

# **6**

## **REGULATING ENVIRONMENTAL POLLUTION BY RULES : SECTION 6**

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### 6.1 *Section 6(1) and rules thereunder*

Section 6(1) confers on the Central Government power to make rules in respect of all or any of the matters referred to in section 3. It may be recalled that section 3(1) gives to the Central Government a general power to "take measures" for protecting and improving to quality of the environment and preventing, controlling and abating environmental pollution. Section 3(2) mentions particular matters on which such measures can be taken-but without prejudice to the generality of the power conferred by section 3(1).

What section 6 amounts to is, in effect, a provision that authorises the Central Government to confer the status *of rules* on matters which it seeks to regulate by recourse to section 6.

### 6.2 *Overlapping between section 6 and other sections*

While this device may appear to be useful in so far as it widens the power of the Central Government to make rules, it should be pointed out that considerable amount of overlapping has crept in, as a result of this device. In the first place (as the act stands at present), the Central Government has two powers-power "to take measures" and power to make rules-on matters mentioned in section 3(1) which is adopted by section 6(1). Secondly, while section 6 gives power to make rules, section 25 also gives to the Central Government power to make rules, so that overlapping may arise. Thirdly, apart from overlapping in respect of identical matters, some confusion may arise because the specific matters enumerated in section 3(2) and section 6(2) –

- (i) coalesce in certain respects,
- (ii) but are not identical on a few other matters.

Thus, section 3(2)(iii) relates to "standards" for the quality of environment in its various aspects and section 6(2)(a) relates to the "quality of air, water or soil for various areas and purposes". The two, though employing different phraseologies, are to a very great degree identical. Again, section

3(2) (iv) provides for "laying down standards for "emission or discharge of environmental pollutants for various sources whatsoever", and section 6(2)(b) deals with "the maximum allowable limits of concentration of various environmental pollutants (including noise) for different areas". The two are largely dealing with the same subject matter, though section 6(2)(b) specifically mentions "noise". Probably, this clarification was thought to be necessary because "environmental pollution" in section 2(a) is defined as meaning any solid, liquid or gaseous substance-which may not include noise.

Section 3(2) (v) deals with the restriction of areas, and so is section 6(2)(e), relating to prohibition and restrictions on the location of industries etc. though the phraseology is different. Again, section 3(2) (vi) relates to laying down procedures etc. to prevent accidents-a topic also dealt with in section 6(2) (f). Here, the language is almost identical.

On the other hand, the topics, dealt with in section 3(2), items (i),(ii),(viii) and (xiv) do not appear in section 6(2).

### 6.3. *Section 6(2) and other section :Overlap*

Overlapping is not restricted to section 6 as read with section 3. Section 6(2), when compared with a few other sections, also furnishes instances of overlapping. Section 6(2) (c) deals with procedures and safeguards for the handling of hazardous substances. The same topic is dealt with in section 8. Section 6(2)(f) relates to procedure etc. for prevention of accidents causing environmental pollution. The same topic is regulated by section 9, in a more elaborate manner.

### 6.4 *A suggestion concerning sections 3 and 6*

The upshot of the above discussion is, in brief, as under:

- (a) Sections 3 and 6 overlap.<sup>1</sup>
- (b) Section 3 creates problems<sup>2</sup> of its own also.
- (c) It should therefore be possible to delete section 3.
- (d) Such matters mentioned in section 3(2) as are not already mentioned in section 25 may be included in the latter, which will then function as a self-contained section, so far as the power of the Central Government to make rules is concerned. Topics mentioned<sup>3</sup> in section 6 may also be included in section 25.

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1    *Paragaphs 6.2, 6.3 Supra*

2    *See Chapter 3, Supra*

3    *Piont relevant to section 25.*