

ENVIRONMENT (PROTECTION) ACT, 1986

The Environment (Protection) Act, 1986 No. 29 OF 1986 123rd May, 1986¹ An Act to Provide for the Protection and Improvement of Environment and for Matters Connected therewith. WHEREAS decisions Were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, to take appropriate Steps for the protection and improvement of human environment; AND WHEREAS it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and the prevention of harms to human and other living creatures, plants and property; BE it enacted by Parliament in the Thirty-seventh Year Of the Republic of India as follows: CHAPTER 1 PRELIMINARY 1. (1) This Act may be called the Environment (Protection) Act, 1986. (2) It extends to the whole of India. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different areas. Definitions— Power of central Government to make rules to THE ENVIRONMENT (PROTECTION) ACT, 1986 2. In Act, unless the context otherwise requires: — (a) "environment" includes water; air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property; (b) "environmental pollutant" means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment; (c) "environmental pollution" means the presence in the environment of an environmental pollutant; (d) "handling", in relation to any substance, means the manufacture, processing, treatment, package, storage, transformation, use, collection, destruction, conversion, offering for sale or transfer or the like of such substance; (e) "hazardous substance" means any substance preparation which, by reason of its chemical or physical-chemical properties or handling; is liable to cause harm to human and other living creatures, plants; micro-organism, property or the environment; (f) in relation to any factory or premises, means a person who is in charge of the affairs of the factory or the premises and includes, in relation to any substance, the person in possession of the substance; (g) "prescribed" means prescribed by rules made under this Act CHAPTER 2 POWERS OF THE CENTRAL GOVERNMENT 3. (1) Subject to the provisions of this Act, 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 and preventing, controlling and abating environmental pollution. ENVIRONMENT (PROTECTION) ACT, 1986 (2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the following matters, namely: — (i) co-ordination of actions by the State Governments, officers and other authorities: — (a) under this Act, or the rules made thereunder; or (b) under any other law for the time being in force which is relatable to the objects of this Act; (ii) planning and execution of a national-wide programme for the prevention, control and abatement of environmental pollution; (iii) laying down standards for the quality of environment in its various aspects; laying down standards for emission or discharge of environmental pollutants from various sources whatsoever; Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources; (iv) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards; (v) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents; (vi) laying down procedures and safeguards for handling of hazardous substances; protect and improve environment- 4 THE ENVIRONMENT (PROTECTION) ACT, 1986 (vii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution; (ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution; (x) inspection of any premises, plant, equipment, machinery manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution; (xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act; (xii) collection and dissemination of information

in respect of matters relating to environmental pollution; (xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution; (xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act. (3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures. r ENVIRONMENT (PROTECTION) 1986 4. (J) Without prejudice to the provisions of sub-section (3) of section 3, the Central Government may appoint officers with such designations as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit, (2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Central Government or if so directed by that Government, also of the authority or authorities, if any, constituted under sub-section (3) of section 3 or of any other authority or officer 5. Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions. Explanation: —For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct:— (a) the closure, prohibition or regulation of any industry, operation or process; or (b) stoppage or regulation of the supply of electricity or water or any other service. 6. | 1) The Central Government may, by notification in the Official Gazette, make rules in respect of or any of the matters referred to in section 3. (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 of quality of air, water or soil for various areas and purposes; (b) the maximum allowable limits of concentration of various environmental pollutants (including noise) for different areas; (c) the procedures and safeguards for the handling of hazardous substances; Appointment of officers and their powers and functions, Power to give directions. Rules to regulate the carrying on of industry, not allow emission or discharge of environmental pollutants in excess of the standards; Persons handling hazardous substances — To comply with the safeguards. THE (PROTECTION) ACT, 1986 (d) the prohibition and restrictions on the handling of hazardous substances in different areas; the prohibition and restrictions on location of industries and the carrying on of processes and operations in different areas; (f) the procedures and safeguards for the prevention of accidents which may cause environmental pollution and for providing for remedial measures for such accidents, CHAPTER 1 PREVENTION, CONTROL AND ABATEMENT OF ENVIRONMENTAL POLLUTION 7. No person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed

8. No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed. 1986 9. (1) Where the discharge of any environmental pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event, the person responsible for such discharge and the person in charge of the place in which such discharge occurs or is apprehended to occur shall be bound to prevent or mitigate the environmental pollution caused as a result of such discharge and shall also forthwith: - (a) intimate the fact of such occurrence or apprehension of such occurrence; and (b) be bound, if called upon, to render all assistance to such authorities or agencies as may be prescribed, (2) On receipt of information with respect to the fact or apprehension of any occurrence or the nature referred to in sub-section (1) whether through intimation under that sub-section or otherwise, the authorities or agencies referred to in sub-section (1) shall, as early as practicable, cause such remedial measures to be taken as are necessary to prevent or mitigate the environmental pollution. (3) The expenses, if

any, incurred by any authority or agency with respect to the remedial measures referred to in sub-section together with interest (at such reasonable rate as the Government may, by Order, fix) from the date when a demand for the expenses made until it is paid may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand

10. C I) 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: (a) for the purpose of performing any of the functions of the Central Government entrusted to him; (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 made, given or granted under this Act is being or has been complied with; (c) for the purpose of examining and testing any equipment, industrial plant, record, register, document or any other material object or for conducting a search or 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 seizing any such industrial plant, record, register, document or other material object if he has reasons 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. (2) Every person carrying on any industry, operation or process or handling any hazardous substance shall be bound to render all assistance to the person empowered by the Central Government under sub-section (1) 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. (3) If any person wilfully delays or obstructs any person 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. (4) The provisions of the Code of Criminal Procedure, 1973, or, in relation to the State of Jammu and Kashmir, or any 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 search or seizure 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. 11. (1) The Central Government or any officer empowered by it in this behalf, shall have power to take, for the purpose of samples of air, water, soil or other substance from any factory, premises or other place in such manner as may be prescribed, (2) The result of any analysis of a sample taken under sub-section (1) shall be admissible in evidence in any legal proceeding unless the provisions of the sub-sections (3) and (4) are complied with, (3) Subject to the provisions of sub-section (4), the person taking the sample under sub-section (1) shall: (a) serve on the occupier or his agent or person in charge of the place, notice, in such form as may be prescribed, of his intention to have it so (b) in the presence of the occupier or his agent or person, collect sample for analysis. (c) cause the sample to be placed in container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent or person, (d) send without delay, the container or containers to the laboratory established or recognised by the Central Government under section 12. (4) —When a sample is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent or person, a notice under clause (a) of sub-section (3) then:— (a) in a case where the occupier or his agent or person wilfully absents himself, the person taking the sample shall collect the sample for analysis to be placed in container or containers which shall be marked and sealed and shall also be signed by the person taking the sample, and (b) in a case where the occupier or his agent or person is present at the time of taking the sample and refuses to sign the marked and sealed container or containers of the sample as required under clause (c) of sub-section (3) the marked and sealed container or containers shall be signed by the person taking the sample, and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or recognised under section 12 and such person shall inform the Government Analyst appointed under section 13 in writing about the wilful absence of the occupier or his agent or person, or, as the case may be, his refusal to sign the container or containers

12. The Central Government may, by notification in the Official Gazette: (a) establish one or more environmental laboratories: Environmental Laboratories. 10. Government Analysts. Reports of Government Analysts.

Penalty for contravention of the the Act and the orders and directions. Offences by companies THE ENVIRONMENT (PROTECTION) ACT, 1986 (b) recognise one or more laboratories or institutes as environmental laboratories to carry out the functions entrusted to an environmental laboratory under this Act. (2) The Central Government may, by notification in the Official Gazette, make rules specifying: (a) the functions of the environmental laboratory; (b) the procedure for the submission to the said laboratory of samples of air, water, soil or other substance for analysis or tests, the form of the laboratory report thereon and the fees payable for such report; (c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions, The Central Government may by notification in the Official Gazette, appoint or recognise such persons as it thinks fit and having the prescribed qualifications to be Government Analysts for the purpose of analysis of samples of air, water, soil or other substance sent for analysis to any environmental laboratory established or recognised under sub-section (1) of section 12

14. Any document purporting to be a report signed by Government analyst may be used as evidence the facts stated therein in any proceeding under this Act. (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 term which may extend to five years or with fine which may extend to one lakh rupees or with both, continues, with addition of rupees for every day during which such failure or contravention continues the first such failure or contravention- (2) 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 term which may extend to seven years (J) Where any offence under this Act has been committed by a 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 the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, 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, (2) Notwithstanding anything contained in sub-section where an offence under this Act 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 also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation—For the purposes of this section— (a) "company" means any body corporate and includes a firm or other association of individuals; (b) "director"; in relation to a firm, means a partner in the firm. 17. (1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this section shall render such Head of the Department liable to any punishment 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. (2) Notwithstanding anything contained in sub-section where an offence under this Act has been committed by a Department of Government 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 other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 11 Offences by Government Departments. 12 Protection of action taken in good faith by Cognizance Of offences. Informers or Members, officers and employees of the authority constituted under section 3 of the public servants. Bar jurisdiction, THE ENVIRONMENT (PROTECTION) ACT, 1986 CHAPTER IV MISCELLANEOUS No suit, prosecution or other legal proceeding shall lie against the Government or any officer or other employee of the Government or any authority constituted under this Act or any member, officer or other employee of such authority in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder

19. No court shall take cognizance of any offence under this Act except on a complaint made by — (a) the Central Government or any authority or officer authorised in this behalf by that Government; or (b) any person who has given notice of not less than thirty days, in the manner prescribed, of the alleged offence

and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid

10. The Central Government may, in relation to Its functions under This Act* from time to time, require any person, officer, State Government or other authority to furnish to it or any prescribed authority or officer any reports, returns, statistics, accounts and other information and person, officer, State Government or other authority shall be bound to do so

21. All the members of the authority, constituted, if any* under section 3 and all officers and other employees of such authority when acting purporting to act in pursuance of any provisions of this Act or the rules made or orders or directions issued thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code 22' No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any order or direction issued by the Central Government or any other authority or ENVIRONMENT (PROTECTION) ACT, 1986 officer In pursuance of any power conferred by or in relation to or his functions under this Act

23. Without prejudice to the provisions of sub-section (3) of section 3, the Central Government may, by notification in the Official Gazette, delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act* [except the power to constitute an authority under sub-section (3) of section 3 and to make rules under section 251 as it may deem necessary or expedient, to any officer, State Government or other authority. 24. (1) Subject to the provisions of sub-section the provisions of this Act the rules or orders made here in shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act- (2) Where any act or omission constitutes an offence punishable under this Act, and also under any other Act then the offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act- 25. (1) The Central Government may, by notification in Official Gazette, make rules for carrying out the purposes of this Act- (2) In particular, and without prejudice to the generality the foregoing powers 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 7; (b) the procedure in accordance with and the safeguards in connection with which hazardous substances shall be handled or cause to be handled under section 8; (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; (3) Power to delegate. Effect of other laws Power to make rules made this be laid Parliament. THE ENVIRONMENT (PROTECTION) ACT, 1986 (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; (e) the form in which notice of intention to have sample analysed shall be served under clause (a) of sub-section (3) of section 11; (f) the functions of the environmental laboratories, the 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; (g) the qualifications of Government Analyst appointed or recognised for the purpose of analysis of samples of water, soil or other substances under section 13; (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; (i) the authority or officer to whom any reports, returns, statistics, accounts and other information shall be furnished under section 20; (j) any other which is required to be, or may be, prescribed

26. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. This Act of Parliament received the assent of the President of India on