bound to be rendered under sub-section (1) of section 9;</p> <p>(d) the manner in which samples of air, water, soil or other substance for the purpose of analysis shall be taken under sub-section (1) of section 11;</p> <p>(e) the form in which notice of intention to have a sample analysed shall be served under clause (a) of sub section (3) of section 11;</p> <p>(f) the functions of the environmental laboratories,4 the</p>	<p>(gd) form for preparing Annual Report of the Fund under section 17C."</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
	<p>procedure for the submission to such laboratories of samples of air, water, soil and other substances for analysis or test; the form of laboratory report; the fees payable for such report and other matters to enable such laboratories to carry out their functions under sub-section (2) of section 12;</p> <p>(g) the qualifications of Government Analyst appointed or recognised for the purpose of analysis of samples of air, water, soil or other substances under section 13;</p> <p>(h) the manner in which notice of the offence and of the intention to make a complaint to the Central Government shall be given under clause (b) of section 19;7</p> <p>(i) the authority of officer to whom any reports, returns, statistics, accounts and other information</p>		

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
	shall be furnished under section 20; (j) any other matter which is required to be, or may be, prescribed.		
The following sections are proposed to be inserted			
Insertion of clause (ca) after clause (c)		(ca) "Fund" means Environmental (Protection) Fund established under section 17A;	
Insertion of section 14A deals with Penalty for contravention of section 7 and 8 of the Act		"14A. (1) If any person, contravenes provisions of section 7 or section 8 or orders or directions issued thereunder, he shall be liable to pay the penalty in respect of each such contravention or non-compliance which shall not be less than five lakh rupees and may extend to five crore rupees: Provided that where the amount of the damage caused due to such contravention or non-compliance by that person is more than the amount of penalty, such person shall be liable to pay the penalty equal to the amount of the damage caused. (2) Where any person continues contravention or non-compliance under sub-section (1), he shall be liable to pay an	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
		additional penalty, which shall not be less than one lakh rupees for each day during which such contravention continues and may extend to fifty lakh rupees.	
<p>Insertion of section 14B deals with Penalty for contravention of section 9, 10 and 11.</p>		<p>14B.(1) If any person contravenes or does not comply with section 9, section 10 or section 11 or orders or directions issued under those sections, he shall be liable to pay the penalty in respect of each such contravention or non-compliance which shall not be less than five lakh rupees and may extend to five crore rupees.</p> <p>(2) Where any person continues contravention or non-compliance under subsection (1), he shall be liable to pay an additional penalty which shall not be less than one lakh rupees for each day during which such contravention or non-compliance continues and may extend to fifty lakh rupees."</p>	
<p>Insertion of section 15A Penalty for contravention by companies</p>		<p>15A. Where any company contravenes any provision of this Act, such company shall be liable to pay the penalty for each such contravention which shall not be less than</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
		<p>five lakh rupees and may extend to five crore rupees:</p> <p>Provided that where the amount of the damage caused due to such contravention or non-compliance by that person is more than the amount of penalty, such company or body corporate shall be liable to pay the penalty equal to the amount of the damage caused.</p>	
<p>Insertion of section 15B Penalty for contravention by Government Department.</p>		<p>15B. Where contravention of any provision of this Act has been committed by any department or agency of the Central Government or any State Government and such contravention is attributable to any neglect on the part of the officer concerned, such officer and if contravention is committed on the instruction of senior officer or Head of the Department, such senior officer or Head of the Department, as the case may be, shall be liable to pay the penalty not exceeding two lakh rupees for each such contravention.</p>	
<p>Insertion of section 15C Adjudicating Officer.</p>		<p>15C. (1) The Central Government, for the purposes of determining the penalties under this Act, may appoint an officer not below</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
		<p>the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold an inquiry in the manner, as may be prescribed, and to impose the penalty:</p> <p>Provided that the Central Government may appoint as many adjudicating officers as may be required.</p> <p>(2) The Adjudicating officer may -</p> <p>(a) call upon any person alleged to have contravened or not complied with the provisions of this Act & Rules made thereunder or having the knowledge of the facts and circumstances of the case; and</p> <p>(b) require such person to produce any record, register or other document in his possession or any other document, which in the opinion of the adjudicating officer may be relevant to the subject-matter.</p> <p>(3) The Adjudicating Officer shall, after giving the person a reasonable opportunity of being heard in the matter, and if, on such inquiry, he is satisfied that the person</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
		<p>concerned has contravened or has not complied with the provisions of the Act or the rules made thereunder, he may impose such penalty as he thinks fit in accordance with the provisions of section 14A, 14B, 15, 15A or section 15B, as the case may be.</p> <p>(4) The Adjudicating Officer, while adjudicating the quantum of penalty under sub-section (3), shall have due regard to the following, namely: -</p> <p>(a) the population and the area impacted or affected by such contravention;</p> <p>(b) the frequency and duration of such contravention;</p> <p>(c) the vulnerability of the class of persons likely to be adversely affected by such contravention;</p> <p>(d) the amount of loss caused or likely to cause to any person, as a result of the contravention, if any; and</p> <p>(f) any other relevant factor.</p>	
<p>Insertion of section 15D Appeal.</p>		<p>15.D (1) Any person aggrieved by the order, passed by the adjudicating officer under this Act may prefer an appeal to the National</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986			
Section	Existing Provision	Proposed Provision	Comments
		<p>Green Tribunal established under section 3 of the National Green Tribunal Act, 2010.</p> <p>(2) Every appeal under sub-section (1) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.</p> <p>(3) The National Green Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.</p>	
Insertion of section 15E Penalty amount to be credited to Environmental (Protection) Fund.		15E. Where any penalty or additional penalty, as the case may be, is imposed under section 14A, 14B, 15, 15A or section 15B, the amount of such penalty shall be credited to the Environmental (Protection) Fund established under section 17A.	
Insertion of section 15F Offence for failure to pay penalty or additional penalty.		15F. Where any person fails to pay the penalty or additional penalty, as the case may be, under sections 14A, 14B, 15, 15A and section 15B, he shall be liable for imprisonment which may extend to 3 years or with fine which may extend upto ten crore rupees or with both."	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
		<p>(2) Where any offence under sub-section (1) has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of such offence and he shall be liable to be proceeded against and punished accordingly:</p> <p>Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in sub-section (1), if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p> <p>(3) Notwithstanding anything contained in sub-section (2), where an offence und has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986			
Section	Existing Provision	Proposed Provision	Comments
		<p>also deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.</p> <p><i>Explanation.</i> -For the purposes of this section, -</p> <p>(a) "company" means any body corporate and includes a Limited Liability Partnership firm or other association of individuals;</p> <p>(b) "director", in relation to a firm, means a partner in the firm."</p>	
<p>The following chapter is proposed to be inserted, namely: -</p> <p>CHAPTER IIIA</p> <p>FUND, ACCOUNTS AND AUDIT</p>			
Insertion of section 17A Environmental (Protection) Fund.		<p>17A. (1) The Central Government may, by notification in the Official Gazette, establish a fund to be known as the Environmental (Protection) Fund (hereinafter in this Chapter referred to as the "Protection Fund").</p> <p>(2) Where an adjudicating officer imposes penalty or additional penalty, as the case may be, under sections 14A, 14B, 15, 15A and section 15B or the penalty imposed in</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986			
Section	Existing Provision	Proposed Provision	Comments
		<p>furtherance of an order of an adjudicating officer, the penalty so imposed and paid by the contravener shall be credited to the Protection Fund established under subsection (1).</p> <p>(3) The Central Government may prescribe the manner in which the Protection Fund shall be administered, the manner in which money shall be drawn from the Protection Fund and any other matters connected therewith or incidental thereto for the administration of the Protection Fund”.</p>	
Insertion of section 17B Accounts and audit of the Fund.		<p>17B. (1) The Central Government shall maintain separate accounts and other relevant records in relation to the Environmental (Protection) Fund and prepare an annual statement of accounts in such form, as may be prescribed, in consultation with the Comptroller and Auditor-General of India.</p> <p>(2) The accounts of the Fund shall be audited by the Comptroller and Auditor - General of India at such intervals as may be specified by him and such audited accounts together with the audit report thereon shall</p>	

THE ENVIRONMENT (PROTECTION) ACT, 1986

Section	Existing Provision	Proposed Provision	Comments
		be forwarded annually to the Central Government.	
Insertion of section 17C Annual Report.		17C.The Central Government shall prepare its annual report in relation to Environmental (Protection) Fund giving a full account of its activities define under this Act in such form, as may be prescribed, for each financial year during the previous financial year and forward a copy thereof, within four months from the last date of the previous financial year, to the Central Government which shall cause the annual report and the audit report given by the Comptroller and Auditor-General of India to be laid before each House of Parliament."	
