

NOTES

Air (Prevention and Control of Pollution) Act, 1981: Environment Law

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Background and Objective

Parliament enacted the Air (Prevention and Control of Pollution) Act, 1981 to implement the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in 1972.

The Act draws its constitutional authority from [Article 253](#), which empowers Parliament to legislate on matters agreed at international conferences. Its stated purpose is to prevent, control, and abate air pollution, and to establish Boards that carry out these functions.

The Act follows the institutional model of the Water (Prevention and Control of Pollution) Act, 1974. [Section 3](#) deems the Central Pollution Control Board constituted under the Water Act to be the Central Board for the purposes of the Air Act, and Section 4 does the same for State Boards.

This arrangement avoids duplicating bodies, since one set of Boards now regulates both water and air pollution.

Key Definitions: Section 2

[Section 2\(a\)](#) defines an "air pollutant" as any solid, liquid, or gaseous substance present in the atmosphere in such concentration as may be, or tend to be, injurious to human beings, other living creatures, plants, property, or the environment.

The Air (Prevention and Control of Pollution) Amendment Act, 1987 expanded this definition to include noise, which brought noise pollution within the Act's regulatory reach.

[Section 2\(b\)](#) defines "air pollution" as the presence in the atmosphere of any air pollutant. The Act also defines terms such as "approved fuel," "automobile," "emission," "industrial plant," and "occupier," each of which supports the operative provisions on consent and emission standards.

Functions of the Central Board: Section 16

Section 16 assigns the *Central Board a broad mandate, which includes advising the Central Government on matters concerning air quality, planning a nationwide programme for the prevention and control of air pollution, and coordinating the activities of State Boards.*

The Central Board also provides technical assistance, conducts investigations and research, and collects and disseminates data. Importantly, it lays down standards for the quality of air, which then serve as the benchmark for State-level enforcement.

Functions of State Boards: Section 17

Section 17 empowers *State Boards to plan comprehensive programmes for the prevention and control of air pollution within their territories and to advise the State Government on suitable industrial locations.*

State Boards inspect air pollution control areas, industrial plants, and control equipment, and they lay down standards for emissions from industrial plants and automobiles. Consequently, State Boards do most of the ground-level enforcement under the Act.

Power of the Central Government to Issue Directions: Section 18

Section 18 empowers the Central Government *to issue directions to a State Board, and the State Board must comply.* The State Government may likewise issue directions to its own Board. This provision keeps the regulatory system accountable to the executive while allowing policy coordination across states.

Air Pollution Control Areas: Section 19

Section 19 authorises the ***State Government, after consulting the State Board, to declare any area within the State an "air pollution control area" by notification.*** Within such an area, the State Government may prohibit the use of any fuel other than an approved fuel, and it may prohibit the burning of any material likely to cause air pollution.

This provision creates the territorial basis for the strictest controls under the Act, since several later provisions operate only inside declared control areas.

Automobile Emissions: Section 20

Section 20 empowers the State Government, *in consultation with the State Board, to issue instructions to the authority in charge of registering motor vehicles.* The State Government does so to ensure compliance with the prescribed emission standards for automobiles.

This provision connects the Act to vehicular pollution, which has become one of the principal sources of urban air pollution in India.

Consent Requirement: Section 21

Section 21 ***prohibits any person from establishing or operating any industrial plant in an air pollution control area without the previous consent of the State Board.***

An applicant must apply in the prescribed form, and the Board must decide the application within four months of receiving it. The Board may grant consent subject to conditions on equipment and emissions, or it may refuse consent with recorded reasons.

This "*consent to establish*" and "*consent to operate*" mechanism forms the backbone of the regulatory regime. Moreover, a person who obtains consent must comply with its conditions, and consent remains valid only for the period the Board specifies.

Emission Standards: Section 22 and Section 22A

Section 22 prohibits any person operating an industrial plant in an air pollution control area from discharging, or permitting the discharge of, any air pollutant in excess of the standards laid down by the State Board. This obligation binds the operator directly, irrespective of whether the Board has issued any specific notice.

Section 22A, inserted by the 1987 Amendment, allows a State Board to apply to a court not inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class.

The Board can seek an order restraining a person from discharging pollutants in excess of the prescribed standards. The court may order the person to desist from the emission and may direct

the Board to take remedial measures, and this gives the Board a quick judicial remedy alongside its administrative powers.

Entry, Inspection, and Sampling: Sections 24 to 27

[Section 24](#) empowers Board officers to enter any place at reasonable times to perform their functions, examine equipment, and inspect records. Section 25 empowers the Board to obtain information from occupiers, while Section 26 authorises officers to take samples of air or emissions from any chimney, flue, or duct. Officers must follow the prescribed procedure, which includes serving notice on the occupier and dividing the sample into parts.

[Section 27](#) requires the analyst to send a report of the result of analysis of each sample. These procedural safeguards matter because courts rely on sample analysis when they decide prosecutions, and any defect in procedure can weaken the case against the accused.

Appeals: Section 31

[Section 31](#) gives any aggrieved person a right to appeal against certain orders of the State Board, such as orders refusing or imposing conditions on consent, within thirty days. Originally an Appellate Authority heard these appeals.

Since the enactment of the National Green Tribunal Act, 2010, the NGT exercises this appellate jurisdiction under Section 16 of that Act, which brings air pollution disputes before a specialised environmental forum.

Power to Give Directions: Section 31A

[Section 31A](#), also added in 1987, empowers the Board to issue directions in writing to any person, officer, or authority, and the recipient must comply.

These directions may include ***closure, prohibition, or regulation of any industry, operation, or process, and the stoppage or regulation of electricity, water, or any other service. This provision gives the Board a strong enforcement tool, since it can shut down a polluting unit without first initiating a prosecution.***

Penalties: Sections 37 to 39

[Section 37](#) prescribes the penalty for failing to comply with Section 21, Section 22, or a direction issued under Section 31A.

The offender faces imprisonment for a term not less than one year and six months, which may extend to six years, along with a fine. If the failure continues, an additional fine of up to five thousand rupees applies for each day.

Where the failure continues beyond one year after conviction, the offender faces imprisonment for not less than two years, extendable up to seven years.

[Section 38](#) penalises specified acts, such as obstructing Board officers or damaging Board property and monitoring equipment.

[Section 39](#) provides a residual penalty for contravening any provision of the Act for which no separate punishment exists. Together, these sections create a graded penalty structure that escalates with the seriousness and persistence of the violation.

Offences by Companies and Government Departments: Sections 40 and 41

[Section 40](#) provides that where a company commits an offence, every person directly in charge of and responsible for the conduct of its business at that time is deemed guilty along with the company.

Such a person can escape liability only by proving that the offence occurred without their knowledge or that they exercised due diligence to prevent it. Liability also extends to any director, manager, or officer where the offence occurred with their consent, connivance, or neglect.

[Section 41](#) applies a parallel rule to Government departments and makes the Head of the Department liable, subject to the same defences. As a result, public bodies cannot claim immunity from the Act's penal provisions.

Cognizance and Bar of Jurisdiction: Sections 43 and 46

[Section 43](#) provides that a court can take cognizance of an offence under the Act only on a complaint by the Board or an officer authorised by it, or by a person who has given the Board at least sixty days' notice of the alleged offence and of the intention to complain.

This notice requirement lets citizens enforce the Act, although it also gives the alleged polluter an opportunity to correct the violation. Section 46 bars civil courts from entertaining any suit or proceeding in respect of matters that the Act empowers an authority to determine.

Judicial Contributions

Courts have shaped air pollution law through active public interest litigation. In **M.C. Mehta v. Union of India (Taj Trapezium case), (1997) 2 SCC 353**, the Supreme Court directed industries operating near the Taj Mahal to switch to natural gas or relocate, because emissions threatened the monument.

The Court applied the **precautionary principle and stressed that the burden of proving that an activity is harmless lies on the industry.**

In the **Delhi vehicular pollution litigation, also titled M.C. Mehta v. Union of India**, the Court directed the conversion of the city's public transport fleet to compressed natural gas. The orders reflected the Court's willingness to issue detailed technical directions under Article 32 when executive action fell short.

On noise, **Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Association, (2000) 7 SCC 282**, held that no religious practice can justify noise that violates the rights of others, and that noise falls within the Act's definition of an air pollutant.

Later, In **Re: Noise Pollution, (2005) 5 SCC 733**, recognised the right to a peaceful environment and to sleep as part of Article 21, and it restricted the use of loudspeakers at night.

Relationship with Other Environmental Laws

The **Air Act works alongside the Water Act, 1974 and the Environment (Protection) Act, 1986**. The Environment Protection Act functions as an umbrella statute, and Section 24 of that Act gives its provisions overriding effect over inconsistent enactments, except for the Water and Air Acts.

Together, these three statutes, along with the National Green Tribunal Act, 2010, form the core of India's statutory framework for pollution control, and examiners often test how their provisions overlap.

Air (Prevention and Control of Pollution) Act, 1981

CLEAN AIR • HEALTHY ENVIRONMENT • SUSTAINABLE FUTURE

1 Background & Objective (SECTION 3)

- Enacted after the 1972 Stockholm Conference (UN Conference on Human Environment).
- Based on Article 253 of the Constitution.
- Goal:** prevent, control and abate air pollution.
- Follows the model of the Water Act, 1974 (uses the same Boards).



2 Key Definitions (SECTION 2)

- Air pollutant** – any solid, liquid or gaseous substance in the atmosphere in harmful concentration (extended in 1987 to include noise).
- Air pollution** – presence of any air pollutant.
- Also defines:** approved fuel, automobile, emission, industrial plant, occupier, etc.



3 Functions of Central Board (SECTION 16)

- Advise Central Government on air quality.
- Plan nationwide programme for prevention and control.
- Coordinate State Boards.
- Provide technical assistance, research, collect & disseminate data.
- Lay down air quality standards.



4 Functions of State Boards (SECTION 17)

- Plan programmes within the State.
- Advise on suitable industrial locations.
- Inspect areas, plants and control equipment.
- Lay down emission standards.
- Do most ground-level enforcement.



5 Power to Issue Directions (SECTION 18)

- Central Government can issue directions to State Board.
- State Government can issue directions to its own Board.
- Ensures accountability & policy coordination.



6 Air Pollution Control Areas (SECTION 19)

- State Government (after consulting State Board) can declare any area as an air pollution control area.
- May prohibit use of non-approved fuels and burning of polluting material.
- Creates territorial basis for strict controls.



7 Automobile Emissions (SECTION 20)

- State Government (with State Board consultation) can issue instructions to vehicle registration authority.
- Ensures compliance with emission standards.



8 Consent Requirement (SECTION 21)

- No industrial plant can be set up or operated in a control area without prior State Board consent.
- Application in prescribed form.
- Decision within 4 months.
- Consent may have conditions or be refused (with reasons).



9 Penalties for Contravention (SECTION 22)

- Imprisonment up to 5 years, or fine up to ₹1 lakh, or both.
- Continuing offence: additional fine up to ₹5,000 per day.
- If continues beyond 1 year after conviction: imprisonment up to 7 years.



10 Amendment (2019)

- Imprisonment completely abolished.
- Penalty for violation: ₹10,000 – ₹15 lakhs.
- Additional penalty for continuing violation: ₹10,000 per day.



Stronger enforcement.
Cleaner air.