

Course Name	LL.B 4 <sup>th</sup> sem
Subject	Environment Law
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Concept	Air Act , 1981

## **THE AIR (PREVENTION AND CONTROL OF POLLUTION)1 ACT, 1981**

Sec 3. Central Pollution Control Board – The Central Pollution Control Board constituted under Sec. 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), shall, without prejudice to the exercise and performance of its powers and functions under that Act, exercise the powers and perform the functions of the Central Pollution Control Board for the prevention and control of air pollution under this Act.

Sec 4. State Pollution Control Boards constituted under Sec.4 of Act 6 of 1974 to be State Boards under this Act. – In any State in which the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), is in force and the State Government has constituted for that State a State Pollution Control Board under Sec. 4 of that Act, such State Board shall be deemed to be the State Board for the Prevention and Control of Air Pollution constituted under Sec. 5 of this Act, and accordingly that State Pollution Control Board shall, without prejudice to the exercise and performance of its powers and functions under that Act, exercise the powers and perform the functions of the State Board for the prevention and control of air pollution under this Act.

Sec 5. Constitution of state boards. – (1) In any State in which the Water (Prevention and Control of Pollution), Act 1974 (6 of 1974), is not in force or that Act is in force but the State Government has not constituted a [State Pollution Control Board] under that Act, the State Government shall, with effect from such date as it may, by notification in the Official Gazette, appoint, constitute a State Board for the Prevention and Control of Air Pollution under such name as may be specified in the notification, to exercise the powers conferred on, and perform the functions assigned to that Board under this Act.

(2) A State Board constituted under this Act shall consist of the following members, namely;

(a) a Chairman, being a person having special knowledge or practical experience in respect of matters relating to environmental protection to be nominated by the State Government: provided that the Chairman may be either whole-time or part-time as the State Government may think fit;

(b) such number of officials, not exceeding five, as the State Government may think fit, to be nominated by the State Government to represent that Government;

(c) such number of persons, not exceeding five, as the State Government may think fit, to be nominated by the State Government from amongst the members of the local authorities functioning within the State;

(d) such number of non-officials, not exceeding three, as the State Government may think fit to be nominated by the State Government to represent the interests of agriculture, fishery or industry or trade or labour or any other interest, which in the opinion of that Government, ought to be represented;

(e) two persons to represent the companies or corporations owned, controlled or managed by the State Government, to be nominated by that Government;

(f) a full-time member-secretary having such qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control as may be prescribed, to be appointed by the State Government.

Provided that the State Government shall ensure that not less than two of the members are persons having special knowledge or practical experience in respect of matters relating to the improvement of the quality of air or the prevention, control or abatement of air pollution.

(3) Every State Board constituted under this Act shall be a body corporate with the name specified by the State Government in the notification issued under sub-section (1), having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire and dispose of property and to contract, and may by the said name sue or be sued.

6. Central board to exercise the powers and perform the functions of a State Board in the union territories – No State

Board shall be constituted for a Union Territory and in relation to a Union Territory; the Central Board shall exercise the powers and perform the functions of a State Board under this Act for that Union Territory: Provided that in relation to any Union Territory the Central Board may delegate all or any of its powers and functions under this section to such person or body of persons as the Central Government may specify.

7. Terms and conditions of service of members –

(1) Save as otherwise provided by or under this Act, a member of a State Board constituted under this Act, other than the member-secretary, shall hold office for a term of three years from the date on which his nomination is notified in the Official Gazette: Provided that a member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) The terms of office of a member of a State Board constituted under this Act and nominated under CI. (b) or CI. (e) of sub-section (2) of Sec. 5 shall come to an end as soon as he ceases to hold the office under the State Government or, as the case may be, the company or corporation owned, controlled or managed by the State Government, by virtue of which he was nominated.

(3) A member of a State Board constituted under this Act, other than the member secretary, may at any time resign his office by writing under his hand addressed –

(a) in the case of the Chairman, to the State Government; and  
(b) in any other case, to the Chairman of the State Board and the seat of the Chairman or such other member shall thereupon become vacant.

(4) A member of a State Board constituted under this Act, other than the member secretary, shall be deemed to have vacated his seat, if he is absent without reason, sufficient in the opinion of the State Board, from three consecutive meetings of the State Board or where he is nominated under CI. (c) of sub-section (2) of Sec. 5, he ceases to be a member of the local authority and such vacation of seat shall, in either case, take effect from such date as the State Government may, by notification in the Official Gazette, specify.

(5) A casual vacancy in a State Board constituted under this Act shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated.

(6) A member of a State Board constituted under this Act shall be eligible for recombination .

(7) The other terms and conditions of service of the Chairman and other members (except the Member-Secretary) of a State Board constituted under this Act shall be such as may be prescribed.

9. Vacation of seats by members – If a member of a State Board constituted under this Act becomes subject to any of the disqualification specified in Sec. 8, his seat shall become vacant.

10. Meetings of Board – (1) For the purposes of this Act, a Board shall meet at least once in every three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed Provided that if, in the opinion of the Chairman, any business of an urgent nature is to be transacted, he may convene a meeting of the Board at such time as he thinks fit for the aforesaid purpose. (2) Copies of the minutes of the meetings under sub-section (1) shall forwarded to the Central Board and to the State Government concerned.

11. Constitution of Committees. –

(1) A board may constitute as many committees consisting wholly of members or partly of members and partly of other persons and for such purpose or purposes as it may think fit.

(2) A committee constituted under this section shall meet at such time at such place, and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed. (3) The members of a committee other than the members of the Board shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the Board as may be prescribed.

12. Temporary association of persons with Board for particular purposes. –

1) A Board may associate, with itself in such manner, and for such purposes, as may be prescribed, any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.

2) A person associated with the Board under sub-section (1) for any purpose shall have a right to take part in the discussions of the Board relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member of the Board for any other purpose.

3) A person associated with a Board under sub-section (1) shall be entitled to receive such fees and allowances as may be prescribed.

13. Vacancy in Board not to invalidate acts or proceedings. —

No act or proceeding of a Board or any committee thereof shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board or such committee, as the case may be.

14. Member-secretary and officers and other employees of State Boards. —

(1) The terms and conditions of a service of the member-secretary of a State Board constituted under this Act shall be such as may be prescribed.

(2) The member-secretary of a State Board, whether constituted under this Act or not, shall exercise such powers and perform



such duties as may be prescribed, or as may, from time to time, be delegated to him by the State Board or its Chairman.

(3) Subject to such rules as may be made by the State Government in this behalf, a State Board, whether constituted under this Act or not, may appoint such officers and other employees as it considers necessary for the efficient performance of its functions under this Act.

(4) This method of appointment, the conditions of service and the scales of pay of the officers (other than the member-secretary) and other employees of a State Board appointed under sub-section (3) shall be such as may be determined by regulations made by the State Board under this Act.

(5) Subject to such conditions as may be prescribed, a State Board constituted under this Act may from time to time appoint any qualified person to be a consultant to the Board and pay him such salary and allowances or fees, as it thinks fit.

## 15. Delegation of powers –

A State Board may, by general or special order, delegate to the Chairman or the member-secretary or any other officer of the Board subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary.

## 16. Functions of Central Board

(1) Subject to the provisions of this Act, and without prejudice to the performance of its functions under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), the main functions of the Central Board shall be to improve the quality of air and to prevent, control or abate air pollution in the country.

(2) In particular and without prejudice to the generality of the foregoing functions, the Central Board may

(a) advise the Central Government on any matter concerning the improvement of the quality of air and the prevention, control or abatement of air pollution;

(b) plan and cause to be executed a nation-wide programme for the prevention, control or abatement of air pollution;

(c) co-ordination the activities of the State Board and resolve disputes among them;

(d) provide technical assistance and guidance to the State Boards, carry out and sponsor investigations and research relating to problems of air pollution and prevention, control or abatement of air pollution; (dd) perform such of the functions of any State Board as may be specified in an order made under subsection (2) of Sec. 18;

(e) plan and organize the training of person engaged or to engaged in programmes for the prevention, control or abatement of air pollution on such terms and conditions as the Central Board may specify;

(f) organize through mass media a comprehensive programme regarding the prevention, control or abatement of air pollution;

(g) collect, compile and publish technical and statistical data relating to air pollution and the measures devised for its effective prevention, control or abatement and prepare manuals, codes or guides relating to prevention, control or abatement of air pollution;

(h) lay down standards for the quality of air;

(i) collect and disseminate information in respect of matters relating to air pollution;

(j) perform such other function as may be prescribed.

(3) The Central Board may establish or recognize a laboratory or laboratories to enable the Central Board to perform its functions under this section efficiently.

(4) The Central Board may –

(a) delegate any of its functions under this Act generally or specially to any of the Committees appointed by it;

(b) do such other things and perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purposes of this Act.

17. Functions of State Boards –

(1) Subject to the provisions of this Act, and without prejudice to the performance of its functions, if any, under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), the functions of a State Board shall be: -

(a) to plan a comprehensive programme for the prevention, control or abatement of air pollution and to secure the execution thereof;

(b) to advise the State Government on any matter concerning the prevention, control or abatement of air pollution;

(c) to collect and disseminate information relating to air pollution;

(d) to collaborate with the Central Board in organizing the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of air pollution and to organize mass-education programme relating thereto;

(e) to inspect, at all reasonable times, any control equipment, industrial plant or manufacturing process and to give, by order, such directions to such persons as it may consider necessary to take steps for the prevention, control or abatement of air pollution;

(f) to inspect air pollution control areas to such intervals as it may think necessary, assess the quality of air therein and take steps for the prevention, control or abatement of air pollution in such areas;

(g) to lay down, in consultation with the Central Board and having regard to the standards for the quality of air laid down by the Central Board, standards for the quality of air laid down by the Central Board, standards for emission of air pollutants into the atmosphere from industrial plants and automobiles or for the discharge of any air pollutant into the atmosphere from any other source whatsoever not being a ship or an aircraft; Provided that different standards for emission may be laid down under this clause for different industrial plants having regard to the quality and composition of emission of air pollutions into the atmosphere from such industrial plants;

(h) to advise the State Government with respect to the suitability of any premises or location for carrying on any industry which is likely to cause air pollution;

(i) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government;

(j) to do such other things and to perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purpose of this Act.

(2) A State Board may establish or recognize a laboratory or laboratories to enable the State Board to perform its functions under this section efficiently.

18. Power to give directions. –

(1) In the performance of its functions under this Act, -

(a) the Central Board shall be bound by such directions in writing as the Central Government may give to it; and

(b) every State Board shall be bound by such direction in writing as the Central Board or the State Government may give to it: Provided that where a direction given by the State Government is inconsistent with the direction given by the Central Board, the matter shall be referred to the Central Government for its decision

(2) Where the Central Government is of the opinion that any State Board has defaulted in complying with any directions given by the Central Board under sub-section (1) and as a result of such default a grave emergency has arisen and it is necessary or expedient so to do in the public interest, it may, by order, direct the Central Board to perform any of the functions of the State Board in relation to such area, for such period and for such purposes, as may be specified in the order.

(3) Where the Central Board performs any of the function of the State Board in pursuance of a direction under sub-section (2), the expenses, if any, incurred by the Central Board with respect to the performance of such functions may, if the State Board is empowered to recover such expenses, be recovered by the Central Board with interest (at such reasonable rate as the Central Government may, by order, fix) from the date when a demand for such expenses is made until it is paid from the

person or persons concerned as arrears of land revenue or of public demand.

(4) For the removal of doubts, it is hereby declared that any directions to perform the functions of any State Board given under sub-section (2) in respect of any area would not preclude the State Board from performing such functions in any other area in the State or any of its other functions in that area.

#### 19. Power to declare air pollution control areas.

(1) The State Government may, after consultation with the State Board, by notification in the Official Gazette, declare in such manner as may be prescribed, any area or areas within the State as air pollution control area or areas for the purposes of this Act.

(2) The State Government may, after consultation with the State Board, by notification in the Official Gazette, -

(a) after any air pollution control area whether by way of extension or reduction;

(b) declare a new air pollution control area in which may be merged one or more existing air pollution control areas of any part or parts thereof.

(3) If the State Government, after consultation with the State Board, is of opinion that the use of any fuel, other than an approved fuel, in any air pollution control area or part thereof, may cause or is likely to cause air pollution, it may, by notification in the Official Gazette, prohibit the use of such fuel

in such area or part thereof with effect from such date (being not less months from the date of publication of the notification) as may be specified in the notification.

(4) The State Government may, after consultation with the State Board, by notification in the Official Gazette, direct that with effect from such date as may be specified therein, no appliance, other than an approved appliance, shall be used in the premises situated in an air pollution control area provided that different dates may be specified for different parts of an air pollution control area or for the use of different appliances.

(5) If the State Government after consultation with the State Board, is of opinion that the burning of any material (not being fuel) in any air pollution control area or part thereof may cause or is likely to cause air pollution, it may, by notification in the Official Gazette, prohibit the burning of such material in such area or part thereof.

20. Power to give instructions for ensuring standards for emission from automobiles –

With a view to ensuring that the standards for emission of air pollutions from automobiles laid down by the State Board under CI. (g) of sub-section (1) of Sec. 17 are complied with, the State Government shall, in consultation with the State Board, give such instructions as may be deemed necessary to the concerned authority in charge of registration of motor vehicles under the Motor Vehicles Act (4 of 1939) and such authority shall,



notwithstanding anything contained in that Act or the rules made there under be bound to comply with such instructions.

## 21. Restrictions on use of certain industrial plants.

(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area.

(2) An application for consent of the State Board under sub-section (1) shall be accompanied by such fees as may be prescribed and shall be made in the prescribed form and shall contain the particulars of the industrial plant and such other particulars as may be prescribed.

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry, shall follow such procedure as may be prescribed.

(4) Within a period of four months after the receipt of the application for consent referred to in sub-section (1), the State Board shall, by order in writing, [and for reasons to be recorded in the order, grant the consent applied for subject to such conditions and for such period as may be specified in the order, or refuse such consent:] Provided that it shall be open to the State Board to cancel such consent before the expiry of the period for which it is granted or refused further consent after

such expiry if the conditions subject to which such consent as has been granted are not fulfilled: Provided further that before canceling a consent or refusing a further consent under the first proviso, reasonable opportunity of being heard shall be given to the person concerned.

(5) Every person to whom consent has been granted by the State Board under sub-section (4), shall comply with the following conditions, namely:

(i) the control equipment of such specifications as the State Board may approve in this behalf shall be installed and operated in the premises where the industry is carried on or proposed to be carried on:

(ii) the existing control equipment, if any, shall be altered or replaced in accordance with the directions of the State Board;

(iii) the control equipment referred to in CI. (i) or CI. (ii) shall be kept at all times in good running conditions;

(iv) chimney, wherever necessary, of such specifications as the State Board may approve in this behalf shall be erected or re-erected in such premises;

(v) such other conditions as the State Board may specify in this behalf; and (vi) the conditions referred to in CIs.(i), (ii), and

(iv) shall be complied with within such period as the State Board may specify in this behalf:

Provided that in the case of a person operating any industrial plant in an air pollution control area immediately before the date of declaration of such area as an air pollution control area, the period so specified shall not be less than six months: Provided further that –

(a) after the installation of any control equipment in accordance with the specifications under CI. (i) or, (b) after the alteration or replacement of any control equipment in accordance with the directions of the State Board under CI. (ii), or

(c) after the alteration or re-erection of any chimney under CI. (iv), no control equipment of chimney shall be altered or replaced or, as the case may be, erected or re-erected except with the previous approval of the State Board.

(6) If due to any technological improvement or otherwise the State Board is of opinion that all or any of the conditions referred to in sub-section (5) require or requires variation (including the change of any control equipment either in whole or in part,) the State Board shall, after giving the person to whom consent has been granted an opportunity of being heard, vary all or any of such conditions and thereupon such person shall be bound to comply with the conditions and thereupon such person shall be bound to comply with the conditions as so varied.

(7) Where a person to whom consent has been granted by the State Board under sub-section (4) transfers his interest in the

industry to any other person, such consent shall be deemed to have been granted to such other person and he shall be bound to comply with all the conditions subject to which it was granted as if the consent was granted to him originally.