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ENVIRONMENTAL POLLUTANTS AND HAZARDOUS SUBSTANCES: SECTIONS 7, 8 AND 9

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7.1 *Prohibition against emission of pollutants*

Section 7 provides that no person carrying on any industry, operation or process shall discharge or emit, or permit to be discharged or emitted, any environmental pollutant in excess of such standards as may be prescribed. The standards of discharge or emission for various substances are to be prescribed under section 6(2) (a), and section 25(2) (a).

7.2 *Section 8 : handling hazardous substance*

Section 8 provides that no person shall handle or cause to be handled, any hazardous substance, except in accordance with such procedure and after complying with such safeguards as may be prescribed. The prescribing of such procedure and safeguards is provided for, in section 25(2) (b).

7.3 *Section 9: Information regarding pollutants*

Section 9 deals with the furnishing of information to the prescribed authorities or agencies where the discharge of any environmental pollutant in excess of the prescribed standard occurs or is apprehended. Rules for the purpose are contemplated by section 25(2) (c). There is also a duty to prevent or mitigate the environmental pollution caused as a result of such discharge. On receipt of information communicated as above, the prescribed authorities must also take necessary remedial measures to prevent or mitigate the pollutions. Contravention of this provision becomes an offence under section 15.

7.4 *The duty to mitigate under section 9(1): Need for clarification*

By section 9(1), the duty to prevent or mitigate the pollution caused by discharge of a pollutant is imposed on

- (a) the person responsible for such discharge, and

- (b) the person in charge of the place at which such discharge occurs or is apprehended.

The duty is to “prevent or mitigate the discharge”. The duty to “prevent” is obviously meant for cases where the discharge is “apprehended”.

The duty to “mitigate” is meant for cases where the discharge has already occurred. However, it seems desirable to amplify the extent of the duty, by specifying the extent of care. It would be proper to provide that the duty shall be “to take all reasonable steps to prevent or mitigate the discharge”.