

(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;

(c) for the purpose of examining and testing any control equipment, industrial plant, record, register, document or any other material object or for conducting a search of any place in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such control equipment, industrial plant, record, register, document or other material object if he has reasons to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder.

(2) Every person^{1***} operating any control equipment or any industrial plant, in an air pollution control area shall be bound to render all assistance to the person empowered by the State Board under sub-section (1) for carrying out the functions under that sub-section and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Act.

(3) If any person willfully delays or obstructs any person empowered by the State Board under sub-section (1) in the discharge of his duties, he shall be guilty of an offence under this Act.

(4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), or, in relation to the State of Jammu and Kashmir, or any area, in which that Code is not in force, the provisions of any corresponding law in force in that State or area, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provisions of the said law.

25. Power to obtain information.—For the purposes of carrying out the functions entrusted to it, the State Board or any officer empowered by it in that behalf may call for any information (including information regarding the types of air pollutants emitted into the atmosphere and the level of the emission of such air pollutants) from the occupier or any other person carrying on any industry or operating any control equipment or industrial plant and for the purpose of verifying the correctness of such information, the State Board or such officer shall have the right to inspect the premises where such industry, control equipment or industrial plant is being carried on or operated.

26. Power to take samples of air or emission and procedure to be followed in connection therewith.—(1) A State Board or any officer empowered by it in this behalf shall have power to take, for the purpose of analysis, samples of air or emission from any chimney, flue or duct or any other outlet in such manner as may be prescribed.

(2) The result of any analysis of a sample of emission taken under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provisions of sub-sections (3) and (4) are complied with.

(3) Subject to the provisions of sub-section (4), when a sample of emission is taken for analysis under sub-section (1), the person taking the sample shall—

(a) serve on the occupier or his agent, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;

(b) in the presence of the occupier or his agent, collect a sample of emission for analysis;

(c) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent;

(d) send, without delay, the container or containers to the laboratory established or recognised by the State Board under section 17 or, if a request in that behalf is made by the occupier or his agent when the notice is served on him under clause (a), to the laboratory established or specified under sub-section (1) of section 28.

1. The words “carrying on any industry specified in the Schedule and every person” omitted by Act 47 of 1987, s. 13 (w.e.f. 1-4-1988).

(4) When a sample of emission is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent, a notice under clause (a) of sub-section (3), then,—

(a) in a case where the occupier or his agent wilfully absents himself, the person taking the sample shall collect the sample of emission for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample, and

(b) in a case where the occupier or his agent is present at the time of taking the sample but refuses to sign the marked and sealed container or containers of the sample of emission as required under clause (c) of sub-section (3), the marked and sealed container or containers shall be signed by the person taking the sample,

and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or specified under sub-section (1) of section 28 and such person shall inform the Government analyst appointed under sub-section (1) of section 29, in writing, about the wilful absence of the occupier or his agent, or, as the case may be, his refusal to sign the container or containers.

27. Reports of the result of analysis on samples taken under section 26.—(1) Where a sample of emission has been sent for analysis to the laboratory established or recognised by the State Board, the Board analyst appointed under sub-section (2) of section 29 shall analyse the sample and submit a report in the prescribed form of such analysis in triplicate to the State Board.

(2) On receipt of the report under sub-section (1), one copy of the report shall be sent by the State Board to the occupier or his agent referred to in section 26, another copy shall be preserved for production before the court in case any legal proceedings are taken against him and the other copy shall be kept by the State Board.

(3) Where a sample has been sent for analysis under clause of sub-section (3) or sub-section (4) of section 26 to any laboratory mentioned therein, the Government analyst referred to in the said sub-section (4) shall analyse the sample and submit a report in the prescribed form of the result of the analysis in triplicate to the State Board which shall comply with the provisions of sub-section (2).

(4) Any cost incurred in getting any sample analysed at the request of the occupier or his agent as provided in clause (d) of sub-section (3) of section 26 or when he wilfully absents himself or refuses to sign the marked and sealed container or containers of sample of emission under sub-section (4) of that section, shall be payable by such occupier or his agent and in case of default the same shall be recoverable from him as arrears of land revenue or of public demand.

28. State Air Laboratory.—(1) The State Government may, by notification in the Official Gazette,—

(a) establish one or more State Air Laboratories; or

(b) specify one or more laboratories or institutes as State Air Laboratories to carry out the functions entrusted to the State Air Laboratory under this Act.

(2) The State Government may, after consultation with the State Board, make rules prescribing—

(a) the functions of the State Air Laboratory;

(b) the procedure for the submission to the said Laboratory of samples of air or emission for analysis or tests, the form of the Laboratory's report thereon and the fees payable in respect of such report;

(c) such other matters as may be necessary or expedient to enable that Laboratory to carry out its functions.

29. Analysts.—(1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit and having the prescribed qualifications to be Government analysts for the purpose of analysis of samples of air or emission sent for analysis to any laboratory established or specified under sub-section (1) of section 28.