

CHAPTER NINE

**POWERS:
SECTIONS 9 TO 11**

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9.1 Section 9: power to call for information

Section 9 provides that any person authorised by the Central Government may require any owner to submit to that person such information as that person may reasonably think necessary. Such requisition must be for the purpose of ascertaining whether any requirements of the Act or of any rules or of any direction given under the Act have been complied with. Rules under the Act are made under Section 23, while the "direction" referred to in Section 9 seems to contemplate a direction issued by the Central Government under Section 12. There is no requirement in Section 9 that the authorisation must be by the Central Government *in writing* or by notification or other formality. This is a lacuna which ought to be filled up.

9.2 Section 10: Entry and inspection

By Section 10, any person, authorised by the Central Government in this behalf, has a right to enter, at all reasonable times, with such assistance as he considers necessary, any place, premises or vehicle, where a hazardous substance is handled, for the purpose of determining whether any provisions of the Act or any rules or direction thereunder are being or have been complied with. The owner is bound to render all assistance to such person.

Here also, it will be proper to provide that the authorisation must be in writing. Presumably, the legislature had in mind the provision in Section 13 of the Act, which empowers the Central Government to apply to the court for restraining the owner from handling a hazardous substance in contravention of the Act. The ultimate object of a proceeding under Section 13, is, of course, to ensure that the owner has taken out an insurance policy under Section 4(1).

9.3 Search and seizure

Section 11 gives certain powers of search and seizure to a person authorised by the Central Government in this behalf, if that person has reason to believe that the handling of hazardous substance is taking place in any premises, vehicle etc. in contravention of Section 4(1). The main object of Section 4(1) is to ensure that the owner takes out a liability insurance. Very occasionally, the power under Section 11 may be needed to check whether the owner of any place, premises or vehicle has taken out such insurance. However, it is desirable here also that the authorisation must be in writing. An appropriate course would be to require that the authorisation shall be made in the rules to be made under Section 23, so that those whose businesses are regulated by the Act can have also the various authorisations easily accessible.