

<p>Section 37 - Failure to comply with the provisions of section 21 or section 22 or with the directions issued under section 31A — (1) whoever fails to comply with the provisions of section 21 or section 22 or directions issued under section 31A.</p> <p><i>Section 21 – Restrictions to use of certain industrial plants.</i></p> <p><i>Section 22 - Persons carrying on industry, etc., not to allow emission of air pollutants in excess of the standard laid down by State Board.</i></p> <p><i>Section 31 A - Power to give directions.</i></p>	<p>Punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day.</p>	<p>For section 37 of the principal Act, the following shall be substituted, namely: -</p> <p>Penalty for contravention of provisions of section 22 or directions issued under section 31A.</p> <p>37. (1) Whoever fails to comply with the provisions of section 22 of the directions issued under section 31A, shall be liable to pay penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.</p> <p>(2) Whoever continues the contravention of the provisions of the Act referred to in sub-section (1), shall be liable to pay an additional penalty, which shall not be less than five lakh rupees but which may extend to five crore rupees.</p>	<p>.....shall not be less than ten thousand rupees but which may extend to one lakh rupees.</p> <p>.....shall not be less than twenty thousand rupees but which may extend to one lakh rupees.</p>
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<p>Section 37 (2) - If the failure referred to in sub-section (1) continues beyond a period of one year after the date of conviction.</p>	<p>Punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.</p>	<p>(3) If the contravention of the provisions of the Act referred to in sub-section (1) continues beyond a period of one year, the person who contravenes shall be liable to an additional penalty, which shall not exceed five crore rupees, in addition to the penalties imposed under sub-section (1) and sub-section (2).</p> <p>Provided that where the amount of the damage caused due to such contravention or non-compliance by that person is more than the amount of penalty, such person shall be liable to pay the penalty equal to the amount of the damage caused.”</p>	<p>.....shall not exceed one lakh rupees.....</p>
<p>Section 38. Penalties for certain acts. — Whoever— (a) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the</p>	<p>Punishable with imprisonment for a term which may extend to three months or with fine which may extend to [ten thousand rupees] or with both.</p>	<p>For section 38 of the principal Act, the following section shall be substituted, namely: -</p> <p>“38. Whoever- (a) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the</p>	

<p>ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board, or</p> <p>(b) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act, or</p> <p>(c) damages any works or property belonging to the Board, or</p> <p>(d) fails to furnish to the Board or any officer or other employee of the Board any information required by the Board or such</p>		<p>ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board; or</p> <p>(b) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act; or</p> <p>(c) damages any works or property belonging to the Board; or</p> <p>(d) fails to furnish to the Board or any officer or other employee of the Board any information required by the Board or such officer or other employee for the purpose of this Act, or</p> <p>(e) fails to intimate the occurrence of the emission of air pollutants into the atmosphere in excess of the standards laid down by the State Board or the</p>	
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<p>officer or other employee for the purpose of this Act, or</p> <p>(e) fails to intimate the occurrence of the emission of air pollutants into the atmosphere in excess of the standards laid down by the State Board or the apprehension of such occurrence, to the State Board and other prescribed authorities or agencies as required under sub-section (1) of section 23, or</p> <p>(f) in giving any information which he is required to give under this Act, makes a statement which is false in any</p>		<p>apprehension of such occurrence, to the State Board and other prescribed authorities or agencies as required under sub-section (1) of section 23; or</p> <p>(f) fails in giving any information which he is required to give under this Act, makes a statement which is false in any material particular,</p> <p>shall be liable to pay penalty which shall not be less than one lakh rupees, but which may extend to fifty lakh rupees.</p> <p>(2) Whoever continues the contravention of the acts referred to in sub-section (1), shall be liable to pay an additional penalty which may extend to 1 lakh rupees for everyday during which such contravention continues.”</p>	<p>.....shall not be less than ten thousand rupees but which may extend to one lakh rupees.</p> <p>.....may extend to five thousand rupees for everyday...</p>
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<p>material particular, or (g) for the purpose of obtaining any consent under section 21, makes a statement which is false in any material particular</p>			
<p>Section 39 - Penalty for contravention of certain provisions of the Act.—Whoever contravenes any of the provisions of this Act or any order or direction issued thereunder, for which no penalty has been elsewhere provided in this Act</p>	<p>Punishable with Imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both, and in the case of continuing contravention, with an additional fine which may extend to five thousand rupees for every day during which such contravention continues after conviction for the first such contravention.</p>	<p>In the principal Act, for section 39, the following section shall be substituted, namely: - “39. If any person contravenes any of the provisions of this Act or any order or direction issued thereunder, for which no penalty has been provided for in this Act, shall be liable to pay the penalty which shall not be less than one lakh rupees, but which may extend to fifty lakh rupees, and where such contravention continues, he shall be liable to pay an additional penalty which may extend to 1 lakh rupees per day.”</p>	<p>.....shall not be less than ten thousand rupees but which may extend to one lakh rupees.</p> <p>.....may extend to five thousand rupees per day.</p>

Provided that where the amount of the damage caused due to such contravention or non-compliance by that person is more than the amount of penalty, such person shall be liable to pay the penalty equal to the amount of the damage caused.”

In the principal Act, after section 39, the following section shall be inserted, namely: -

Imposition of penalty by Adjudicating Officer.

“39A. (1) The Central Government, for the purposes of determining the penalties under sections 37, 38 and section 39, may designate the District Magistrate having jurisdiction over the area or any other Officer to be an Adjudicating Officer, to hold an inquiry for the purpose of determining the quantum of penalty, in such manner, as may

be prescribed by the Central Government:

Provided that the Central Government may appoint as many Adjudicating Officers as may be required for a jurisdiction.

(2) Where more than one Adjudicating Officer is being appointed for a jurisdiction, the Central Government shall specify in the order regarding the matters and places with which such officers shall exercise their jurisdiction.

(3) The Adjudicating Officer shall conduct an inquiry after giving the person a reasonable opportunity of being heard in the matter, and if, on such enquiry, he is satisfied that the person has contravened the provisions of the Act, he may impose such penalty by an order, as he thinks fit in

accordance with the provisions of sections 37, 38 or section 39, as the case may be.

Punishment for failure to pay penalty.

39B. Where a person fails to pay the penalty or the additional penalty, as the case may be, imposed upon him under the provisions of this Act, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to twice the amount of the penalty imposed under the provisions of this Act or with both.

(2) Where any offence under subsection (1) has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of

the business of the company, as well as the company, shall be deemed to be guilty of such offence and he shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in sub-section (1), if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence und has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or

other officer of the company, such director, manager, secretary or other officer shall also have deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. -For the purposes of this section, -

- (a) "company" means anybody corporate and includes a Limited Liability Partnership firm or other association of individuals;
- (b) "director", in relation to a firm, means a partner in the firm.”.

Punishment for non-compliance of provisions of section 21.

39C. Any person, who fails to comply with the provisions of section 21, shall be punishable with imprisonment which may extend to three years or with fine

		<p>which may extend to five crore rupees.</p> <p>Provided that where the amount of the damage caused due to such contravention or non-compliance by that person is more than the amount of penalty, such person shall be liable to pay the penalty equal to the amount of the damage caused.”</p> <p>39D. (1) Any person aggrieved by the order passed by the Adjudicating Officer under the provisions of this Act, may prefer an Appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010.</p> <p>(2) Every Appeal under subsection (1) shall be filed within sixty days from the date on which the copy of the order made by the Adjudicating Officer is received by the aggrieved person.</p>	<p>....may extend to one lakh rupees.</p>
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<p>Amendment of Section 40</p>		<p>In the principal Act, for section 40, the following section shall be substituted, namely</p> <p>40. Where any company contravenes any provision of this Act, such company shall be liable to pay the penalty for each such contravention which shall not be less than five lakh rupees and may extend to five crore rupees:</p> <p>Provided that where the amount of the damage caused due to such contravention or non-compliance by that person is more than the amount of penalty, such company or body corporate shall be liable to pay the penalty equal to the amount of the damage caused.</p>	<p>.....shall not be less than ten thousand rupees but which may extend to one lakh rupees.</p>