**ENVIRONMENT PROTECTION ACT**

The need for protection and conservation of environment and sustainable use of natural resources is reflected in the constitutional framework of India and also in the international commitments of India. The Constitution under Part IVA (Art 51A-Fundamental Duties) casts a duty on every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures. Further, the Constitution of India under Part IV (Art 48A-Directive Principles of State Policies) stipulates that the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

Several environment protection legislations existed even before Independence of India. However, the true thrust for putting in force a well-developed framework came only after the UN Conference on the Human Environment (Stockholm, 1972). After the Stockholm Conference, the National Council for Environmental Policy and Planning was set up in 1972 within the Department of Science and Technology to establish a regulatory body to look after the environment-related issues. This Council later evolved into a full-fledged Ministry of Environment and Forests (MoEF).

MoEF was established in 1985, which today is the apex administrative body in the country for regulating and ensuring environmental protection and lays down the legal and regulatory framework for the same. Since the 1970s, a number of environment legislations have been put in place. The MoEF and the pollution control boards ("CPCB", ie, Central Pollution Control Board and "SPCBs", ie, State Pollution Control Boards) together form the regulatory and administrative core of the sector.

Some of the important legislations for environment protection are as follows:

* The National Green Tribunal Act, 2010
* The Air (Prevention and Control of Pollution) Act, 1981
* The Water (Prevention and Control of Pollution) Act, 1974
* The Environment Protection Act, 1986
* The Hazardous Waste Management Regulations, etc.

These important environment legislations have been briefly explained in the succeeding paragraphs.

The National Green Tribunal Act, 2010

The National Green Tribunal Act, 2010 (No. 19 of 2010) (NGT Act) has been enacted with the objectives to provide for establishment of a National Green Tribunal (NGT) for the effective and expeditious disposal of cases relating to environment protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

The Act received the assent of the President of India on June 2, 2010, and was enforced by the Central Government *vide* Notification no. S.O. 2569(E) dated October 18, 2010, with effect from October 18, 2010. The Act envisages establishment of NGT in order to deal with all environmental laws relating to air and water pollution, the Environment Protection Act, the Forest Conservation Act and the Biodiversity Act as have been set out in Schedule I of the NGT Act.

Consequent to enforcement of the National Green Tribunal Act, 2010, the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997 stand repealed. The National Environment Appellate Authority established under s 3(1) of the National Environment Appellate Authority Act, 1997stands dissolved, in view of the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010 *vide* Notification no. S.O. 2570(E) dated October 18, 2010.

The Air (Prevention and Control of Pollution) Act, 1981

The Air (Prevention and Control of Pollution) Act, 1981 (the "Air Act") is an act to provide for the prevention, control and abatement of air pollution and for the establishment of Boards at the Central and State levels with a view to carrying out the aforesaid purposes.

To counter the problems associated with air pollution, ambient air quality standards were established under the Air Act. The Air Act seeks to combat air pollution by prohibiting the use of polluting fuels and substances, as well as by regulating appliances that give rise to air pollution. The Air Act empowers the State Government, after consultation with the SPCBs, to declare any area or areas within the Sate as air pollution control area or areas. Under the Act, establishing or operating any industrial plant in the pollution control area requires consent from SPCBs. SPCBs are also expected to test the air in air pollution control areas, inspect pollution control equipment, and manufacturing processes.

The Water (Prevention and Control of Pollution) Act, 1974

The Water Prevention and Control of Pollution Act, 1974 (the "Water Act") has been enacted to provide for the prevention and control of water pollution and to maintain or restore wholesomeness of water in the country. It further provides for the establishment of Boards for the prevention and control of water pollution with a view to carry out the aforesaid purposes. The Water Act prohibits the discharge of pollutants into water bodies beyond a given standard, and lays down penalties for non-compliance. At the Centre, the Water Act has set up the CPCB which lays down standards for the prevention and control of water pollution. At the State level, SPCBs function under the direction of the CPCB and the State Government.

Further, the Water (Prevention and Control of Pollution) Cess Act was enacted in 1977 to provide for the levy and collection of a cess on water consumed by persons operating and carrying on certain types of industrial activities. This cess is collected with a view to augment the resources of the Central Board and the State Boards for the prevention and control of water pollution constituted under the Water (Prevention and Control of Pollution) Act, 1974. The Act was last amended in 2003.

The Environment Protection Act, 1986

The Environment Protection Act, 1986 (the "Environment Act") provides for the protection and improvement of environment. The Environment Protection Act 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. It is an umbrella legislation designed to provide a framework for the coordination of central and state authorities established under the Water Act, 1974 and the Air Act. The term "environment" is understood in a very wide term under s 2(a) of the Environment Act. It includes water, air and land as well as the interrelationship which exists between water, air and land, and human beings, other living creatures, plants, micro-organisms and property.

Under the Environment Act, the Central Government is empowered to take measures necessary to protect and improve the quality of environment by setting standards for emissions and discharges of pollution in the atmosphere by any person carrying on an industry or activity; regulating the location of industries; management of hazardous wastes, and protection of public health and welfare. From time to time, the Central Government issues notifications under the Environment Act for the protection of ecologically-sensitive areas or issues guidelines for matters under the Environment Act.

In case of any non-compliance or contravention of the Environment Act, or of the rules or directions under the said Act, the violator will be punishable with imprisonment up to five years or with 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.

Hazardous Wastes Management Regulations

Hazardous waste means any waste which, by reason of any of its physical, chemical, reactive, toxic, flammable, explosive or corrosive characteristics, causes danger or is likely to cause danger to health or environment, whether alone or when in contact with other wastes or substances.

There are several legislations that directly or indirectly deal with hazardous waste management. The relevant legislations are the Factories Act, 1948, the Public Liability Insurance Act, 1991, the National Environment Tribunal Act, 1995 and rules and notifications under the Environmental Act. Some of the rules dealing with hazardous waste management are discussed below:

* **Hazardous Wastes (Management, Handling and Transboundary) Rules, 2008**, brought out a guide for manufacture, storage and import of hazardous chemicals and for management of hazardous wastes.
* **Biomedical Waste (Management and Handling) Rules, 1998**, were formulated along parallel lines, for proper disposal, segregation, transport, etc, of infectious wastes.
* **Municipal Solid Wastes (Management and Handling) Rules, 2000**, aim at enabling municipalities to dispose municipal solid waste in a scientific manner.

In view of the short-comings and overlapping of some categories causing inconvenience in implementation of the Biomedical Waste (Management and Handling) Rules, 1998 as well as the Municipal Solid Wastes (Management and Handling) Rules, 2000, the Ministry of Environment, Forest and Climate Change has formulated the draft Bio-Medical Waste (Management & Handling) Rules, 2015 (Draft BMW Rules) and the draft Solid Waste Management Rules, 2015 (Draft SWM Rules) and sought comments on the draft Rules.

The Draft BMW Rules are to replace the Biomedical Waste (Management and Handling) Rules, 1998, and the Draft SWM Rules are to replace the Municipal Solid Waste (Management and Handling) Rules, 2000. The objective of the Draft BMW Rules is to enable the prescribed authorities to implement the rules more effectively, thereby, reducing the bio- medical waste generation and also for its proper treatment and disposal and to ensure environmentally sound management of these wastes, and the Draft SWM Rules aim at dealing with the management of solid waste including it segregation at source, transportation of waste, treatment and final disposal.

* **E - Waste (Management and Handling) Rules, 2011** have been notified on May 1, 2011 and came into effect from May 1, 2012, with primary objective to reduce the use of hazardous substances in electrical and electronic equipment by specifying threshold for use of hazardous material and to channelize the e-waste generated in the country for environmentally sound recycling. The Rules apply to every producer, consumer or bulk consumer, collection centre, dismantler and recycler of e-waste involved in the manufacture, sale, purchase and processing of electrical and electronic equipment or components as detailed in the Rules.
* **Batteries (Management & Handling) Rules, 2001** deal with the proper and effective management and handling of lead acid batteries waste. The Act requires all manufacturers, assemblers, re-conditioners, importers, dealers, auctioneers, bulk consumers, consumers, involved in manufacture, processing, sale, purchase and use of batteries or components thereof, to comply with the provisions of Batteries (Management & Handling) Rules, 2001.

Other Laws Relating to Environment

In addition, there are many other laws relating to environment, namely –

The Wildlife Protection Act, 1972

*The Wild Life (Protection) Act, 1972* was enacted with the objective of effectively protecting the wild life of this country and to control poaching, smuggling and illegal trade in wildlife and its derivatives. The Act was amended in January 2003 and punishment and penalty for offences under the Act have been made more stringent. The Ministry has proposed further amendments in the law by introducing more rigid measures to strengthen the Act. The objective is to provide protection to the listed endangered flora and fauna and ecologically important protected areas.

The Forest Conservation Act, 1980

*The* *Forest Conservation Act, 1980* was enacted to help conserve the country's forests. It strictly restricts and regulates the de-reservation of forests or use of forest land for non-forest purposes without the prior approval of Central Government. To this end the Act lays down the pre-requisites for the diversion of forest land for non-forest purposes.

*The* *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006*, recognises the rights of forest-dwelling Scheduled Tribes and other traditional forest dwellers over the forest areas inhabited by them and provides a framework for according the same.

*The* *Indian Forest Act, 1927* consolidates the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce.

Public Liability Insurance Act, 1991

*The* *Public Liability Insurance Act, 1991* was enacted with the objectives to provide for damages to victims of an accident which occurs as a result of handling any hazardous substance. The Act applies to all owners associated with the production or handling of any hazardous chemicals.)

The Biological Diversity Act, 2002

The Biological Diversity Act 2002 was born out of India's attempt to realise the objectives enshrined in the United Nations Convention on Biological Diversity (CBD), 1992 which recognises the sovereign rights of states to use their own Biological Resources. The Act aims at the conservation of biological resources and associated knowledge as well as facilitating access to them in a sustainable manner. The National Biodiversity Authority in Chennai has been established for the purposes of implementing the objects of the Act.