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Regulating Energy Efficiency in India after the Energy Conservation (Amendment) Act, 2022: Legal Gaps, Institutional Challenges and the Path to Effective Enforcement

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ABSTRACT

The Energy Conservation (Amendment) Act, 2022 turned a promotional statute into a mandate-based one. It empowered the Central Government to fix a minimum share of non-fossil consumption for designated consumers and to notify a carbon credit trading scheme. It extended the Act to vehicles, vessels, industrial units and establishments. It recast the definition of a regulated building, carrying it beyond commercial premises to office and residential buildings and allowing a State Government to go below the 100 kW connected load threshold that an earlier amendment had fixed in 2010. And although it left the ten lakh rupee ceiling of 2010 where it stood, it built on top of that ceiling additional penalties calculated per appliance, per vehicle and per metric tonne of oil equivalent. Four years on, the obligations are in place and enforcement is not. This paper examines why. It identifies four legal gaps: the Act names no authority competent to initiate penalty proceedings; it confers no power of investigation or seizure on any body; it fixes penalty ceilings with, on every limb but one, no floor beneath them; and it now permits almost every obligation to be discharged by payment, at prices that in the fuel economy regime are said to fall below the cost of compliance. It identifies three institutional problems: the Bureau of Energy Efficiency has technical competence but no enforcement powers, adjudication is borrowed from State electricity regulators who lack the relevant expertise, and a single industrial plant is now regulated under three statutes by three authorities with three appellate routes. The paper uses the collapse of Corporate Average Fuel Efficiency penalties in 2026 as a case study of what happens when a mandate has no credible sanction. It compares the Indian design with the United States Department of Energy's enforcement powers under the Energy Policy and Conservation Act, the United Kingdom's civil penalty regimes, and the European Union's requirement that penalties be effective, proportionate and dissuasive. It concludes with a reform agenda centred on a single enforcement authority, a statutory floor for penalties linked to the avoided cost of compliance, a compliance hierarchy that

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makes payment a last resort, and mandatory public reporting of compliance and adjudication.

Keywords: *Energy Conservation Act 2001, Energy Conservation (Amendment) Act 2022, Bureau of Energy Efficiency, regulatory enforcement, carbon credit trading, CAFE norms, energy law, India*

I. INTRODUCTION

For twenty years India's energy conservation law asked politely. The Energy Conservation Act, 2001 created the Bureau of Energy Efficiency and gave it a mission that the Bureau itself describes in the language of "self-regulation and market principles".[1] The Bureau recommended standards. The Central Government notified them. Designated consumers reported their consumption. The maximum penalty for breach was ten thousand rupees, and it remained so until 2010, when an earlier amendment raised the ceiling to ten lakh rupees and the daily continuing penalty from one thousand rupees to ten thousand.[2]

That framework changed on 1 January 2023, when the Energy Conservation (Amendment) Act, 2022 came into force.[3] The amendment did four things that matter. It empowered the Central Government to specify a carbon credit trading scheme and to fix a minimum share of consumption of non-fossil sources by designated consumers.[4] It extended the Act's reach to vehicles, vessels, industrial units, buildings and establishments.[5] It recast the definition of a regulated building, carrying it beyond commercial premises to office and residential buildings and permitting a State Government to set a threshold below the 100 kW connected load or 120 kVA contract demand that had been fixed in 2010.[6] And it replaced Section 26 entirely. The ten lakh rupee ceiling inherited from 2010 remained where it was, but the amendment built on top of it additional amounts of up to fifty thousand rupees per vehicle, up to five thousand rupees

[1] The Energy Conservation Act, 2001, No. 52 of 2001 (India) [hereinafter EC Act]; BUREAU OF ENERGY EFFICIENCY, *About BEE* (last visited Aug. 28, 2026) (the phrase quoted in the text is from the Bureau's mission statement, not from the Act).

[2] EC Act § 26(1) (as originally enacted), amended by the Energy Conservation (Amendment) Act, 2010, No. 28 of 2010, § 8 (w.e.f. Aug. 24, 2010) (substituting "ten lakh rupees" for "ten thousand rupees", substituting "ten thousand rupees" for "one thousand rupees" in the continuing-failure proviso, omitting the words "or clause (n)", and inserting § 26(1A)).

[3] The Energy Conservation (Amendment) Act, 2022, No. 19 of 2022, GAZETTE OF INDIA, Extraordinary, pt. II sec. 1 (Dec. 20, 2022) (assented Dec. 19, 2022; in force Jan. 1, 2023) [hereinafter 2022 Amendment Act]; *see* Library of Congress, *India: Energy Conservation (Amendment) Act, 2022, Allowing for a Carbon Credit Trading System, Comes into Force*, GLOBAL LEGAL MONITOR (Jan. 18, 2023).

[4] EC Act § 14(w), (x), inserted by 2022 Amendment Act § 6(viii).

[5] *Id.* § 14(a)-(b), as amended by 2022 Amendment Act § 6(i)-(ii).

[6] *Id.* § 2(c), as substituted by 2022 Amendment Act § 2(i) (extending the definition beyond commercial premises to office and residential buildings, tying it to the energy conservation and sustainable building codes, and adding the proviso permitting a State Government to specify a lower connected load or contract demand). The 100 kW connected load and 120 kVA contract demand figures were introduced earlier, by the Energy Conservation (Amendment) Act, 2010, No. 28 of 2010, § 2 (w.e.f. Aug. 24, 2010), and were carried forward unchanged in 2022.

per appliance, and up to twice the price of every metric tonne of oil equivalent consumed in excess of norms.[7]

The obligations that followed are substantial. Roughly 740 entities across nine energy-intensive sectors will hold legally binding greenhouse gas emission intensity targets once all sectoral notifications are complete, covering more than 700 million tonnes of carbon dioxide equivalent.[8] Distribution licensees, open access consumers and captive users must meet a renewable consumption obligation rising from 29.91 per cent in 2024-25 to 43.33 per cent in 2029-30.[9] Passenger vehicle manufacturers must meet fleet-average fuel economy targets that will tighten again from April 2027.[10]

Against that, consider what happened in 2026. Nine carmakers had accumulated penalties for missing Corporate Average Fuel Efficiency targets over three financial years. The figure was first estimated at over seven thousand crore rupees, then recalculated to ₹2,728 crore, and then, according to press reports in July 2026, waived almost in full.[11] Weeks later the Ministry of Power released the draft next phase of the same norms.[12] Commentators asked the obvious question: if penalties are negotiable, what is a target?[13]

This paper argues that the outcome was predictable from the statute. The 2022 amendment created obligations without building the machinery to enforce them. It left untouched Section 13, which gives the Bureau powers of recommendation only; Section 17, which gives a limited inspection power to State designated agencies and expressly bars removal of documents; and Section 27, which places adjudication with a member of a State Electricity Regulatory Commission.[14] The result is a regulatory framework in which the body that knows cannot act, the body that can act does not know, and every mandate now carries a priced exit.

The paper proceeds as follows. Part 2 sets out the questions and method. Part 3 analyses what the 2022 amendment changed and what it left alone. Part 4 maps the five regulatory pillars that now sit on the Act and the legal gap in each. Part 5 examines the fuel economy episode as a

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[7] *Id.* § 26, as substituted by 2022 Amendment Act § 12.
[8] *India Notifies Emission Intensity Targets for Nine Sectors under Carbon Credit Trading Scheme*, INT'L CARBON ACTION P'SHIP (2026).
[9] Ministry of Power, Gov't of India, Notification dated Sept. 27, 2025, GAZETTE OF INDIA, pt. II sec. 3, No. 4301 (in supersession of Notification No. S.O. 4617(E) dated Oct. 20, 2023) [hereinafter RCO Notification 2025].
[10] Ministry of Power, Gov't of India, Draft Corporate Average Fuel Economy 2027 Norms (CAFE-III) (circulated for consultation July 16, 2026).
[11] *Centre Cuts CAFE II Fines to ₹2,728 Crore for 9 Carmakers after Penalty Recalculation*, ACKODRIVE (2026); *CAFE-2 Penalty Waiver: Relief for Automakers or Setback to India's EV Push?*, BUSINESS STANDARD (July 13, 2026).
[12] *Draft CAFE-III Norms: What's Changing in India's Fuel-Efficiency Rules?*, BUSINESS STANDARD (July 17, 2026).
[13] *Draft CAFE-III Norms*, *supra* note 12; *CAFE-2 Penalty Waiver*, *supra* note 11.
[14] EC Act §§ 13 (functions of the Bureau), 17 (power of inspection), 27 (power to adjudicate).

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case study. Part 6 sets out the institutional challenges. Part 7 identifies the legal gaps in detail, including what the paper calls the buyout turn. Part 8 draws comparative benchmarks. Part 9 proposes reforms and Part 10 concludes.

II. Questions, scope and method

The paper asks four questions. What did the 2022 amendment change in law, and what did it leave unchanged? Where does the resulting framework fail to provide a workable enforcement path? What institutional features explain the failure? And what statutory and administrative changes would produce a credible enforcement regime?

The method is doctrinal, supported by regulatory and comparative material. Primary sources are the Energy Conservation Act, 2001 as amended, the Environment (Protection) Act, 1986 and rules made under it, the Electricity Act, 2003, notifications and rules of the Ministry of Power, regulations of the Bureau of Energy Efficiency and the Central Electricity Regulatory Commission, and decisions of the Supreme Court and the Appellate Tribunal for Electricity. Comparative material is drawn from the United States, the United Kingdom and the European Union. Empirical material is drawn from official reports and, where official data is unavailable, from contemporaneous press reporting, which is identified as such.

The paper does not evaluate the technical stringency of any standard. It is concerned with the legal architecture of compliance. The law is stated as on 21 August 2026.

III. What the 2022 amendment did, and did not, change

A. New obligations

Two clauses inserted into Section 14 carry most of the weight.

Clause (w) empowers the Central Government to specify a carbon credit trading scheme.[15] Clause (x) empowers it to specify a minimum share of consumption of non-fossil sources by designated consumers, as energy or as feedstock, with different shares permissible for different sources and different classes of consumer.[16] A new Section 14AA provides for the issue of carbon credit certificates to registered entities that comply with the scheme, and allows those entities to buy and sell such certificates.[17] Corresponding definitions of "carbon credit certificate", "carbon credit trading scheme" and "registered entity" were inserted into Section

[15] *Id.* § 14(w).
[16] *Id.* § 14(x).
[17] *Id.* § 14AA, inserted by 2022 Amendment Act § 8.

2.[18] The definition of "energy" itself was widened to include energy derived from non-fossil and renewable sources.[19]

B. Wider coverage

Section 14(a) and (b) previously spoke of equipment and appliances. As amended, they extend to any equipment, appliance, vehicle, vessel, industrial unit, building or establishment that consumes, generates, transmits or supplies energy.[20] Section 14(c) now prohibits the manufacture or import of non-conforming equipment, appliances, vehicles and vessels, and requires an industrial unit that does not conform to notified norms to close its operations, subject to transition periods of six months for products and two years for industrial units.[21]

The definition of "building" was recast. A regulated building is now one with a minimum connected load of 100 kW or contract demand of 120 kVA, thresholds first set in 2010 and carried forward unchanged, used or intended to be used for commercial purposes, as an office building or for residential purposes, with a proviso permitting a State Government to specify a lower connected load or contract demand. The extension beyond commercial premises and the State proviso are what 2022 added.[22] The Schedule of energy intensive industries is reported to have been expanded in January 2022 to add ceramics, glass, zinc, copper and mining, taking the list to twenty categories, although the Ministry of Power's own consolidated text of the Act still prints the original fifteen.[23]

C. A new penalty scheme

Section 26 was substituted in full. The structure is now graduated. Sub-section (1) covers audit and information defaults, with a ceiling of ten lakh rupees and a continuing penalty of up to ten thousand rupees a day, both figures carried over from 2010. Sub-section (2) covers manufacture, import and labelling defaults, adding a per-item penalty of between two thousand and five thousand rupees, a penalty of up to twice the price of every metric tonne of oil equivalent consumed in excess of norms for industrial units and vessels, and per-vehicle penalties of twenty-five thousand or fifty thousand rupees depending on the extent of the shortfall. Sub-section (3) covers energy consumption norms and the non-fossil share, again with the oil-equivalent multiplier. Sub-section (4) covers the deceptive name prohibition and failure to

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[18] *Id.* § 2(da), (db), (qa), inserted by 2022 Amendment Act §§ 2(ii), 2(vi).
[19] *Id.* § 2(h), as substituted by 2022 Amendment Act § 2(iii).
[20] *Id.* § 14(a)-(b).
[21] *Id.* § 14(c), as substituted by 2022 Amendment Act § 6(iii), and provisos.
[22] *Id.* § 2(c).
[23] *Id.* sched., as amended by Notification No. S.O. 09(E) (Jan. 3, 2022). The Ministry of Power's consolidated text of the Act, as uploaded in February 2024, still prints the Schedule with fifteen entries and records no alteration in 2022.

furnish information. Sub-section (5) makes unpaid amounts recoverable as an arrear of land revenue.[24]

Section 28 was amended to add the loss caused to a consumer as a factor in fixing quantum, alongside disproportionate gain and repetition.[25] Section 27A was inserted, allowing State Commissions to make regulations for discharging their functions under the Act.[26]

D. What was left alone

Three provisions were not touched, and they are the ones that determine whether any of the above can be enforced.

Section 13. The Bureau's functions remain recommendatory, promotional and technical. The 2022 amendment added new clauses, but they follow the same pattern: the Bureau may "recommend to the Central Government on the requirements to be specified in the carbon credit trading scheme" and "recommend minimum share of consumption of non-fossil sources by designated consumers".[27] The amendment also added a power to test samples, but expressly "for purposes other than those specified in section 14", that is, other than the standards whose breach attracts penalty.[28]

Section 17. Inspection continues to rest with inspecting officers appointed by the State designated agency. Sub-section (4) continues to provide that an inspecting officer "shall, on no account, remove or cause to be removed" any equipment, appliance, books of account or other documents from the premises.[29] There is no power of seizure anywhere in the Act.

Section 27. Adjudication continues to rest with an adjudicating officer appointed by the State Commission from among its own members, or, where no Commission exists, an officer of the State Government of Secretary rank dealing with legal affairs.[30]

This is the central legislative fact about the 2022 amendment. It multiplied obligations and multiplied the heads on which a penalty may be imposed. It did not create, expand or reallocate a single enforcement power.

[24] *Id.* § 26(1)-(5).
[25] *Id.* § 28(c), inserted by 2022 Amendment Act § 14.
[26] *Id.* § 27A, inserted by 2022 Amendment Act § 13.
[27] *Id.* § 13(2)(te), (tf), inserted by 2022 Amendment Act § 4(iv).
[28] *Id.* § 13(2)(tc), inserted by 2022 Amendment Act § 4(iv).
[29] *Id.* § 17(1)-(4).
[30] *Id.* § 27(1)-(2) and provisos.

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IV. FIVE PILLARS, FIVE GAPS

A. Industrial energy: from PAT to CCTS

The Perform, Achieve and Trade scheme has run since 2012 across successive cycles and now covers more than a thousand industrial units; the Bureau reports 1,333 energy intensive industries, accounting for about 55 per cent of industrial energy consumption. Designated consumers received specific energy consumption targets; over-performers earned energy savings certificates tradable on power exchanges under regulations of the Central Electricity Regulatory Commission; under-performers were to buy them.[31]

The academic assessment has been consistently qualified. Bhandari and Shrimali found the targets not strict enough to induce activity beyond business as usual, doubted that long-term investment would follow, and questioned whether the certificate market would form at all.[32] Earlier work on the certificate instrument reached similar conclusions about liquidity and price signals.[33] Non-compliance in the first cycle has been reported at around nine per cent and is said to have risen subsequently, though the figure comes from secondary commentary rather than from the Bureau's own cycle reporting.[34] Excess certificate supply drove prices down and weakened the incentive to decarbonise.[35]

The legal gap here is not target design. It is that a designated consumer who neither met the target nor bought certificates faced a penalty under Section 26 that had to be imposed by a State Commission's adjudicating officer, on material the Bureau could not compel and in a forum no one was statutorily obliged to approach.

B. Carbon markets: one obligation, three statutes

The Carbon Credit Trading Scheme was notified on 28 June 2023 under Section 14(w) and has since been amended.[36] The Bureau administers it, recommends targets, oversees measurement

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[31] EC Act § 14A (power of the Central Government to issue energy savings certificates); BUREAU OF ENERGY EFFICIENCY, *Perform, Achieve and Trade (PAT)*, https://beeindia.gov.in/en/programmesindustrypat (last visited Aug. 28, 2026) (reporting coverage of 1,333 energy intensive industries, about 55 per cent of total industrial energy consumption); INT'L ENERGY AGENCY, *Perform, Achieve, Trade (PAT) Scheme*, IEA POLICIES DATABASE, https://www.iea.org/policies/1780-perform-achieve-trade-pat-scheme.

[32] Divita Bhandari & Gireesh Shrimali, *The Perform, Achieve and Trade Scheme in India: An Effectiveness Analysis*, 81 RENEWABLE & SUSTAINABLE ENERGY REVS. 1286 (2018), doi:10.1016/j.rser.2017.05.074.

[33] Tanushree Bhattacharya & Richa Kapoor, *Energy Saving Instrument: ESCerts in India*, 16 RENEWABLE & SUSTAINABLE ENERGY REVS. 1311 (2012), doi:10.1016/j.rser.2011.10.007; Rajesh Kumar & Arun Agarwala, *Renewable Energy Certificate and Perform, Achieve, Trade Mechanisms to Enhance the Energy Security for India*, 55 ENERGY POL'Y 669 (2013).

[34] *India's Carbon Market Framework: What It Means for Industry and Climate Governance*, IMPRI IMPACT & POL'Y RES. INST. (June 17, 2026).

[35] *Id.*; Bhandari & Shrimali, *supra* note 32.

[36] Carbon Credit Trading Scheme, 2023, Ministry of Power Notification No. S.O. 2825(E) (June 28, 2023), notified under EC Act § 14(w), as amended by Notification No. S.O. 5369(E) (Dec. 19, 2023); *see* INT'L ENERGY AGENCY,

and verification, and issues carbon credit certificates. Grid Controller of India operates the registry. The Central Electricity Regulatory Commission regulates trading, and notified the terms and conditions for purchase and sale of carbon credit certificates in February 2026.[37] The Indian Carbon Market portal was launched in March 2026.[38]

Targets, however, are notified by a different ministry under a different statute. The Greenhouse Gases Emission Intensity Target Rules, 2025 were made under the Environment (Protection) Act, 1986 and came into force on 8 October 2025, covering aluminium, cement, chlor-alkali and pulp and paper.[39] Amendment Rules notified in January 2026 added secondary aluminium, petroleum refineries, petrochemicals and textiles; press reporting puts the number of further entities brought into the mechanism at 208, taking the total to 490.[40] Targets are set for compliance years 2025-26 and 2026-27 against a 2023-24 baseline.[41]

The sanction is imposed by a third authority under the third statute. Where an obligated entity fails to meet its target or to surrender sufficient certificates, the Central Pollution Control Board imposes environmental compensation equal to twice the average price at which carbon credit certificates traded during the compliance year, payable within ninety days, with further consequences under the Environment (Protection) Act.[42]

So the Bureau recommends the target, computes the average traded price, issues the certificates and runs the verification, but has no role in the sanction. The Ministry of Environment notifies the target it did not compute. The Pollution Control Board imposes a compensation it did not calculate. Appeals do not lie to the Appellate Tribunal for Electricity, which is the appellate forum for everything else under the Energy Conservation Act.[43] Whatever the merits of this arrangement politically, as regulatory design it separates knowledge from power three times over.

Carbon Credit Trading Scheme, 2023, IEA POLICIES DATABASE.

[37] Central Electricity Regulatory Commission (Terms and Conditions for Purchase and Sale of Carbon Credit Certificates) Regulations, 2026, No. RA-14026(13)/1/2024-CERC (Feb. 27, 2026), https://cercind.gov.in/regulations/205-Noti.pdf; *see* Mercom India, *CERC Issues Rules to Operationalize Carbon Credit Trading on Power Exchanges* (Mar. 2, 2026).

[38] *Compliance Obligations under India's Carbon Credit Trading Scheme Enter into Force for Seven Sectors*, INT'L CARBON ACTION P'SHIP (Mar. 30, 2026).

[39] Greenhouse Gases Emission Intensity Target Rules, 2025 (in force Oct. 8, 2025), made under the Environment (Protection) Act, 1986, No. 29 of 1986.

[40] Greenhouse Gases Emission Intensity Target (Amendment) Rules, 2025; *Govt Notifies GEI Targets for Additional Carbon-Intensive Sectors under Carbon Credit Trading Scheme*, NEWS ON AIR (Jan. 22, 2026). The entity counts given in the text rest on that reporting.

[41] INT'L CARBON ACTION P'SHIP, *supra* note 38.

[42] Greenhouse Gases Emission Intensity Target Rules, 2025, r. 7.

[43] *Cf.* EC Act §§ 30-31 (appeals under the Energy Conservation Act lie to the Appellate Tribunal for Electricity constituted under section 110 of the Electricity Act, 2003).

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The market itself has been slow. As of April 2026 neither the floor price nor the forbearance price for certificates had been published, which industry identified as the most consequential unresolved element of the design.[44] The first compliance date for 2025-26 was 31 July 2026, and trading was expected around October 2026 after a series of postponements.[45]

C. Non-fossil consumption: the renewable consumption obligation

The Central Government first notified the renewable consumption obligation under Section 14(x) in October 2023, and replaced that notification on 27 September 2025.[46] The Bureau monitors compliance and reports to the Central Government; shortfalls, non-reporting and misreporting attract penalties under Section 26(3), imposed by a State Commission's adjudicating officer.[47]

Two legal problems arise.

The first is overlap. Section 86(1)(e) of the Electricity Act, 2003 empowers State Commissions to specify a minimum percentage of renewable purchase, and Section 142 of that Act empowers them to penalise contravention of their own regulations. The Supreme Court upheld the constitutional validity of that power in *Hindustan Zinc Ltd. v. Rajasthan Electricity Regulatory Commission*, holding that the obligation attaches to consumption and applies even to captive users.[48] The 2025 notification states that no further renewable purchase obligation will be imposed under the Electricity Act because State targets are subsumed within the national framework.[49] But Section 86(1)(e) has not been amended, and State Commissions continue to notify and amend renewable purchase obligation regulations.

The second is the enforcement record under the parallel regime, which is instructive. The Forum of Regulators found for 2024-25 that only one utility in the country met all four category-wise obligations set by the Ministry of Power, and that several large States did not report against the central trajectory at all.[50] In September 2025 the Appellate Tribunal for Electricity is reported to have reviewed penalties imposed on two Delhi distribution companies for three years of

[44] *India's CCC Carbon Credit Market: CERC 2026 Trading Regulations, Price Band and What Happens Next*, RECLIMATIZE (Apr. 19, 2026).
[45] INT'L CARBON ACTION P'SHIP, *supra* note 38; *Carbon Credit Trading Scheme (CCTS) 2023: Assessing India's First Mandatory Carbon Market*, IMPRI IMPACT & POL'Y RES. INST. (2026).
[46] RCO Notification 2025, *supra* note 9.
[47] *Id.*; EC Act § 26(3); BUREAU OF ENERGY EFFICIENCY, *Renewable Consumption Obligations (RCO)*, https://www.beeindia.gov.in/en/renewable-consumption-obligations-rco (last visited Aug. 28, 2026).
[48] *Hindustan Zinc Ltd. v. Rajasthan Elec. Regulatory Comm'n*, (2015) 12 S.C.C. 611 (India); The Electricity Act, 2003, No. 36 of 2003, §§ 86(1)(e), 142.
[49] RCO Notification 2025, *supra* note 9.
[50] FORUM OF REGULATORS, REPORT ON STATUS OF RPO COMPLIANCE FOR FY 2024-25 (2026); Karan Sharma, *Meeting RPO Targets: Focus on Ensuring Compliance by Obligated Entities*, RENEWABLE WATCH (July 30, 2026).

complete default, set them aside and substituted a penalty of five thousand rupees for each financial year, on the reasoning that Section 142 prescribes a maximum but no minimum and that the regulator had not weighed mitigating circumstances.[51] If that account is accurate, the lesson transfers directly. The argument does not rest on that decision alone. Section 142 of the Electricity Act and Section 26 of the Energy Conservation Act are drafted in the same open-ended way, and the discretion Indian courts read into penalty provisions of that kind runs in the same direction: a ceiling without a floor invites token penalties on appellate review.

D. Buildings: a central code and a State subject

Section 14(p) empowers the Central Government to prescribe an energy conservation and sustainable building code, and clauses (q) to (s) allow amendment for regional conditions and directions to owners and occupiers who are designated consumers. A proviso requires that these powers be exercised in consultation with the concerned State.[52] Section 15(a) allows a State Government to amend the code for local climatic conditions, to notify it by rules, and to implement it through State building bye-laws.[53]

The Bureau issued the Energy Conservation Building Code in 2007, revised it in 2017, added Eco Niwas Samhita for residential buildings, and consolidated the framework into the Energy Conservation and Sustainable Building Code.[54] One trade report records that around twenty-three States had notified building code rules by 2025, with Maharashtra circulating draft rules that year.[55] Reviews of the sector describe the pathway as fragmented in practice, with mandatory codes, voluntary rating systems and operational benchmarking coexisting without a clear compliance chain.[56] Independent assessments are more cautious. They name only four States as having notified rules or written the code into their bye-laws, record that data on code-compliant buildings is largely unavailable in the public domain, and note that Uttar Pradesh is a rare State maintaining a public list.[57]

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[51] *BSES Yamuna Power Ltd. v. Delhi Elec. Regulatory Comm'n*, Appeal Nos. 397 & 441 of 2019, at 9-17 (App. Trib. for Elec. Sept. 15, 2025).

[52] EC Act § 14(p)-(s) and proviso.

[53] *Id.* § 15(a)-(b), as amended by 2022 Amendment Act § 9(i)-(ii).

[54] BUREAU OF ENERGY EFFICIENCY, ENERGY CONSERVATION & SUSTAINABLE BUILDING CODE 2024 (ECSBC 2024), https://www.beeindia.gov.in/en/WriteReadData/L45218/7534511430467336.pdf.

[55] *Maharashtra Notifies Draft Energy Conservation Building Code Rules 2025*, ESG BROADCAST (May 19, 2025) (recording that twenty-three States had notified building code rules).

[56] Eshrar Latif & Vaibhav Jain, *State-of-the-Art of Net-Zero Building Standards and Benchmarks in India: A Comprehensive Review with Notable Case Studies*, 350 ENERGY & BUILDINGS art. 116679 (2026), doi:10.1016/j.enbuild.2025.116679.

[57] ENERGY TRANSITIONS PLATFORM INDIA, *Energy Conservation Building Code Compliance and Eco Niwas Samhita Preparedness*, https://etpi.in/indicator_results/b1-energy-conservation-building-code-compliance-and-eco-niwas-samhita (last visited Aug. 28, 2026).

The legal gap here is different in kind. Enforcement of a building code happens at the point of building permission and occupancy certification, which is municipal. Neither the Bureau nor the State designated agency issues those permissions. The Act's penalty machinery, which is directed at designated consumers and adjudicated by an electricity regulator, is a poor fit for a compliance decision taken by a municipal building official. The 2022 substitution made the difficulty sharper still. The clauses that carried the building code directions to a designated consumer were dropped from Section 26 and were not replaced anywhere in the new sub-sections, so breach of the central code by a designated consumer now attracts no penalty under the Act at all.[58] No amount of central drafting solves this without a link into municipal law.

E. Appliances and vehicles

The standards and labelling programme rests on Section 14(b), (c) and (d) and is enforced, in theory, through Section 26(2). The Bureau is reported to have consolidated the framework in regulations on appliance labelling and compliance notified in December 2025 and effective from 1 January 2026, governing registration, fees, verification and compliance.[59] Regulations of that kind can structure the Bureau's own processes; they cannot create a penalty, since Section 58 confines the regulation-making power to specified technical matters and requires central approval.[60]

Fuel economy standards for passenger cars were first notified in 2015 and took effect from 2017-18, with a second phase from 2022-23.[61] The next part turns to what happened when they had to be enforced.

V. Case study: the fuel economy penalties

The Corporate Average Fuel Efficiency framework is the clearest test the amended Act has faced. It has clear numerical targets, an identifiable set of regulated entities, published sales data and a statutory penalty expressed per vehicle.

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[58] EC Act § 26(1), as substituted by 2022 Amendment Act § 12, extends only to clauses (h), (i), (k) and (l) of section 14 and clauses (c) and (h) of section 15. The pre-2022 § 26(1) also covered clauses (r) and (s) of section 14, which carry the direction to an owner or occupier who is a designated consumer to comply with the building code and to have a building energy audit conducted, and clause (b) of section 15. Those limbs appear nowhere in the substituted section 26.

[59] Bureau of Energy Efficiency (Appliance Labelling and Compliance) Regulations, 2026, Gazette of India, Extraordinary (Dec. 2025) (in force Jan. 1, 2026).

[60] EC Act § 58(1)-(2).

[61] Bureau of Energy Efficiency, *Corporate Average Fuel Economy Norms for Passenger Cars*, https://beeindia.gov.in/show_content.php?lang=1&level=2&ls_id=346&lid=71 (last visited Aug. 28, 2026).

The sequence, as reported, is as follows. Eight to nine manufacturers were identified as having exceeded permitted fleet emission levels. Early estimates put aggregate liability for a single financial year at around ₹7,300 crore, with one manufacturer alone accounting for over ₹2,800 crore.[62] The Prime Minister's Office directed the ministries of power and road transport to establish a clear mechanism for recovering penalties from non-compliant manufacturers.[63] A revised calculation method reduced the aggregate for the three financial years from 2022-23 to 2024-25 to ₹2,728 crore across nine manufacturers.[64] In July 2026 press reports stated that the Government had waived approximately ₹2,700 crore of that liability.[65] Days later, on 16 July 2026, the Ministry of Power circulated the draft third-phase norms for consultation, applying to M1 category passenger vehicles from 2027-28 to 2031-32.[66]

Three features of the episode matter for this paper.

The penalty was never adjudicated. Section 26(2) requires a penalty to be imposed by an adjudicating officer under Section 27 after an inquiry and a hearing. What the reporting describes is an administrative computation, a recalculation and an executive waiver. No adjudicating order appears to have been passed. This is not a criticism of the Government's judgement on relief; it is an observation that the statutory route was not used, because the statutory route has no working entry point. Section 27 names no complainant and no procedure for initiation, and the Energy Conservation (Compliance Enforcement) Rules, 2025 came into force only in October 2025, after most of the liability had accrued.[67]

Recalculation and waiver were both executive acts. Section 53 allows exemption of a designated consumer or class of designated consumers from all or any provisions of the Act, for a period not exceeding five years, in the public interest, after consultation with the Bureau.[68] Whether that provision was invoked is not apparent from the public record. If it was not, the legal basis for a wholesale waiver of accrued liability is unclear. Once a penalty is a matter for quasi-judicial determination, the executive cannot ordinarily remit it by administrative decision.

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[62] *Carmakers Face Penalty for Non-Compliance with CAFE Norms*, VAJIRAM & RAVI CURRENT AFFAIRS (Oct. 13, 2025).

[63] ACKODRIVE, *supra* note 11.

[64] *Id.*

[65] *CAFE-2 Penalty Waiver*, *supra* note 11; *Centre Waives ₹2,700 Crore CAFE-2 Penalties for Automakers*, AUTOPUNDITZ (July 3, 2026). These are contemporaneous press accounts; no gazette notification recording the waiver appears to be publicly available.

[66] Ministry of Power, *supra* note 10; *Govt Proposes New Fuel Economy Norms for Cars from April 1, 2027*, MUMBAI PRESS (July 16, 2026) (comments invited until Aug. 6, 2026).

[67] EC Act § 27; Energy Conservation (Compliance Enforcement) Rules, 2025 (in force Oct. 22, 2025) [hereinafter Compliance Enforcement Rules].

[68] EC Act § 53 and provisos.

The next phase prices non-compliance in advance. The draft third-phase norms introduce a credit mechanism under which a manufacturer with a deficit may purchase credits from the Bureau at a buyout price beginning at ₹2,500 per gramme of carbon dioxide per kilometre in 2027-28 and rising by ₹500 a year to ₹4,500 by 2031-32, with unused credits lapsing at the end of the compliance block.[69] Reuters reported that non-compliance would draw penalties of up to roughly $550 per car.[70] Analysts have argued that the buyout price is set well below the cost of the compliance it substitutes for.[71]

The episode is therefore not only about one waiver. It is about a design in which the sanction was never adjudicated, was then removed administratively, and has now been converted into a scheduled price.

VI. Institutional challenges

A. A regulator that recommends

The Bureau is the technical centre of the framework and holds no enforcement power. Its functions are recommendatory and promotional; its regulation-making power is confined to technical matters and requires previous approval of the Central Government; it is bound by policy directions under Section 46 and may be superseded under Section 47.[72] It has no power to investigate, to enter premises, to summon a person, to compel production of documents or to seize anything. Its only direct power over a regulated entity is the power to require information under Section 52, and a refusal is punishable only through the same adjudicatory route it cannot itself invoke.[73]

B. A borrowed adjudicator

Adjudication sits with a member of a State Electricity Regulatory Commission. Those Commissions are constituted under the Electricity Act, 2003, and their members are selected for expertise in electricity engineering, finance, commerce, economics, law or management.[74] Nothing in those qualifications contemplates competence in appliance testing, building

[69] *CAFE-III Norms Propose Tighter Fuel Efficiency Targets; EVs, Hybrids, Flex Fuel Vehicles Get Major Compliance Edge*, BUSINESS TODAY (July 16, 2026); *Amid Ethanol Push, Govt Unveils Draft CAFE-III Norms*, THE TRIBUNE (July 16, 2026) (buyout price of ₹2,500 per credit rising by ₹500 a year; unused credits lapse at the end of the compliance block).
[70] *India Drops Small Car Concession in New Fuel Emission Rules*, REUTERS (2026).
[71] *India's Road to Cleaner Mobility: CAFE III Norms Explained*, INSIGHTS ON INDIA (July 28, 2026); *Decoding India's CAFE-III Norms: How Loopholes Weaken Fuel Efficiency Rules*, DOWN TO EARTH (Aug. 2026).
[72] EC Act §§ 13(2) (functions of the Bureau), 46 (directions on questions of policy), 47 (power to supersede the Bureau), 58 (regulation-making power, subject to previous approval).
[73] *Id.* §§ 26(4), 52.
[74] The Electricity Act, 2003, § 84(1) (qualifications for appointment of Chairperson and Member of a State Commission).

envelope performance or automotive fuel economy. Commentators at the consultation stage on the 2025 Rules made exactly this point, noting that the Commissions traditionally regulate electricity and lack domain expertise in appliance or vehicle efficiency, which would have to be supplied by external technical inputs.[75]

The jurisdictional rule compounds the problem. Under the 2025 Rules, cases about appliances, equipment and vehicles go to the adjudicating officer of the Commission where the manufacturer's registered head office is located.[76] A handful of Commissions in States hosting automotive and appliance headquarters would therefore determine national enforcement policy, with no mechanism for consistency between them.

C. Three regulators, one plant

A large cement plant today holds a greenhouse gas emission intensity target notified by the Ministry of Environment, administered by the Bureau, sanctioned by the Central Pollution Control Board and traded on an exchange regulated by the Central Electricity Regulatory Commission. If it is also a distribution licensee's large consumer it may hold a renewable consumption obligation monitored by the Bureau, penalised through a State Commission and discharged at a buyout price fixed by the Central Commission.[77] Its appliances and motors are covered by labelling standards enforced through yet another route.

Fragmentation of this kind raises costs on both sides. For the regulated entity it multiplies filings and forums. For the regulator it dilutes accountability: when nobody owns enforcement end to end, nobody is answerable for its absence.

D. The federal question

Two of the five pillars sit uneasily with the constitutional division of powers. Buildings and municipal governance are State and local subjects, and the Act itself recognises this by requiring consultation with the State before the central building code powers are exercised and by leaving implementation to State rules and bye-laws.[78] Electricity is a concurrent subject, and the

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[75] CTR. FOR ENERGY REGULATION, IIT KANPUR, COMMENTS ON THE DRAFT ENERGY CONSERVATION (COMPLIANCE ENFORCEMENT) RULES, 2025, at 4 (2025), https://cer.iitk.ac.in/odf_assets/upload_files/blog_for_MoP__Energy_Conservation_Compliance_Enforcement_Rules_2025.pdf.
[76] Compliance Enforcement Rules r. 6(1), tbl. 1.
[77] Cent. Elec. Regulatory Comm'n, *Determination of the Buyout Price as an Alternate Compliance Mechanism Towards Fulfilment of Renewable Consumption Obligation*, Petition No. 12/SM/2025 (Suo-Motu) (Feb. 18, 2026), https://cercind.gov.in/2026/Orders/12-SM-2085.pdf.
[78] EC Act §§ 14 proviso, 15(a); INDIA CONST. sched. VII, list II, entries 5, 18; *id.* sched. XII.

renewable purchase obligation is a power conferred on State Commissions by a central electricity statute.[79]

The 2025 Rules attempt to resolve the second overlap by providing that in the event of a shortfall, the norms specified by the Central Government under Section 14(x) apply to the extent of the shortfall and not cumulatively with norms specified by a State Commission under the Electricity Act.[80] A rule made under the Energy Conservation Act cannot cut down a power conferred by the Electricity Act. Where a State target is higher than the central one, the rule read literally would allow an entity meeting only the central benchmark to escape liability for the State shortfall, an outcome that was flagged during consultation.[81] The correct instrument is a statutory bar on double penalisation for the same shortfall, not a rule that purports to displace another statute's jurisdiction.

E. The data deficit

Enforcement requires a public record. There is very little. Compliance data on building code adherence is largely unavailable in the public domain.[82] Renewable purchase obligation reporting varies so widely across States that aggregate figures conceal category-wise shortfalls.[83] There is no published register of adjudication orders under Section 26. The absence of data is not a neutral fact. It removes the reputational sanction that operates alongside the financial one, and the empirical literature on developing-country regulation suggests that disclosure can move firm behaviour where formal enforcement is weak.[84]

VII. The legal gaps

A. No competent initiator

Section 27 assumes that a matter will come before the adjudicating officer. It does not say who may bring it. There is no statutory complainant, no prescribed material, no limitation period and no standard of proof. Compare the securities regime, where the regulator investigates through its own officers and appoints the adjudicating officer, so that investigation and adjudication are linked within one statute.[85] The Energy Conservation Act has no such link, and the 2025 Rules

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[79] INDIA CONST. sched. VII, list III, entry 38; The Electricity Act, 2003, § 86(1)(e).
[80] Compliance Enforcement Rules r. 3(2).
[81] CTR. FOR ENERGY REGULATION, *supra* note 75, at 1-2.
[82] ENERGY TRANSITIONS PLATFORM INDIA, *supra* note 57.
[83] Sharma, *supra* note 50.
[84] Allen Blackman, *Alternative Pollution Control Policies in Developing Countries*, 4 REV. ENVTL. ECON. & POL'Y 234, 245-48 (2010), doi:10.1093/reep/req005.
[85] The Securities and Exchange Board of India Act, 1992, No. 15 of 1992, §§ 11C, 15-I [hereinafter SEBI Act].

supply only a role of "representation" before an officer whom the Bureau cannot compel to act.[86]

B. No investigatory powers

No authority under the Act may seize a document. The designated agency's inspecting officers may enter and inspect but are barred from removing anything.[87] The Bureau may test samples only for purposes other than the Section 14 standards.[88] The adjudicating officer has summons and production powers, but only once a matter is already before him.[89] A regime that penalises misreporting has no power to verify the reporting against anything the reporting entity does not voluntarily supply.

C. Ceilings without floors

With one exception, every limb of Section 26 is expressed only as a maximum. The exception is the two thousand rupee floor per appliance or item of equipment in Section 26(2). There is no floor for the audit and information defaults, none for the energy consumption norms and none for the non-fossil share, and those are the limbs that carry the mandates this paper examines. A floor of that kind did exist before 2022. Section 26(1A), inserted in 2010, required an additional penalty not less than the price of every metric tonne of oil equivalent consumed in excess of the prescribed norms, and the 2022 substitution did not carry it forward.[90] Section 28 lists factors relevant to quantum, and Indian courts have held that such lists are not exhaustive and leave the adjudicator discretion, subject to reasons.[91] That is orthodox administrative law. Applied to a limb with no floor beneath it, nothing prevents the result the Appellate Tribunal is reported to have reached under the analogous provision of the Electricity Act: a token penalty for a total default.[92]

[86] Compliance Enforcement Rules rr. 4, 7.
[87] EC Act § 17(4).
[88] *Id.* § 13(2)(tc).
[89] *Id.* § 27(2).
[90] EC Act § 26(2), as substituted by 2022 Amendment Act § 12 (additional penalty "which shall not exceed five thousand rupees per appliance or equipment in relation to which the non-compliance has occurred, but shall not be lower than two thousand rupees"). The pre-2022 § 26(1A), inserted by the Energy Conservation (Amendment) Act, 2010, No. 28 of 2010, § 8 (w.e.f. Aug. 24, 2010), carried an additional penalty "which shall not be less than the price of every metric ton of oil equivalent of energy, prescribed under this Act, that is in excess of the prescribed norms"; the 2022 substitution did not carry it forward.
[91] *Adjudicating Officer, Sec. & Exch. Bd. of India v. Bhavesh Pabari*, (2019) 5 S.C.C. 90 (India); EC Act § 28.
[92] *BSES Yamuna Power Ltd.*, *supra* note 51, at paras. 11, 17.

D. Primary work done by subordinate legislation

The Energy Conservation (Compliance Enforcement) Rules, 2025 are made under Sections 56(2)(e) and (v) read with Sections 13(2)(u), 13A, 14, 20(1)(c) and 52.[93] Section 13(2)(u) permits the Central Government to prescribe other functions for the Bureau, and a verification function can plausibly be prescribed that way. Coercive powers cannot. The Act allocates summons and production to the adjudicating officer and entry to inspecting officers, and withholds seizure entirely. A rule cannot supply what the parent Act deliberately places elsewhere or omits.

The Rules also leave the crucial relationship undefined. They do not say whether the adjudicating officer is bound by the Bureau's verification report, whether he may examine the matter independently, or how the report reaches him, questions raised during consultation and not answered in the final text.[94] If the report binds, the hearing is illusory. If it does not, the officer must redo technical work he is not equipped to do.

E. The buyout turn

The most significant recent development is not a gap but a design choice. Across three separate regimes, non-compliance now has a scheduled price.

Under the renewable consumption obligation, an entity may discharge the obligation by paying a buyout price fixed by the Central Electricity Regulatory Commission at ₹347 per MWh for 2024-25 and 2025-26, escalating five per cent a year.[95] Under the emission intensity rules, an entity that misses its target and does not surrender certificates pays environmental compensation of twice the average traded certificate price.[96] Under the draft fuel economy norms, a manufacturer in deficit may buy credits from the Bureau at ₹2,500 per gramme of carbon dioxide per kilometre, rising to ₹4,500.[97]

Three observations follow.

First, none of these payments produces the physical outcome the obligation was designed to secure. Prayas (Energy Group) made the point about the renewable buyout in terms that apply

[93] Compliance Enforcement Rules, preamble (made under EC Act §§ 56(2)(e) and (v) read with 13(2)(u), 13A, 14, 20(1)(c) and 52).
[94] CTR. FOR ENERGY REGULATION, *supra* note 75, at 3, 6.
[95] Cent. Elec. Regulatory Comm'n, *supra* note 77, at 19-20.
[96] Greenhouse Gases Emission Intensity Target Rules, 2025, r. 7.
[97] BUSINESS TODAY and THE TRIBUNE, *supra* note 69.

generally: the payment is a penalty by another name, because it does not translate into any actual capacity addition.[98] Others have described it as having a "pay to pollute" character.[99]

Second, the pricing is not consistently pitched to deter. The Commission's own proposal of October 2025 would have fixed the renewable buyout at ₹245 per MWh, only about five per cent above the weighted average certificate price for 2024-25 of ₹232.84 per MWh, which is to say at very nearly the cost of the compliance it replaces. After consultation the Commission rejected that approach, adopted a twelve-month reference period from December 2024 to November 2025, and fixed ₹347 per MWh, roughly half as much again as the figure on which its proposal had rested.[100] On the renewable limb, therefore, the objection is not that the price as determined undercuts compliance but that a priced exit exists at all. On the fuel economy limb the objection is the stronger one: the credit buyout has been criticised as less than half the cost of the compliance it replaces.[101] A price at or below the cost of compliance is not a deterrent; it is a discount.

Third, and most important legally, payment in these schemes is presented as a mode of discharging the obligation rather than as a sanction for breaching it. That distinction is not semantic. If payment discharges the duty, there is no default, no adjudication under Section 26, no order, and no record. The obligation becomes a tax, collected without the procedural protections or the public accountability that attach to a penalty. Commentators have argued that the buyout should be retained strictly as a penalty and not as an alternative route to compliance.[102] That argument is correct, and it applies across all three regimes.

F. Fragmented appeals and no settlement route

Appeals under the Energy Conservation Act lie to the Appellate Tribunal for Electricity within forty-five days, subject to a pre-deposit of the penalty which the Tribunal may waive for undue hardship, and thereafter to the Supreme Court on the grounds specified in Section 100 of the Code of Civil Procedure.[103] But environmental compensation under the emission intensity rules

[98] PRAYAS (ENERGY GROUP), COMMENTS ON CERC PROPOSAL FOR DETERMINATION OF THE BUYOUT PRICE UNDER THE RCO FRAMEWORK (Dec. 17, 2025), https://energy.prayaspune.org/our-work/policy-regulatory-engagements/buyout-price-under-rco.

[99] PRAYAS (ENERGY GROUP), COMMENTS ON DRAFT RERC (RPO) (FIRST AMENDMENT) REGULATIONS, 2026 (Feb. 2026).

[100] Cent. Elec. Regulatory Comm'n, *supra* note 77, at 3 (the proposal of Oct. 22, 2025 and the ₹232.84/MWh reference price), 19-20 (the determination of ₹347/MWh).

[101] INSIGHTS ON INDIA, *supra* note 71.

[102] CTR. FOR ENERGY REGULATION, IIT KANPUR, RENEWABLE CONSUMPTION OBLIGATION (RCO) UNDER THE ENERGY CONSERVATION ACT, 2001: COMMENTS ON THE REVISED DRAFT NOTIFICATION (2025), https://cer.iitk.ac.in/odf_assets/upload_files/blog_Revised_draft_notification_on_RCO_under_EC_Act_2025.pdf .

[103] EC Act §§ 31(1)-(2), 45; The Code of Civil Procedure, 1908, No. 5 of 1908, § 100.

is imposed under a different statute with a different appellate route.[104] A single entity may face two sanctions with two appeals.

The Act also has no compounding, settlement or consent mechanism. In a regime where thousands of entities must file periodic data, the absence of a low-cost route for minor and first-time defaults means that either everything is prosecuted or nothing is. In practice it has meant nothing.

VIII. Comparative benchmarks

United States. The Energy Policy and Conservation Act authorises the Department of Energy to set conservation standards, makes distribution of non-compliant covered products unlawful, and authorises the Department to enforce compliance and assess civil penalties.[105] A manufacturer served with a penalty notice may demand an on-the-record hearing before an administrative law judge.[106] The Department publishes a civil penalty policy explaining how penalties are assessed, and detailed regulations govern certification, sampling, compliance statements and record maintenance.[107] The same agency writes the standard, tests for conformity and initiates the penalty; the hearing is conducted by an independent adjudicator inside the agency; judicial review lies outside it. That is functional separation without institutional fragmentation.

The American experience also carries a warning that is directly relevant to the Indian fuel economy episode. Where the penalty rate for fleet fuel economy is set low enough, manufacturers simply pay rather than comply; and when Congress reduced the rate to zero in 2025, the standard survived on paper while the sanction did not.[108] A standard is only as strong as the price of ignoring it.

United Kingdom. The Gas and Electricity Markets Authority enforces the Renewables Obligation and may impose financial penalties under Section 27A of the Electricity Act 1989, and has published notices of proposed penalties and final orders against suppliers who failed to

[104] The Environment (Protection) Act, 1986, No. 29 of 1986; Greenhouse Gases Emission Intensity Target Rules, 2025, r. 7.
[105] Energy Policy and Conservation Act, Pub. L. No. 94-163, as amended, 42 U.S.C. §§ 6291-6317; *id.* §§ 6302, 6303.
[106] 42 U.S.C. § 6303; U.S. Dep't of Energy, *Administrative Adjudication of Civil Penalty Actions*, https://www.energy.gov/node/4831258 (last visited Aug. 28, 2026).
[107] U.S. Dep't of Energy, Civil Penalty Policy for Violations of Energy Conservation Regulations; Energy Conservation Program: Certification, Compliance, and Enforcement for Consumer Products and Commercial and Industrial Equipment, 76 Fed. Reg. 12,422 (Mar. 7, 2011) (codified at 10 C.F.R. pts. 429, 430, 431).
[108] Harvard Envtl. & Energy L. Program, *Corporate Average Fuel Economy Penalties*, Regulatory Tracker (updated July 4, 2025) (recording that Congress eliminated CAFE civil penalties in July 2025, resetting the penalty rate to zero).

make required payments.[109] For climate change schemes including the emissions trading scheme, the Environment Agency applies civil penalties under a published policy that sets out a stepped approach considering the nature of the breach, culpability, the size of the organisation, financial gain and history of non-compliance.[110] Publishing the calculus in advance improves consistency and deterrence at once.

European Union. The recast Energy Efficiency Directive requires Member States to lay down rules on penalties for infringement of the national provisions adopted under it, and provides that those penalties shall be effective, proportionate and dissuasive.[111] The same formula appeared in the earlier Directive.[112] The Union prescribes no institutional model, but the standard is a useful test. A penalty regime that exists on paper and is not applied is neither effective nor dissuasive.

Domestic comparators. India already operates the model this paper proposes. The Competition Commission separates investigation from decision within one institution, an architecture the Supreme Court examined and upheld in *Competition Commission of India v. Steel Authority of India Ltd.*, holding that the Commission performs different functions at different stages and that natural justice attaches where rights are determined.[113] The securities regulator investigates through its own officers and adjudicates through officers it appoints, with appeal to a specialist tribunal; the Supreme Court has held that *mens rea* is not essential for a civil penalty attaching to breach of a regulatory obligation.[114] Neither model has been held unconstitutional, and judicial review of the appellate forum remains available in any event.[115]

IX. A REFORM AGENDA

Vest investigation and first-instance adjudication in one authority. The Bureau should be given power to require production of records, to enter premises during business hours, to draw samples from the market for testing, and to seize documents where there is reason to believe they may be destroyed. Adjudicating officers should be appointed within the Bureau from officers who have not participated in the investigation. Appeals should continue to lie to the

[109] Electricity Act 1989, c. 29, § 27A (UK); Ofgem, *Notice of Proposal to Impose a Financial Penalty Pursuant to Section 27A(3) of the Electricity Act 1989: Delta Gas and Power Ltd.* (Jan. 25, 2023).
[110] ENV'T AGENCY (UK), ENFORCEMENT AND SANCTIONS POLICY, ANNEX 2: CLIMATE CHANGE SCHEMES, THE ENVIRONMENT AGENCY'S APPROACH TO APPLYING CIVIL PENALTIES (updated Oct. 10, 2025).
[111] Directive (EU) 2023/1791 of the European Parliament and of the Council of 13 September 2023 on Energy Efficiency and Amending Regulation (EU) 2023/955 (recast), art. 32, 2023 O.J. (L 231) 1.
[112] Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on Energy Efficiency, art. 13, 2012 O.J. (L 315) 1.
[113] *Competition Comm'n of India v. Steel Auth. of India Ltd.*, (2010) 10 S.C.C. 744 (India).
[114] *Sec. & Exch. Bd. of India v. Shriram Mut. Fund*, (2006) 5 S.C.C. 361 (India); SEBI Act §§ 11C, 15-I.
[115] *L. Chandra Kumar v. Union of India*, (1997) 3 S.C.C. 261 (India); *see also Union of India v. R. Gandhi*, (2010) 11 S.C.C. 1 (India).

Appellate Tribunal for Electricity. This requires amendment of Sections 13, 17 and 27; it cannot be done by rule.

Insert a statutory floor, linked to the market. Section 26 should prescribe minimum as well as maximum penalties across every limb rather than only the per-appliance limb, expressed per unit of shortfall, and the floor should be linked to a market variable, a multiple of the certificate price or of the avoided cost of compliance, rather than fixed in rupees. A fixed figure is overtaken by the market and tends to cap the very instrument it is meant to support. The Energy Conservation Act's own oil-equivalent multiplier in Section 26(2) and (3) shows that Parliament already understands the technique, and the floor deleted from Section 26(1A) in 2022 shows that it has used it before.[116]

Make payment a last resort, not an equal option. Every buyout and compensation provision should be recast as available only on proof that direct compliance and certificate purchase were not reasonably available, and should be priced at a substantial premium over the cost of compliance rather than at or below it. Receipts should be ring-fenced for capacity addition and enforcement rather than credited to consolidated funds where they cannot be earmarked.

Consolidate the carbon chain. The division under which the Bureau computes targets, the Ministry of Environment notifies them and the Pollution Control Board sanctions breach should be revisited. At minimum, appeals from environmental compensation orders under the emission intensity rules and appeals from Section 26 penalties should be routed to the same forum, and a statutory bar on double sanction for the same conduct should be enacted.

Resolve the renewable overlap by statute. Section 86(1)(e) of the Electricity Act and Section 14(x) of the Energy Conservation Act should be reconciled by amendment. Whichever route is chosen, the specifying authority, the monitoring authority, the adjudicating authority and the appellate forum should be single and clear.

Build the building code into municipal law. Central drafting cannot enforce a building code, and since 2022 the Act does not even penalise its breach by a designated consumer. Model provisions should be developed for incorporation into State building bye-laws, tying code compliance to building permission and occupancy certification, with the State designated agency as technical certifier. This respects the constitutional position and puts enforcement where the decision is actually taken.

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[116] EC Act § 26(2), (3) (additional penalty of up to twice the price of every metric tonne of oil equivalent consumed in excess of prescribed norms); *see also* EC Act § 14B (power to prescribe the value of a metric tonne of oil equivalent).

Publish everything. Compliance data by entity, verification reports, adjudication orders and penalty calculations should be published in machine-readable form. A published penalty policy of the kind the Environment Agency and the Department of Energy operate should accompany it. Disclosure is the cheapest enforcement instrument available and the one India has used least.

Add a settlement and compounding route. Minor and first-time defaults should be capable of resolution by compounding on published terms, with escalation reserved for repeat and material non-compliance. Without it, an under-resourced enforcement system will continue to prosecute nothing.

X. Conclusion

The Energy Conservation (Amendment) Act, 2022 was an ambitious statute. It brought carbon markets, non-fossil consumption mandates, vehicles and vessels within a law originally written to promote industrial energy audits. It multiplied the heads on which a penalty may be imposed, adding per-appliance, per-vehicle and oil-equivalent amounts, while leaving the headline ceiling where the 2010 amendment had put it and dropping the one floor that amendment had supplied. It was presented as aligning the framework with India's commitments under the Paris Agreement.

What it did not do was build the institution to carry the load. The Bureau still recommends. The designated agency still inspects without power to remove a document. A member of a State electricity regulator still adjudicates, in a proceeding no one is empowered to begin. Every new mandate has been accompanied, sooner or later, by a scheduled price for not meeting it.

The fuel economy episode of 2026 shows what this produces. Liability of several thousand crore rupees accrued, was recalculated, and was reported to have been waived, without any adjudicating order being passed. The next phase of the same norms then priced non-compliance in advance at a level analysts describe as below the cost of compliance. That is not a failure of political will alone. It is what a statute produces when it creates obligations and leaves the enforcement machinery of 2001 in place.

The fix is legislative and it is well understood. Put investigation and first-instance adjudication in one competent authority with internal separation. Give penalties a floor as well as a ceiling across every limb, and link the floor to the market. Make payment the last option rather than one of several equal ones. Consolidate the appellate route. And publish the record, so that compliance and default are both visible.

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India is reported to have met its non-fossil installed capacity commitment ahead of schedule, a commitment expressed in capacity rather than in generation or consumption terms. Meeting its efficiency and consumption commitments will depend on obligations that are, at present, enforceable only in theory. The law now has to catch up with the mandates it has created.

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