

In the Name of Allah, the Gracious, the Merciful

The Environment (Protection) Act, 2001

Arrangement of Sections

Chapter I

Preliminary Provisions

Sections:

1. Title.
2. Repeal and saving.
3. Interpretation.
4. Environmental Objectives.

Chapter II

The Council

5. Establishment, head quarter and supervision of the council.
6. Constitution of the Council.
7. Functions and powers of the Council.
8. Administrative organization of the Council.
9. Specialized Councils.
10. Financial Revenues of the Council.
11. Budget.
12. Funds of the Council deposited.
13. Accounts and audit.
14. State councils.

15. Functions of the State Council.
16. The competent authority.

Chapter III

Policies and General Directives for Environmental Protection

17. Evaluation and environmental follow-up.
18. Duties of the Competent Authority to give due regard to environmental policies.
19. Duty of all to report risks.

Chapter IV

Contraventions and Penalties

20. Contraventions and penalties.
21. Penalties.
22. The competent court.
23. Severer penalty Inflicted.

Chapter V

General Provisions

24. Standards and Means of Combating Pollution.
25. Procedure of entry and search of facility.
26. Application of the provisions of International Agreements.
27. Power to make regulations.

In the Name of Allah, the Gracious, the Merciful

The Environment (Protection) Act 2001¹

(23/6/2001)

Chapter I

Preliminary Provisions

Title

1. This Act may be cited as the, “Environment (Protection) Act, 2001”.

Repeal and saving

2. The Environment and Natural Resources Higher Council Act 1991, shall be repealed; provided that all regulations, and measures taken thereunder shall remain in force until revoked or amended, in accordance with the provisions of this Act.

Interpretation

3. In this Act, unless the context otherwise requires :-²
“General Secretariat”, means the general secretariat of the Environment and Natural Resources Higher Council, established under the provisions of section 8(2),
“Secretary General”, means the person appointed under the provisions of section 8(2),

¹ Made as Provisional order No. 13, 2000, ratified and become Act No. 18, 2001

² Act No. 18,2001, Act No. 40, 1974

“Environment”,

means the group of natural systems of the components thereof, of the basic elements, such as water, air, soil, and plants, and includes also, the group of social and cultural system, in which human beings and other organisms live, and drive therefrom, their power and perform their activity;

“ Pollution”,

means such changes, as may be effected by human beings in the environment, and such effects, as may be produced thereby on human beings and living organisms, such as noise, damages, diseases, or death directly or indirectly, or spoilage of the basic components of the environment, or prejudice to the prevalent and known systems, and the same includes, pollution of air, water, soil and plants;

“Environment Protection”,	means keeping the precise equilibrium of the environment, and not affecting such equilibrium, prevent its pollution and deterioration, rationalize utilization according to the capacity of resources, and not causing the destruction any of the living organisms;
“Competent Authority”	means all or any of the organs of protection of the environment, provided for in section 16;
“Council”,	means the Environment and Natural Resources Higher Council, established under the provisions of section 5;
“State Council”,	means the state council for the protection of the environment, established under the provisions of section 14;
“Natural Resources”,	mean the renewable and non renewable natural resources,
“Ministry”,	means the National Ministry responsible for environment affairs,
“Minister”,	means the National Minister responsible for environment affairs,

Environmental Objectives

4. The competent organs upon practice of their functions or laying down the policies thereof, shall endeavour to achieve the following:-
- (a) protection of the environment, purity, natural equilibrium thereof, and preserving its components of basic elements and social and cultural systems, in achievement of safety and sustainable development for the benefit of posterities;
 - (b) promotion of the environment and sustainable use of the natural resources for the purpose of its development and preservation thereof;
 - (c) linkage between the environment and development issues;
 - (d) stressing the responsibility of the competent authority for the environment protection, and serious endeavour for achievement of this protection;
 - (e) Activate the competent authority role and the organs subordinate thereto, and prevent slackening and shortcoming in performance.

Chapter II

The Council

Establishment, headquarter and supervision of the Council ^{2a}

- 5.(1) There shall be established a council to be known as the “Environment and Natural Resources Higher Council” having corporate personality, perpetual succession, a common seal, and the right to litigate on its own name.

^{2a} Act No. 40, 1974 .

- (2) The headquarters of the Council shall be in Khartoum State.
- (3) The Council shall be subject to the supervision of the President of the Republic.

Constitution of the Council

- 6.(1) The Council shall be constituted by a decision of the Council of Ministers, presided by the Minister and membership of the competent Ministers from the organs and corporations having connection and a number of members of those possessed of sufficient knowhow, experience and interest in the environment and natural resources affairs.
- (2) The Secretary General shall be a member and rapporteur.³

Functions and powers of the Council

- 7.(1) The Council shall have the following functions and powers , namely to :-⁴
- (a) draw the general policy in co-ordination with the competent organs in the following matters:-
 - i. the natural resources, including enlisting, promotion, rationalizing the ways of their use, management and protection from deterioration in the integrated and balanced form, in such way, as may secure the sustainable, increasing and continuous offering thereof;

³ Act No. 18, 2001

⁴ Act No. 40, 1974

- ii. protection to the environment in general;
- (b) coordinate state's councils business, and the efforts aiming at enlisting and evaluating the country's natural resources, and specify their usages at present and in the future , observe the variables which occur thereon, specify the areas subject to the deterioration risks, desertification, environmental pollution, and lay down the general surveys priorities, and studies integrating these national sources;
- (c) lay down long range national programme, for ideal and balanced usage of the natural resources, maintenance thereof, preserve the environment, and follow-up its implementation in coordination with the competent bodies;
- (d) periodically revise the legislations having connection, to ascertain the extent of their keeping pace and suitability to the international standards of environment and natural resources development, their usage, maintenance, and submit recommendation to the competent bodies with respect thereto;
- (e) coordinate the State efforts, pertaining to joining the international agreements concerning the environment, and specify the bodies assigned with implementing these agreements;
- (f) constitute specialized technical committees, to help in the performance of its business;

- (g) strive to rally the governmental, popular, locally, and internationally funding sources, for implementing the programmes of natural resources development and maintenance, and environment protection, in coordination with the competent bodies,
- (h) encourage and support scientific research in all environmental and natural resources fields, in coordination with the national research centre;
- (i) lay down a national plan for promotion of the environmental awareness, and sustainable usage of natural resources, maintenance of the same, and strive to include the same into the educational curricula, in coordination with the competent bodies;
- (j) approve the organizational chart of the General Secretariat,
- (k) make internal regulations to organize its meetings procedure;

Administrative organization of the Council

8. (1) The Council shall convene twice annually at least, and the Chairman thereof may call it for convention whenever he deems the same necessary, and the internal regulations shall specify the manner of the management of meetings, quorum, and system of voting therein.

- (2) The Council shall have a secretariat general, presided by a secretary general to be appointed by the Council of Ministers, upon recommendation of the Chairman of the Council, provided that the decision shall specify his emoluments, after recommendations of Minister of Finance and National Economy, Minister of Labour, Public Service, and Human Resources Development and Wages Higher Council, and membership chairmen of any technical or specialized councils appointed by the Council.⁵
- (3) The general secretariat shall have the following functions, to:-
- (a) supervise all the administrative, clerical, financial, and personnel affairs, business of the Council;
 - (b) prepare the Council meeting agenda, and its technical committees, in consultation with the Chairman of the Council;
 - (c) collect the integrated studies for environmental and natural resources development, maintenance, usage and coordination of the same;
 - (d) prepare the data and necessary maps to draw the policies, and implement the same, in coordination with the competent bodies, as the Council may prescribe;
 - (e) keep the records and documents, and all as may relate to the technical, administrative, and financial sides, at the quarters of the Council;
 - (f) any other functions as may assigned that by the Council.

⁵ Miscellaneous Amendments Act No. 1, 2006 , Act No. 40, 1974

Specialized Councils

- 9.(1) The Council may establish specialized councils, provided that it shall have due regard to benefit by the existing specialized councils.
- (2) The specialized councils shall be under the supervision of the competent body specified by the Council.
- (3) The specialized councils shall exercise the following functions and powers, namely, to:-
- (a) tender technical consultancy to the Council whenever it requests therefrom;
 - (b) assist in laying down the general policies of the Council,
 - (c) evaluate such programme and projects, as may emanate of the general policies.

Financial Revenues of the Council

10. The financial resources of the Council shall consist of the following:-
- (a) such appropriations as may be allocated thereto by the State;
 - (b) donations, gifts, and aids,
 - (c) any other resources, as may be approved by the Minister.

Budget of the Council ⁶

11. (1) The Council shall have an independent budget, to be prepared in accordance with sound accountancy bases.
- (2) The Council shall prepare the budget proposals within three months before the end of the financial year, and submit the same through the chairman thereof, to the competent bodies for their approval.

⁶ Act No. 40, 1974

Funds of the Council deposited

12. (1) The Council shall deposit its funds into current, or deposit accounts with the Central Bank of Sudan, or any other bank as may be approved by the central bank of Sudan.⁷

(2) Disposal of these accounts shall be as to the such manner, as may be specified by the regulations.

Accounts and audit

13. (1) The Council shall keep regular and accurate accounts of its revenues and expenditures, in accordance with sound accountancy bases.

(2) The accounts of the Council shall be audited by the National Audit Chamber, after the end of every financial year.⁸

States' councils

14. There shall be established in any state, under a state's Law, an environment and natural resources state's council, and shall be constituted by a decision of the Governor, presided by the competent state's Minister, and membership of the ministers having connection with the environment, the organs and corporations having connection and a number of members; provided that they shall be possessed of knowhow and experience of the environment and natural resources affairs.⁹

⁷ Act No. 40, 1974

⁸ Ibid

⁹ Act No. 18, 2001

Functions of the State's Council

15. The State Council shall exercise the functions set out in the state's Law, provided that due regard in the same shall be the functions granted to the Council, in accordance with the provisions of this Act, and the policies laid down by the said Council.

The competent authority

16. Everyone of the organs hereinafter mentioned shall be deemed as an authority competent of protection of the environment, and endeavour to achieve the objectives provided for in the section 4, the organs are:-¹⁰

- (a) the Council, as to such functions and powers, as may be conferred therein under the provisions of this Act,
- (b) ministries, organs, and national institutions concerned with environmental health and protection, in all fields of health, agricultural, industrial, housing, economical, cultural, social, and otherwise, in accordance with powers granted thereto, under the Laws in force;
- (c) state's councils, ministries, organs, corporations, competent of protection and promotion of the environment.

¹⁰ Act No. 18 , 2001 , Act No. 40, 1974

- (d) national and international societies and institutions concerned with promotion and protection of the environment, licensed to work in the State, deeming that the protection of environment is a popular work, which requires enabling the society to play its role in organizing the people's efforts at both national and state levels,
- (e) native administration.

Chapter III

Policies and General Directives for Environment Protection

Evaluation and environmental follow-up

17. (1) Notwithstanding the provisions of any other Law, concerning permit of the programmes and projects by the competent authority, every person desirous entering into any project as may probably negatively affect the environment and natural resources, shall present environmental feasibility study, signed by the evaluation and follow-up committee constituted by the Council.
- (2) The environmental feasibility study of the project shall show, the following:-
 - (a) the expected effect of the proposed project, on the environment;
 - (b) the negative effects of the project which can be evaded, upon execution of the project,
 - (c) the available alternatives of the proposed project,

- (d) sufficient clarification that short term utilization of the natural resources and environment, does not affect the offering of these resources in the long term,
- (e) where the project connected with the utilization of non-renewable natural resources, the said feasibility study shall include the continuity of utilization of these resources,
- (f) precautions adopted for containing the negative effects of the project and limit the same.

Duties of the Competent Authority to give due regard to the environmental policies

18. The competent authority shall give due regard to and follow the following policies and directives for the protection and promotion of the environment in the State:-

- (a) lay down and validate the standards of quality, which lead to environment protection, prevent of its deterioration, and follow up abidance by the same;
- (b) preserve the various water sources, protect them from pollution and rationalize water usage;
- (c) preserve of air, food, soil, and vegetation, and protect them from pollution and deterioration;
- (d) preserve animals, and other living organisms, and protect them from risks of extinction by over hunting or attacking of the same;
- (e) promote the mining and drilling programmes, in accordance with sound standards and specification of the environment;

- (f) preserve the archeological and tourist sites, and protect the same from the deterioration and assaults against them;
- (g) disseminate awareness and environmental culture between citizens, and activate the role of the information in the environment protection field;
- (h) introduce environment protection within the educational programmes at schools, universities, institutes, and other educational institutions in the State;
- (i) coordinate and cooperate with societies, institutions, Councils, various national and international corporate personalities, concerned with the environment and its protection,
- (j) follow-up of the firm implementation of the provisions of Laws without affect the Laws organizing justice organs.

Duty of all to report risks

19. (1) Every person, whether natural or corporate, shall report the risks, which threaten the environment, and contravention of the provisions of this Act, and otherwise of Laws, relating to health and protection of the environment, and shall tender the assistance and required capabilities for environment protection, and shall have the right to restitute any expenses, as may be incurred thereby for the sake of performing this duty, from any of the competent authorities, which perform this duty towards him.

(2) Subject to the provisions of the Laws, organizing the rights and civil procedure, every person shall have the right on behalf of the community to institute a civil suit, where there occurs any injuries to the environment, without need to prove his relation to such injury.

Chapter IV

Contraventions and Penalties

Contraventions

20. Notwithstanding of the provisions of any other law, there shall be deemed a contravention of the provisions of this Act, any one of the following acts:-
- (a) pollution of air by effecting any change of its components, in quantity or quality, which by nature harm human being and the other living organisms, or otherwise of the environment elements,
 - (b) pollution of water sources, such as rivers, seas, lakes, pools, brooks, canals, watercourse, reserves, natural and artificial water dams and otherwise in, which water is kept for the usage of human being or animals;
 - (c) pollution of food by living organisms, such as harmful Bactria, worms, insects causing diseases, or by the natural or artificial, inputs chemicals, heavy metals, dust of the types thereof and dusts of the types thereof;
 - (d) pollution of soil by adding substances of compounds harmful to its components, or by increasing the slats percentage above the usual limit, or by throwing the refuse and natural and artificial substances harmful to health in the soil;
 - (e) epidemic pollution, which cause affecting by epidemical small organisms, of fast spreading, such as cholera, plague, leprosy, and otherwise of diseases;

- (f) radiation pollution, produced by effecting nuclear dumping explosions or atomic fission , and otherwise;
- (g) sound pollution, produced by loud sounds, or noise;
- (h) light pollution, by subjecting any person to excess, or unsuitable artificial light,
- (i) space pollution, produced by physical or chemical operations, or otherwise, which affects the earth spheres of the atmosphere, or outer space;
- (j) threat of animals and other living organisms, by over hunting, or attack of their environment and natural conservation of the same,
- (k) removal and over felling of trees, and attack on the vegetation;
- (l) change of the route of natural water courses, rivers, valleys, floods, and attack the same,
- (m) spread genetically amended organisms, without abiding by the safeguards organizing the same.¹¹

Penalties¹²

21. (1) whoever contravenes the provisions of section 20, shall be punished with imprisonment, for a term not exceeding three years, or with fine, not exceeding ten thousand SDG, or with both, also the material subject of the contravention may be subject to confiscation for the benefit of the authority concerned of the contravention.

¹¹ National Assembly Sitting No. 35 on 5/6/2001

¹² National Assembly Sitting No. 35 on 5/6/2001 , Act No. 40, 1974.

(2) The court, in case of conviction, may suspend the project or the facility, or the place source of the contravention, totally or partially or revoke the license totally or partially.

(3) The penalty provided for in sub-section (1) may be redoubled in case of repetition of the contravention.

(4) For remedy of the material injuries, caused by contravention of the provisions of this Act, compensation may be adjudged.

The Competent Court

22. Jurisdiction of trial of the contraventions of the provisions of this Act, shall be conferred on courts of the environment, to be established by the Chief Justice, and the ordinary criminal courts shall be competent, in the areas wherein no environment courts are found.

Severer penalty Inflicted

23. Where the penalty provided for in section 21, is inconsistent with any penalty provided for in any other law for the same contravention, the court shall inflict the severer penalty.

Chapter V

General Provisions

Standards and Means of Combating Pollution

24. The Ministry in coordination with the Council, and the competent authority, shall specify the standards and means of combating pollution, and limiting of the same in the various fields, for the purpose of advertizing and publishing the same by all means of mass media.

Procedure of entry and Search of Facility

25. The competent authority, after obtaining the permission of the competent prosecution attorney bureau, may enter and search any facility, project, or place, or otherwise, for the detection, suspension, or preventing the contraventions of the provisions of this Act.

Application of the provisions of International Agreements

26. Without prejudice to any other provisions of this Act, the competent authority shall be bound by applying the provisions of the bilateral and international agreements, and protocols, agreed or to be agreed to by the State, or entered thereto in the future.

Power to make Regulations

27. The Council upon approval of the Minister may make such regulations as may be necessary for implementation of the provisions of this Act.