

National Environmental (Amendment) Act, No. 56 of 1988
[Certified on 12 December, 1988]

AN ACT TO AMEND THE NATIONAL ENVIRONMENTAL ACT, NO. 47 OF 1980

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

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| 1. | This Act may be cited as the National Environmental (Amendment) Act, No. 56 of 1988. | Short Title |
| 2. | The long title of the National Environmental Act, No. 47 of 1980 (hereinafter referred to as the "principal enactment") is hereby amended by the substitution for the words "for the protection and management of the environment", of the words "for the protection, management and enhancement of the environment, for the regulation, maintenance and control of the quality of the environment; for the prevention, abatement and control of pollution". | Amendment to the long title of Act No. 47 of 1980 |
| 3. | Section 5 of the principal enactment is hereby amended in subsection (1) of that section as follow:-

(1) by the substitution in paragraph (b) of that subsection for the words "functions and duties ; and", of the words "functions and duties";

(2) by the substitution in paragraph (c) of that subsection, for the words "in or outside Sri Lanka", of the words "in or outside Sri Lanka ; and" ; and

(3) by the addition immediately after paragraph (c) of that subsection of the following new paragraph:-

“(d) all such sums of money as may be received by the Authority as licence fee.” | Amendment of section 5 of the principal enactment |
| 4. | Section 7 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for paragraphs (r), (s) and (t) of the following paragraphs:-

“ (r) a senior officer of the Ministry of the Minister in charge of the subject of Trade and Shipping nominated by such Minister ;

(s) a senior officer of the Ministry of the Minister in charge of the subject of Defence nominated by such Minister ;

(t) a senior officer nominated by the Minister in charge of the Greater Colombo Economic Commission established under the Greater Colombo Economic Commission Law, No. 4 of 1978 ;

(u) the person holding office for the time being as the Director-General of the Authority ; | Amendment of section 7 of the principal enactment |

- (v) seven members to represent the interests of voluntary agencies in the field of environment ; and
- (w) two members from among persons with adequate expertise or experience in environmental protection and management.”

5. Section 10 of the principal enactment is hereby amended as follows:-

Amendment of
Section 10 of the
principal
enactment

- (1) by the repeal of subsection (2) of that section ;
- (2) by the re-numbering of subsection (1) of that section as section 10 ;
- (3) by the re-numbering of paragraphs *(f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q)* and *(r)* ; and
- (4) by the insertion immediately after paragraph *(e)* of the re-numbered section 10, of the following new paragraphs:-
 - (f)* to be responsible for the co-ordination of all regulatory activities relating to the discharge of wastes and pollutants into the environment and the protection and the improvement of the quality of the environment ;
 - (g)* to regulate, maintain and control the volume, types, constituents and effects of waste, discharge, emissions, deposits or other sources and subsources of pollution which are of danger or potential danger to the quality or the environment of any segment of the environment ;
 - (h)* to require the submission of proposals, for new projects and changes in or abandonment of existing projects, for the purpose of evaluation of the beneficial and adverse impacts of such proposals on the environment ;
 - (i)* to require any local authority to comply with and give effect to any recommendations relating to environmental protection within the limits of the jurisdiction of such local authority and in particular any recommendations relating to all or any of the following aspects of environmental pollution ;
 - (i) the prohibition of the unauthorized discharge, emission or deposit of litter, waste, garbage and sewage ;
 - (ii) the prevention of the discharge of untreated sewage or substandard industrial effluents or toxic chemicals into soil, canals or water ways ;
 - (iii) the prohibition of the display of posters or bills on walls or buildings or any other unauthorized places and regulations of the erection of advertising hoardings ;

- (iv) the prevention of the defacement of the scenic places and public property ;
 - (v) the control of pollution of the atmosphere ;
 - (vi) the control of noise pollution ; and
 - (vii) the storage, transport and disposal of any material which is hazardous to health and environment ;
- (j) to appoint special committees to assist it in performance of its functions ;”

6. Section 13 of the principal enactment is hereby amended as follows:-

Amendment of section 13 of the principal enactment

- (1) in subsection (1) of that section, by the substitution for the words, “A General Manager” of the words “A Director-General”;
- (2) in subsection (2) of that section, by the substitution for the words “The General Manager shall”, of the words “the Director-General shall” ;
- (3) in subsection (3) of that section by the substitution for the words “the General Manager shall”, of the words “the Director-General shall”; and
- (4) by the substitution for the marginal note to that section, of the following marginal note:-

“Director-General,
Secretary and
Staff of the Authority.”

7. The following new Parts are hereby inserted immediately after Part IV and shall have effect as Part IVA, Part IVB and Part IVC in the principal enactment:-

Insertion of new Parts IVA, IVB and IVC in the principal enactment

PART IV A

ENVIRONMENTAL PROTECTION

23A. With effect from such date as may be appointed by the Minister by Order published in the Gazette, (hereinafter referred to as the “relevant date”), no person shall discharge, deposit, or emit waste into the environment which will cause pollution except –

Prohibition of the discharge, emission or deposit of waste into the environment.

- (a) under the authority of a licence issued by the Authority ; and

- (b) in accordance with such standards and other criteria as may be prescribed under this Act.
- 23B. (1) The Authority may, on application being made therefore to the Authority in such form as may be prescribed, and on payment of the prescribed fee, issue a licence to any person authorizing such person to discharge, deposit or emit, waste into the environment, in accordance with such standards and criteria as may be prescribed under this Act. Issue of a licence.
- (2) Every licence issued under this Part shall –
- (a) be in such form as may be prescribed ;
 - (b) be subject to such terms, conditions and such standards as may be prescribed ;
 - (c) be valid for such period as shall be specified in the licence, provided, it shall not be for more than a period of twelve months ; and
 - (d) be renewable.
- 23C. (1) On receipt of an application under section 23B, the Authority may, where it considers necessary, refer such application to an appropriate Government department or public corporation requesting that a report be submitted on such application. Authority may refer application to a Government department or public corporation.
- (2) Where an application is referred to Government department or public corporation under subsection (1), the Authority shall not take any decision on such application until it receives the report relating to the same from such department or corporation.
- 23D. Where a licence has been issued to any person under this Part and such person acts in violation of any of the terms, standards and conditions of the licence, or where since the issue of the licence, the receiving environment has been altered or changed due to natural factors or otherwise, or where the continued discharge, deposit, or emission of waste into the environment under the Authority of the licence will or could affect any beneficial use adversely, the Authority may by order suspend for any period specified in such order, or cancel such licence. Suspension or cancellation of licence.
- 23E. (1) Any applicant for a licence under this Part who is aggrieved by the refusal of the Authority to grant a licence, or, any holder of a licence issued under this Part and who is aggrieved by the suspension or cancellation, or refusal to renew a licence so issued may, within thirty days after the date of the notification of such decision appeal in writing against such refusal, suspension, cancellation or refusal to renew, as the case may be to the Secretary to the Ministry, of the Minister. Appeals against refusal of licence &c.
- (2) The decision of the Secretary to the Ministry of the Minister on any

such appeal shall be final.

PART IV B

ENVIRONMENTAL QUALITY

- 23G. Subject to section 23A of this Act with effect from the relevant date, no person shall deposit or emit waste into the inland waters of Sri Lanka, except in accordance with such standards or criteria as may be prescribed under this Act. Restriction regulation and control of pollution of the inland waters.
- 23H. (1) No person shall pollute any inland waters of Sri Lanka or cause or permit to cause pollution in the inland waters of Sri Lanka so that the physical, chemical or biological condition of the waters is so changed as to make or reasonably expected to make those waters or any part of those waters unclean, noxious, poisonous, impure, detrimental to the health, welfare, safety or property of human beings, poisonous or harmful to animals, birds, wildlife, fish, plants or other forms of life or detrimental to any beneficial use made of those waters. Pollution of inland waters of Sri Lanka
- (2) Without limitation to the generality of subsection (1) a person shall be deemed to contravene the provisions of that subsection, if-
- (a) he places in or on any waters or in a place where it may gain access to any waters any matter, whether solid, liquid, gaseous, that is prohibited by or under this Act or by any regulations made thereunder ;
 - (b) he places any waste, whether solid, liquid, or gaseous in a position where it falls, descends, drains, evaporates, is washed, is blown or percolates, is likely to fall, descended, drain, evaporate, be washed, be blown, percolate into any waters or on the bed of any river, stream or other waterway when dry, or knowingly or through his negligence, whether directly or indirectly, causes or permits on such matter to place in such a position ;
 - (c) he places waste on the bed, when dry, of any river, stream or other waterway or knowingly or through his negligence causes or permits any wastes to be placed on such a bed ;
or
 - (d) he causes the temperature of inland, coastal or off-shore waters of Sri Lanka to be raised or lowered by more than the prescribed limits.
- (3) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence, and on conviction shall be-
- (a) liable to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand, and thereafter in the event of the offence being continued to be committed, to a fine of rupees five hundred for each day on which the

offence is so continued to be committed ; and

(b) required to take within such period as may be determined by court, such corrective measures as may be deemed necessary to prevent further damage being caused to the inland, coastal and off-shore waters of Sri Lanka and furnish at the end of such period sufficient and acceptable proof of the incorporation of such corrective measures. The court shall also order such person convicted, to bear the expenses that may have been incurred by the authority in the correction of damage already caused as a consequence of the commission of such offence, and where such person fails to bear the expenses so incurred be recovered in like manner as a fine imposed by the court.

(4) Where any person convicted of an offence under subsection (3) continues to commit such offence after a period of six weeks from the date of his conviction, the court may upon an application for closure being made by the Director-General or any officer authorized in that behalf by the Director-General order the closure of such factory or trade, or business being carried at such premises, which caused the pollution of inland, coastal or off-shore waters of Sri Lanka, until such time such person takes adequate corrective measures to prevent further damage being caused.

(5) In any case where such person fails to comply with the closure order issued under subsection (4), the Magistrate shall forthwith order the fiscal of the court requiring and authorizing such fiscal before a date specified in such order not being a date earlier than three or later than seven clear days from the date of issue of such order to close such factory or trade or business being carried at such premises. Such order shall be sufficient authority for the said fiscal or any police officer authorized by him in that behalf to enter the premises with such assistants as the fiscal or such police officer shall deem necessary to close such factory or trade or business being carried at such premises.

23J. Subject to section 23A of this Act with effect from the relevant date, no person shall discharge or emit waste into the atmosphere except in accordance with such standards or criteria as may be prescribed under this Act.

Restriction on pollution of the atmosphere

23K. (1) No person shall pollute the atmosphere or cause or permit the atmosphere to be polluted so that the physical, chemical or biological condition of the atmosphere is so changed as to make or reasonably be expected to make the atmosphere or any part thereof unclean, noxious, poisonous, impure, detrimental to the health, welfare, safety, or property or human beings, poisonous or harmful to animals, birds, wildlife, plant or all other forms of life or detrimental to any beneficial use of the atmosphere.

Pollution of atmosphere

(2) Without limitation to the generality of subsection (1) a person shall be deemed to contravene that subsection if-

- (a) he places in or in such manner that it may be released into the atmosphere, any matter, whether liquid, solid, or gaseous, that is prohibited by or under this Act or by any regulation made thereunder to be placed in the atmosphere or does not comply with any regulations prescribed therefore under this Act ;
- (b) he causes or permits the discharge of odours which by virtue of their nature, concentration, volume, or extent are obnoxious or unduly offensive to the senses of human beings ;
- (c) he burns, wastes otherwise than at times of in the manner or place prescribed ;
- (d) he uses an internal combustion engine or fuel burning equipment not equipped with any device required by the regulations to be fitted to such engine for the prevention or reduction of pollution ; or
- (e) he uses or burns any fuel which is prohibited by regulations made under this Act.

(3) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence, and on conviction shall be-

- (a) liable to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand, and thereafter in the event of the offence being continued to be committed, to a fine of rupees five hundred for each day on which the offence is so continued to be committed ;
- (b) required to take within such period as may be determined by court, such corrective measures as may be deemed necessary, to prevent further damage being caused by the pollution of atmosphere, and furnish at the end of such period sufficient and acceptable proof of the incorporation of such corrective measures. The court shall also require such person convicted to bear the expenses incurred by the authority in the correction of damage already caused as a result of the commission of such offence.

(4) Where any person convicted of an offence under subsection (3) continues to commit such offence after a period of six weeks from the date of his conviction, the court may upon an application for closure being made by the Director-General or any officer authorized in that behalf by the Director-General order the closure of such factory or trade, or business being carried at such premises, which cause the pollution of atmosphere until such time, such person takes adequate corrective measures to prevent further damage being caused.

(5) In any case where such person fails to comply with the closure

order issued under subsection (5), the Magistrate shall forthwith order the fiscal of the court requiring and authorizing such fiscal before a date specified in such order not being a date earlier than three or later than seven clear days from the date of issue of such order to close such factory or trade or business being carried at such premises. Such order shall be sufficient authority for the said fiscal or any police officer authorized by him in that behalf to enter the premises with such assistants as the fiscal or such police officer shall deem necessary to close such factory or trade or business being carried at such premises.

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| 23L. | Any person who owns, uses, operates, constructs, sells, installs or offers to sell or install any machinery, vehicle or boat required by or under this Act or any regulation made thereunder to be built, fitted or equipped with any device for preventing or limiting pollution of the atmosphere without such machinery, vehicle or boat being so built, fitted or equipped shall be guilty of an offence. All devices built, fitted or equipped under this section shall be maintained and operated at the cost of the owner. | Failure to fit and maintain prescribed control devices an offence |
| 23M. | Subject to section 23A of this Act, with effect from the relevant date, no person shall discharge or deposit waste into the soil, except in accordance with such standards or criteria as may be prescribed under this Act. | Restriction, regulation and control of pollution of the soil |
| 23N. | <p>(1) No person shall pollute or cause or permit to be polluted any soil or the surface of any land so that the physical, chemical or biological condition of the soil or surface is so changed as to make or be reasonably be expected to make the soil or the produce of the soil poisonous or impure, harmful or potentially harmful to the health or welfare of human beings, poisonous or harmful to animals, birds, wildlife, plants or all other forms of life or obnoxious or, unduly offensive to the senses of human beings or so as to detrimental to any beneficial use of the land.</p> <p>(2) Without limitation to the generality of subsection (1) a person shall be deemed to contravene that subsection if-</p> <p style="margin-left: 40px;">(a) He places in or on any soil or in any places where it may gain access to any soil, any matter, whether liquid, solid, or gaseous, that is prohibited by or under this Act or any regulation made thereunder or does not comply with such regulations as may be prescribed ; and</p> <p style="margin-left: 40px;">(b) he establishes on any land a refuse dump, garbage tip, soil and rock disposal site, sludge deposit site, waste injection well, or otherwise uses land for the disposal of or repository for solid or liquid wastes so as to be obnoxious or unduly offensive to the senses of human beings or will pollute or adversely affect underground water or be detrimental to any beneficial use of the soil or the surface of the land.</p> <p>(3) Prior exemptions may, however, be granted for valid reasons such as the application of an approved preparation in a prescribed manner for the control of a given pest, provided that such treatment does not damage the soil seriously.</p> | Pollution of soil an offence |

<p>(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence and on conviction be liable to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand and in the case of a continuing offence to a fine of rupees five hundred for every day on which the offence continues after conviction.</p>	
<p>23P. Subject to section 23A of this Act, with effect from the relevant date no person shall permit the emission of excessive noise, unless he complies with such standards or limitations as may be prescribed under this Act in regard to the volume, intensity or quality of such noise.</p>	<p>Restriction on noise pollution</p>
<p>23Q. (1) No person shall make or emit or cause or permit to be made or emitted noise greater in volume, intensity or quality than the levels prescribed for tolerable noise except under the authority of a licence issued by the Authority under this Act.</p> <p>(2) The provisions of sections 23B, 23C, 23D and 23E shall, <i>mutatis mutandis</i>, apply to and in relation to the issue of a licence under subsection (1).</p> <p>(3) Any authority or institution empowered by any other written law to issue licences relating to any of the matters referred to in this Act, shall conform to the standards specified under this Act.</p>	<p>Discharge of certain noise to be licensed</p>
<p>23R. (1) Any person who without a licence or contrary to any condition, limitation or restriction to which a licence under this Act or any other written law is subject, makes or causes or permits to be made or emitted noise that is greater in volume, intensity or quality than the standard as may be prescribed for the emission of noise which is tolerable noise in the circumstances, shall be guilty of an offence under this Act.</p> <p>(2) Any person who is guilty of an offence under subsection (1) shall on conviction be liable to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand and in the case of a continuing offence to a fine of rupees five hundred for every day in which the offence continues after conviction.</p>	<p>Excessive noise an offence</p>
<p>23S. Where the Authority is of opinion that the circumstances are such that any litter deposited in any place, whether public or private, is or is likely to become detrimental to the health, safety or welfare of members of the public, unduly offensive to the senses of human beings or a hazard to the environment, the Authority may by notice in writing direct the person who, is responsible for depositing such litter or any public authority whose function is to dispose of or remove such litter, to remove or dispose of such litter or to take such action in relation to such litter as may be specified in the notice. For the purposes of this section "litter" means unwanted waste material whether a by product which has arisen during a manufacturing process or a product which has passed its useful working life and has been discarded.</p>	<p>Notice to remove litter</p>
<p>23T. The cost of removing or otherwise disposing of or reducing litter pursuant to a notice given under section 23S may be recovered in any</p>	<p>Cost of removing litter may be recovered against</p>

	court of competent jurisdiction against any person proved to have deposited the litter, as a debt due to the Authority and when recovered shall be paid to the fund of the Authority.	person responsible
23U.	Any person to whom a notice in writing under section 23S is directed and who fails without reasonable cause to comply with the requirements of the notice shall, if proved be guilty of an offence.	Failure to comply with notice an offence
23V.	(1) No person shall discharge or spill any oil or mixture containing oil into the inland waters of Sri Lanka. (2) Any person who contravenes the provisions of subsection (1) shall be liable on conviction to a fine not less than rupees ten thousand and not exceeding rupees one hundred thousand or to imprisonment for a term not exceeding two years.	Prohibition on discharge of oil into inland waters of Sri Lanka
23W.	(1) The Minister may be Order published in the <i>Gazette</i> - (a) Prohibit the use of any materials for any process, trade or industry ; (b) Prohibit whether by description or by brand name the use of any equipment or industrial plant, which will endanger the quality of the environment, within the areas specified in the Order. (2) The Minister may be Order published in the <i>Gazette</i> require the installation, repair, maintenance or operation of any equipment or industrial plant within the areas specified in the Order. (3) Any person who contravenes any prohibition or fails to comply with any requirement in any Order made under subsections (1) and (2), shall be guilty of an offence.	Power to prohibit or require use of any material or equipment
23X.	In any prosecution for an offence under this Part of this Act, a certificate issued under the hand of the Director-General to the effect that the pollution specified in the certificate has been caused to the environment, shall be admissible in evidence, and shall be prima facie proof of the matters contained therein.	Certificate to be prima facie evidence of facts stated therein.

PART IVC

Approval of Projects

23Y.	For the purposes of this Part of this Act, the Minister may by Order published in the <i>Gazette</i> specify the state agencies (hereinafter in this Part referred to as “project approving agencies”) which shall be the project approving agencies.	Project approving agencies
23Z.	The Minister shall by Order published in the <i>Gazette</i> determine the projects and undertakings (hereinafter referred to as “prescribed	Prescribed projects

projects”) in respect of which approval would be necessary under the provisions of this Part of this Act.

23AA. (1) Notwithstanding the provisions of any other written law, from and after the coming into operation of this Act, all prescribed projects that are being undertaken in Sri Lanka by any Government Department, Corporation, Statutory Board, Local Authority, Company, Firm or an individual will be required to obtain approval under this Act for the implementation of such prescribed projects.

Approval of
prescribed
projects

(2) The approval referred to in subsection (1) shall have to be obtained from the appropriate project approving agencies concerned or connected with such prescribed project :

Provided however, in respect of certain prescribed projects to be determined by the Minister, the project approving agency will grant its approval only with the concurrence of the Authority.

23BB. (1) It shall be the duty of all projects approving agencies to require from any Government Department, Corporation, Statutory Board, Local Authority, Company, Firm or individual who submit any prescribed project for its approval to submit within a specified time an initial environmental examination report or an environmental impact assessment report as required by the project approving agency relating to such project and containing such information and particulars as may be prescribed by the Minister for the purpose.

Submission of
environmental
impact
assessment
report

(2) A project approving agency shall on receipt of an initial environmental examination report or an environmental impact assessment report, as the case may be, submitted to such project approving agency in compliance with the requirement imposed under subsection (1), by notice published in the Gazette and in one newspaper each in the Sinhala, Tamil and English languages, notify the place and times at which such report shall be available for inspection by the public, and invite the public to make its comments, if any, thereon.

(3) Any member of the public may within thirty days of the date on which a notice under subsection (2) is published make his or its comments, if any, thereon to the project approving agency which published such notice, and such project approving agency may, where it considers appropriate in the public interest afford an opportunity to any such person of being heard in support of his comments, and shall have regard to such comments and any other materials if any, elicited at any such hearing, in determining whether to grant its approval for the implementation of such prescribed project.

(4) Where approval is granted for the implementation of any prescribed project, such approval shall be published in the Gazette and in one newspaper each in Sinhala, Tamil and English languages.

23CC.	The project approving agencies shall determine the procedure it shall adopt in approving any prescribed projects submitted to it for approval. Such procedure shall be based on the guidelines prescribed by the Minister for such purpose.	Procedure to be based on guidelines prescribed
23DD.	<p>(1) Where a project approving agency refuses to grant approval for any prescribed project submitted for its approval, the person or body of persons aggrieved shall have a right to appeal against such decision to the Secretary to the Ministry, of the Minister.</p> <p>(2) The decision of the Secretary to the Ministry on such appeal of the Minister shall be final.</p>	Appeal to the Secretary to the Ministry of the Minister
23EE.	<p>Where any alterations are being made to any prescribed project for which approval had been granted or where any prescribed project already approved is being abandoned, the Government Department, Corporation, Statutory Board, Local Authority, Company, Firm or individual who obtained such approval, shall inform the appropriate project approving agency of such alterations, or the abandonment as the case may be, and where necessary obtain fresh approval in respect of any alterations that are intended to be made to such prescribed project for which approval had already been granted :</p> <p>Provided however, where such prescribed project that is being abandoned or altered is a project approved with the concurrence of the Authority, the Authority should also be informed of it and any fresh approval that need to be obtained should be given only with the concurrence of the Authority.</p>	Abandonment of alteration of any prescribed project
23FF.	It shall be the duty of all projects approving agencies to forward to the Authority a report on each prescribed project for which approval is granted by such agency.	Submission of a report on approved prescribed projects
8.	The following new section is hereby inserted immediately after section 24, and shall have effect as section 24A of the principal enactment:-	Insertion of new section 24A in the principal enactment
24A.	<p>(1) The Director-General or any other officer duly authorized in writing by him may at any time enter any land or premises and may-</p> <p>(a) examine and inspect any equipment or industrial plant ;</p> <p>(b) Take samples of any pollutants that are emitted, discharged or deposited or are likely to be of a class or kind that are usually emitted, discharged or deposited from such equipment or industrial plant ;</p> <p>(c) examine any books, records or documents relating to the performance or use of such equipment or industrial plant or relating to the emission, discharge or deposit from such equipment or industrial plant ;</p> <p>(d) Take photographs of such equipment or industrial plant as</p>	Power to enter and inspect

he considers necessary or make copies of any books, records or documents seen in the course of such examination ; or

(e) Take sample of any fuel, substance or material used, likely to be used or usually used in such trade, industry or process carried on in or on such premises.

- (2) The Director-General or the officer authorized by him may, where he has reasonable cause to apprehend any serious obstructions in the execution of his duties under subsection (1), enter any land or premises accompanied by a police officer.
- (3) Any person who prevents or obstructs the Director-General or an authorized officer in carrying out such inspection or investigation, recording of data or the taking of samples under subsection (1) shall be guilty of an offence under this Act.
- 24B. (1) The Authority shall have the power to issue directives to any person engaged in or about to engage in any development project or scheme which is causing or is likely to cause, damage, or detriment to the environment, regarding the measures to be taken in order to prevent or abate such damage or detriment, and it shall be the duty of such person to comply with such directive. Authority to issue directives
- (2) Where a person fails to comply with any directives issued under subsection (1), the Magistrate may, on application made by the Authority, order the temporary suspension of such project or scheme until such person takes the measures specified in such directive.
- 24C. (1) The Minister may by Order published in the *Gazette* declare any area to be an environmental protection area (hereinafter referred to as a "protection area.") Declaration of areas as environmental protection areas
- (2) An Order under subsection (1) declaring an area as a protection area, shall define that area by setting out the meters and bounds of such area.
- 24D. (1) Where any area has been declared to be a protection area, the Minister may by Order published in the *Gazette* declare that any planning scheme or project in a protection area under the provisions of any law which is in conflict with any provisions of this Act, shall cease to operate in that area. Applicability of any other laws in protection areas
- (2) So long as an Order under subsection (1) is in force, the Authority shall be responsible for physical planning of such area in accordance with the provisions of this Act.
- (3) Notwithstanding the provisions of subsection (1) the Minister may, at the request of the Authority, declare from time to time by Order published in the *Gazette*, that with effect from such date as shall be specified in such Order, the Authority shall cease to be the authority responsible for the planning in such protection area.

- (4) So long as an Order under section 24 being in force in relation to a protection area no person other than the Authority shall exercise, perform and discharge any powers, duties and functions relating to planning and development within such protection area.
9. Section 26 of the principal enactment is hereby amended as follows:- Amendment of section 26 of the principal enactment
- (1) by the repeal of subsections (1) and (2) of that section and substitution therefore of the following subsections:-
- (1) “Subject to subsection (5), the Authority may by order, delegate any of its powers, duties and functions under this Act to any Government Department, Corporation, Statutory Board, Local Authority or any Public Officer.
- (2) Where the Authority has delegated any power under subsection (1) to any Government Department, Corporation, Statutory Board, Local Authority or any Public Officer, any officer of such Government Department, Corporation, Statutory Board, Local Authority as the case may be, or such public officer may exercise any of the powers which the Director-General would be able to exercise had he been exercising the powers himself.
- (2) by the omission of paragraph (b) of subsection (5) of that section and the substitution therefore of the following paragraph:-
- (b) In respect of any Government Department, Corporation, Statutory Board or Public Officer, except with the concurrence of the Minister in charge of such Government Department or Corporation or Statutory Board or the department in which such Public Officer is employed”.
10. Section 31 of the principal enactment is hereby repealed and the following section substituted therefor:- Replacement of section 31 of the principal enactment
- Penalty for 31. Every person who contravenes or fails to comply with any provisions of this Act or of any regulations made thereunder for which no punishment is expressly provided for. Every person who contravenes or fails to comply with any provisions of this Act or of any regulations made thereunder for which no punishment is expressly provided for shall be guilty of an offence and on conviction before a Magistrate shall be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding ten thousand rupees or to both such imprisonment and fine.
11. Section 32 of the principal enactment is hereby repealed and the following section substituted therefor:- Replacement of section 32 of the principal enactment
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- “Regulations 32. (1) The Minister may make regulations in respect of all matters which are stated or are required by this Act to be prescribed or for which regulations are required by this Act to be made.
- (2) In particular and without prejudice to the generality of the powers conferred by subsection (1) the Minister may make regulations in respect of all or any of the following matters:-
- (a) levy of fees for-
 - (i) examining plans, specifications and information relating to installations or proposed installations ;
 - (ii) The issue of licences under this Act, and
 - (iii) carrying out necessary monitoring duties ;
 - (b) specification of standards or criteria for the implementation of any national environmental policy or classification for the protection of the environment and for protecting beneficial uses ;
 - (c) specification of standards or criteria for determining whether any matter, action or thing is poisonous, objectionable, detrimental to health or within any other description or referred to in this Act ;
 - (d) prohibition of the discharge, emission, or deposit into the environment of any matter, whether liquid, solid or gaseous or of radio activity and prohibition or regulating the use of any specified fuel ;
 - (e) specification of ambient air quality standard, emission standards and specifying the maximum permissible concentrations of any matter that may be present in or discharge into the atmosphere ;
 - (f) prohibition of the use of any equipment, facility, vehicle or boat capable of causing pollution or regulating the construction, installation or operation

thereof so as to prevent or minimize pollution ;

- (g)* requirement of issuing pollution warnings or alerts ;
- (h)* prohibition or regulation of the open burning of refuse or other combustible matter ;
- (i)* regulation of the establishment of sites for the disposal of solid or liquid waste on or in land ;
- (j)* determination of objectionable noise and specification of standards for tolerable noise ;
- (k)* prohibition of or regulation of bathing, swimming, boating or other activity in or around any waters that may be detrimental to health or welfare or having adverse cultural effects or for preventing pollution ;
- (l)* requirement that the oil refineries and installations operating in Sri Lanka store such substance or material and equipment necessary to deal with any oil pollution of the inland waters of Sri Lanka that may arise in the course of their business ;
- (m)* requirement that the oil refineries carrying on business install such equipment as may be prescribed for the purpose of reducing or preventing any trade effluent from containing oil ;
- (n)* prescribing the procedure relating to appeals against the decision of the Authority ;
- (o)* relating to visual amenities in urban and rural areas ;
- (p)* storage and transportation of hazardous materials ;
- (q)* disposal of wastes and hazardous materials whether to the atmosphere, waters or soil ; and
- (r)* requirement of specific environmental monitoring duties by the developer or a

specified third party delegated for this purpose.

3. Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date on such publication or upon such later date as may be specified in the regulation.
4. Every regulation made by the Minister shall, as soon as convenient after its publication in the *Gazette*, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation is deemed to be rescinded shall be published in the *Gazette*.

12. Section 33 of the principal enactment is hereby amended as follows:-

Amendment of
section 33 of the
principal
enactment

- (a) by the insertion, immediately before the definition of “beneficial use”, of the following new definition :-

“air pollution” means an undesirable change in the physical, chemical and biological characteristics of air which will adversely affect plants, animals, human beings and inanimate objects;

- (b) by the insertion, immediately after the definition of “environment” of the following new definitions :-

“environmental impact assessment report” means a written analysis of the predicted environmental project and containing an environmental cost-benefit analysis, if such an analysis has been prepared, and including a description of the project, and includes a description of the avoidable and unavoidable adverse environmental effect of the proposed prescribed project ; a description of alternative to the activity which might be less harmful to the environment together with the reasons why such alternatives were rejected, and a description of any irreversible or irretrievable commitments of resources required by the proposed prescribed project ;

“initial environmental examination report” means a written report wherein possible impacts of the prescribed project on the environment shall be assessed with a view to determining whether such impacts are significant, and as such requires the preparation of an environmental impact assessment report and such report shall contain such further details, descriptions, data, maps, designs and other information

and details as may be prescribed by the Minister;

- (c) by the repeal of the definition “local authority” and substitution therefore of the following definition :-

“local authority” means any Municipal Council, Urban Council or Development Council, and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to powers, duties and functions exercised, performed and discharged by any such Council ;

- (d) by the insertion immediately after the definition of “local authority”, of the following new definitions :-

“noise pollution” means the presence of sound at a level which causes irritation, fatigue, hearing loss or interferes with the perception of other sounds and with creative activity through distraction ;

“pollutant” means any substance whether liquid, solid or gaseous which directly or indirectly –

- (a) alters the quality of any segment or element of the receiving environment so as to effect any beneficial use adversely ;

or

- (b) is hazardous or potentially hazardous to health ; and

- (e) By the insertion immediately after the definition of “territorial waters”, of the following new definition :-

“toxic chemical” means a substance characterised by definite molecular composition which has harmful effects on living material or which can create hazardous changes in the environment;