

ENVIRONMENTAL OFFENCES



A GUIDE ON MAJOR ENVIRONMENTAL OFFENCES AND FINES

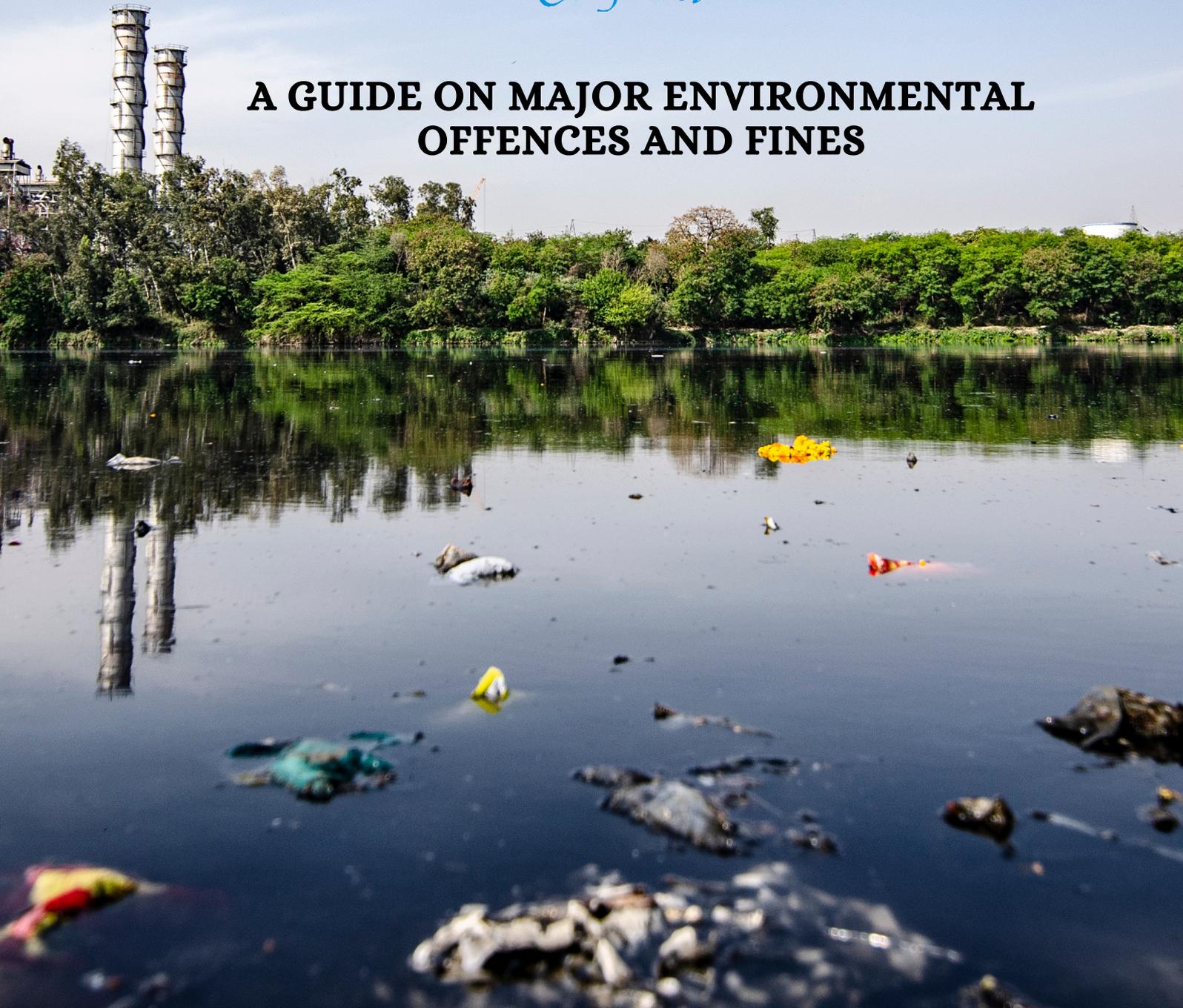


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The Environmental Protection Act empowers the Agency to oversee the environmental activities of all persons.

The Agency is regulatory with authority to grant or not grant permits for developmental project that will impact on the environment. As a regulator, the Agency is also required to monitor activities of development and to enforce the provisions of the Act.

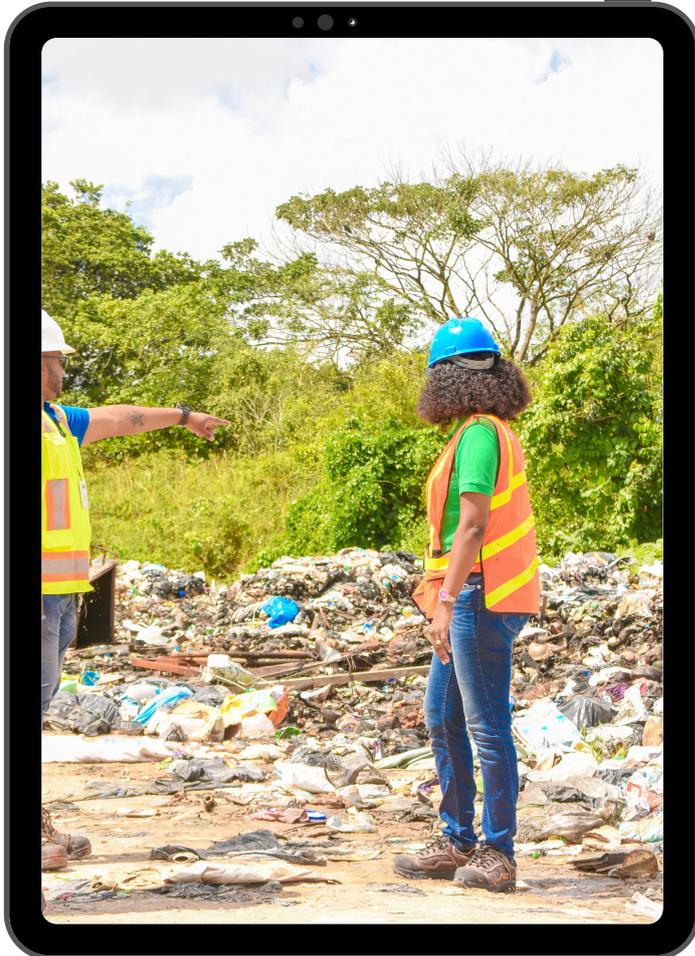
Although the Environmental Protection Agency ("EPA") makes every effort to encourage voluntary compliance with the Environmental Protection Act Cap 20:05 ("EP Act") and its Regulations, in certain instances it becomes necessary to prosecute offences under the Act. For instance, where breaches have significant environmental consequences, where there is an apparent disregard for the law, or where the offender has been found guilty of breaches on previous occasions. On this occasion, offences under EP Act as well as the penalties for their breach will be considered.

Offences under the EP Act primarily relate to pollution, the Environmental Impact Assessment (EIA) process, notification requirements, compliance with Environmental Permits and Notices, provision of information and obstruction of authorized persons.



ABOUT US

POLLUTION



Section 19(1)(a) makes it an offence to undertake an activity that causes or is likely to cause pollution of the environment unless all reasonable and practicable measures are taken to prevent or minimize any resulting adverse effect. Section 19(2)(a) declares that persons guilty of this offence are liable to a fine ranging between \$300,000 and \$750,000 and imprisonment for 1 year. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

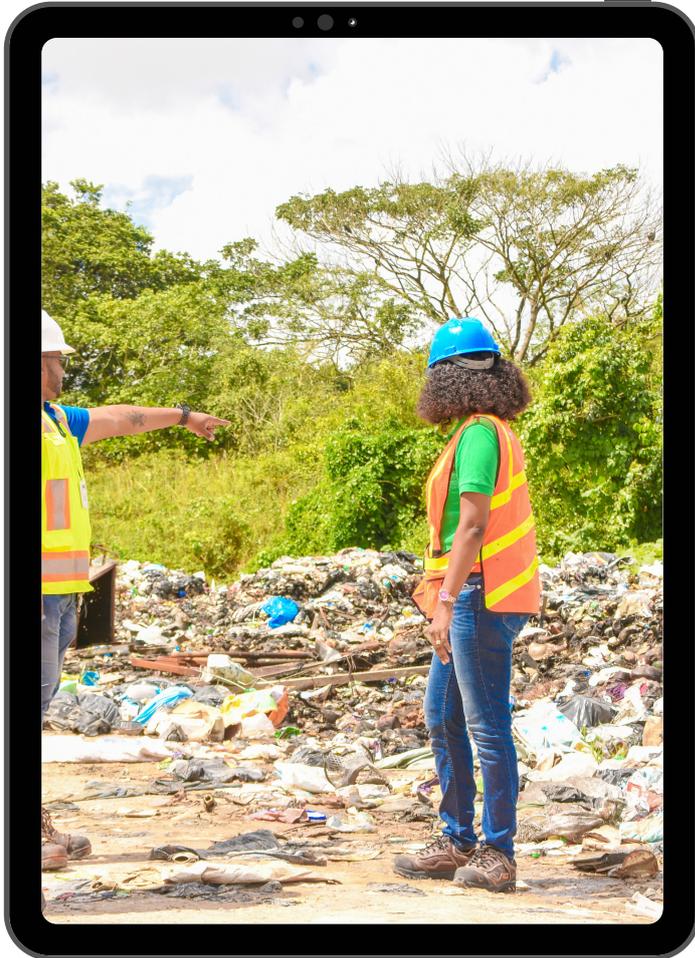
Section 19(1)(b) makes it an offence to discharge or cause or permit the entry into the environment, of any contaminant in any amount, concentration or level in excess of that prescribed by the regulations or stipulated in any environmental authorization. Section 19(2)(b) declares that persons guilty of this offence are liable to a fine ranging between \$75,000 and \$500,000 and imprisonment for 6 months. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 34(1)(a) makes it an offence to throw down, abandon or otherwise deposit or leave anything in any manner whatsoever in circumstances to cause, or contribute to, or to tend to lead to litter. Section 34(1)(a) declares that persons guilty of this offence are liable to a fine ranging between \$10,000 and \$50,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

Section 34(1)(b) makes it an offence to be responsible for any function which results in any litter. Section 34(1)(b) declares that persons guilty of this offence are liable to a fine ranging between \$30,000 and \$80,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

Section 34(2)(a) makes it an offence to be responsible for any noise which results in an adverse effect. Section 34(2) declares that persons guilty of this offence are liable to a fine ranging between \$10,000 and \$50,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

POLLUTION



Section 39(1) makes it an offence for persons to cause material environmental harm by polluting the environment intentionally or recklessly and with knowledge that environmental harm will or might result. Persons guilty of this offence are liable to a fine ranging between \$300,000 and \$750,000, and imprisonment for 1 year. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 39(2) makes it an offence for persons to cause material environmental harm by polluting the environment. Persons guilty of this offence are liable to a fine ranging between \$75,000 and \$500,000 and imprisonment for 6 months. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 39(3) makes it an offence to cause serious environmental harm by polluting the environment intentionally or recklessly and with knowledge that serious environmental harm will or might result. Persons guilty of this offence are liable to a fine ranging between \$800,000 and \$2,000,000, and imprisonment for 5 years. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 39(4) makes it an offence to cause serious environmental harm by polluting the environment. Persons guilty of this offence are liable to a fine ranging between \$300,000 and \$750,000, and imprisonment for 1 year. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

THE EIA



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UNEP defines Environmental Impact Assessment (EIA) as a tool used to identify the environmental, social and economic impacts of a project prior to decision-making. It aims to predict environmental impacts at an early stage in project planning and design, find ways and means to reduce adverse impacts, shape projects to suit the local environment and present the predictions and options to decision-makers. By using EIA both environmental and economic benefits can be achieved, such as reduced cost and time of project implementation and design, avoided treatment/clean-up costs and impacts of laws and regulations.

Section 11(3)(b) makes it an offence to commence a project before the Environmental Assessment Board determines an appeal regarding the Environmental Protection Agency's determination that an Environmental Impact Assessment is exempt under section 11(2)(a) of the EP Act. Persons guilty of this offence are liable to a fine ranging between \$70,000 and \$300,000, and imprisonment for 3 months. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 15(1) makes it an offence to fail to carry out an Environmental Impact Assessment or commence a project without obtaining an environmental permit where required by the EP Act or its Regulations. Persons guilty of this offence are liable to a fine ranging between \$70,000 and \$300,000, and imprisonment for 3 months. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 22(1) makes it an offence to carry on a prescribed process, except under and in accordance with a prescribed process licence. Section 22(7) declares that persons guilty of this offence shall be liable to a fine ranging between \$300,000 and \$750,000 and imprisonment for 1 year. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

NOTIFICATION REQUIREMENTS

Section 19(5)(a) makes it an offence for any person, local democratic organ, or local government authority or other body to fail to immediately notify the Agency of a pollution incident, restore the natural environment or do everything practicable to preserve evidence of the effects of pollution. Section 19(5)(a) also declares that persons, local democratic organs, or local government authorities guilty of this offence are liable to a fine ranging between \$70,000 and \$300,000, and imprisonment for 3 months. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 20(1) makes it an offence for an owner or operator of any sewage treatment plant, industrial waste treatment facility or any facility for the storage or disposal of solid waste, toxic and hazardous materials or for the abatement of air pollution or any other facility for controlling pollution, to fail to submit to the Agency upon its request, information relating to the performance of the facility, the quantity and quality of the effluent discharged and a pollution prevention plan for the facility. Section 20(2) declares that persons guilty of this offence are liable to a fine ranging between \$10,000 and \$50,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

Section 24(4) makes it an offence for failing to notify the Agency of proposed changes or transfers as required by section 24(1). Persons guilty of this offence are liable to a fine ranging between \$30,000 and \$80,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

INFRINGEMENT OF PERMITS AND NOTICES

Section 21(8) makes the failure to obtain a construction permit or operation permit as required by section 21(1)(a) and section 21(1)(b), respectively, an offence. Persons guilty of this offence are liable to a fine ranging between \$60,000 and \$150,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

Section 21(9)(a) makes it an offence to fail to comply with any material term or condition of a construction or operation permit. Persons guilty of this offence are liable to a fine ranging between \$60,000 and \$150,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

Section 21(9)(b) makes it an offence to fail to comply with any term or condition of a construction or operation permit. Persons guilty of this offence are liable to a fine ranging between \$30,000 and \$80,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

Section 27(5) makes it an offence to fail to comply with a Prohibition Notice. Persons guilty of this offence shall be liable to a fine ranging between \$300,000 and \$750,000 and imprisonment for 1 year. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 33(1)(a) makes it an offence to fail to comply with an Enforcement Notice. Persons guilty of this offence are liable to a fine ranging between \$70,000 and \$300,000, and imprisonment for 3 months. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 33(1)(b) makes it an offence to fail to give information required by the Agency within the time specified by the Agency. Persons guilty of this offence are liable to a fine ranging between \$70,000 and \$300,000, and imprisonment for 3 months. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 33(2)(a) makes it an offence to knowingly make a false or misleading statement in a material particular, or to recklessly make a false or misleading statement in a material particular in purported compliance with a requirement to furnish any information imposed by or under the EP Act. Persons guilty of this offence are liable to a fine ranging between \$75,000 and \$500,000 and imprisonment for 6 months. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 33(2)(b) makes it an offence to knowingly make a false or misleading statement in a material particular, or to recklessly make a false or misleading statement in a material particular for the purpose of obtaining the grant or transfer of an environmental authorization, or the amendment of a prescribed process licence. Persons guilty of this offence are liable to a fine ranging between \$75,000 and \$500,000 and imprisonment for 6 months. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine and twice this term of imprisonment.

Section 36(8) makes it an offence for holders of environmental authorisations to fail to lodge an Annual Return, and pay to the Agency any annual fee prescribed the Minister. Persons guilty of this offence are liable to a fine ranging between \$30,000 and \$80,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

Section 36(8) makes it an offence for activities subject to environmental authorisations to fail to maintain and submit to the Agency, in accordance with regulations made for this purpose, records of the type, composition and quantity of contaminants release. Persons guilty of this offence are liable to a fine ranging between \$30,000 and \$80,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

Section 37(2) makes it an offence to willfully fail to make a report to the Agency that an offence has been committed under the EP Act and its Regulations. Persons guilty of this offence are liable to a fine ranging between \$30,000 and \$80,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

PROVISION OF INFORMATION

OBSTRUCTION OF AUTHORIZED PERSONS

Section 38 makes it an offence to assault, obstruct or hinder an authorized person in the execution of their duty under the EP Act or the Regulations. Persons guilty of this offence are liable to a fine ranging between \$60,000 and \$150,000. According to the Fifth Schedule of the EP Act, body corporates are liable to twice this fine.

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