The Water (Prevention and Control of Pollution) Act, 1974

Act 6 of 1974. 75 sections. Bare Act with the official footnotes.

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Contents

CHAPTER I PRELIMINARY (Sections 1 to 2)
CHAPTER II THE CENTRAL AND STATE BOARDS FOR PREVENTION AND CONTROL OF WATER POLLUTION (Sections 3 to 12)
CHAPTER III JOINT BOARDS (Sections 13 to 15)
CHAPTER IV POWERS AND FUNCTIONS OF BOARDS (Sections 16 to 18)
CHAPTER V PREVENTION AND CONTROL OF WATER POLLUTION (Sections 19 to 33B)
CHAPTER VI FUNDS, ACCOUNTS AND AUDIT (Sections 34 to 40)
CHAPTER VII PENALTIES AND PROCEDURE (Sections 41 to 50)
CHAPTER VIII MISCELLANEOUS (Sections 51 to 64)

[23rd March, 1974.]

An Act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.

WHEREAS it is expedient to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution and for conferring on and assigning to such Boards powers and functions relating thereto;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution resolutions have been passed by all the Houses of the Legislatures of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal to the effect that the matters aforesaid should be regulated in those States by Parliament by law.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

Section 1. Short title, application and commencement

(1) This Act may be called the Water (Prevention and Control of Pollution) Act, 1974.

(2) It applies in the first instance to the whole of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution.

(3) It shall come into force, at once in the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal and in the Union territories, and in any other State which adopts this Act under clause (1) of article 252 of the Constitution on the date of such

adoption and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, mean the date on which this Act comes into force in such State or Union territory.

Section 2. Definitions

In this Act, unless the context otherwise requires,-

(a) "Board" means the Central Board or a State Board;

[1][(b) "Central Board" means the Central Pollution Control Board constituted under section 3;]

(c) "member" means a member of a Board and includes the chairman thereof;

[2][(d) "occupier", in relation to any factory or premises, means the person who has control over the affairs of the factory or the premises, and includes, in relation to any substance, the person in possession of the substance;]

[3][(dd) "outlet" includes any conduit pipe or channel, open or closed, carrying sewage or trade effluent or any other holding arrangement which causes, or is likely to cause, pollution;]

(e) "pollution" means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of acquatic organisms;

(f) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(g) "sewage effluent" means effluent from any sewerage system or sewage disposal works and includes sullage from open drains;

[3][(gg) "sewer" means any conduit pipe or channel, open or closed, carrying sewage or trade effluent;]

[4][(h) "State Board" means a State Pollution Control Board constituted under section 4;]

(i) "State Government" in relation to a Union territory means the Administrator thereof appointed under article 239 of the Constitution;

(j) "stream" includes-

(i) river;

(ii) water course (whether flowing or for the time being dry);

(iii) inland water (whether natural or artificial);

(vi) sub-terranean waters;

(v) sea or tidal waters to such extent or, as the case may be, to such point as the State Government may, by notification in the Official Gazette, specify in this behalf;

(j) "trade effluent" includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any [5][industry, operation or process, or treatment and disposal system], other than domestic sewage.

[1] Subs. by Act 53 of 1988, s. 2, for clause (b) (w.e.f. 29-9-1988).
[2] Subs. by s. 2, ibid., for clause (d) (w.e.f. 29-9-1988).
[3] Ins. by Act 44 of 1978, s. 2 (w.e.f. 12-12-1978).
[4] Subs. by Act 53 of 1988, s. 2, for clause (h) (w.e.f. 29-9-1988).
[5] Subs. by s. 2, ibid., for "trade or industry" (w.e.f. 29-9-1988).

CHAPTER II THE CENTRAL AND STATE BOARDS FOR PREVENTION AND CONTROL OF WATER POLLUTION

Section 3. Constitution of Central Boards

(1) The Central Government shall, with effect from such date (being a date not later than six months of the commencement of this Act in the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal and in the Union territories) as it may, by notification in the Official Gazette, appoint, constitute a Central Board to be called the [1][Central Pollution Control Board] to exercise the powers conferred on and perform the functions assigned to that Board under this Act.

(2) The Central Board shall consist of the following members, namely:-

(a) a full-time chairman, being a person having special knowledge or practical experience in respect of [2][matters relating to environmental protection] or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the Central Government;

(b) [3][such number of officials, not exceeding five,] to be nominated by the Central Government to represent that Government;

(c) such number of persons, not exceeding five, to be nominated by the Central Government, from amongst the members of the State Boards, of whom not exceeding two shall be from those referred to in clause (c) of sub-section (2) of section 4;

(d) [4][such number of non-officials, not exceeding three,] to be nominated by the Central Government, to represent the interests of agriculture, fishery or industry or trade or any other interest which, in the opinion of the Central Government, ought to be represented;

(e) two persons to represent the companies or corporations owned, controlled or managed by the Central Government, to be nominated by that Government;

[5][(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.]

(3) The Central Board shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by the aforesaid name, sue or be sued.

[1] Subs. by s. 3, ibid., for "Central Board for the Prevention and Control of Water Pollution" (w.e.f. 29-9-1988).

[2] Subs. by Act 44 of 1978, s. 3, for "matters relating to the use and conservation of water resources or the prevention and control of water pollution" (w.e.f. 12-12-1978).

[3] Subs. by Act 44 of 1978, s. 3, for "five officials" (w.e.f. 12-12-1978).

[4] Subs. by s. 3, ibid., for "three non-officials" (w.e.f. 12-12-1978).

[5] Subs. by Act 53 of 1988, s. 3, for clause (f) (w.e.f. 29-9-1988).

Section 4. Constitution of State Board

(1) The State Government shall, with effect from such date [1]*** as it may, by notification in the Official Gazette, appoint, constitute a [2][State Pollution Control Board], under such name as may be specified in the notification, to exercise the powers conferred on and perform the functions assigned to that Board under this Act.

(2) A State Board shall consist of the following members, namely:-

(a) a [3]*** chairman, being a person having special knowledge or practical experience in respect of [4][matters relating to environmental protection] or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the State Government [5][in such manner as may be prescribed by the central Government]:

[6][Provided that the chairman may be either whole-time or part-time as the State Government may may think fit;]

(b) [7][such number of officials, not exceeding five,] to be nominated by the State Government to represent that Government;

(c) [8][such number of persons, not exceeding five,] to be nominated by the State Government from amongst the members of the local authorities functioning within the State;

(d) [9][such number of non-officials, not exceeding three,] to be nominated by the State Government to represent the interests of agriculture, fishery or industry or trade or any other interest which, in the opinion of the State Government, ought to be represented;

(e) two persons to represent the companies or corporations owned, controlled or managed by the State Government, to be nominated by that Government;

[10][(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the State Government.]

(2) Every State Board shall be a body corporate with the name specified by the State Government in the notification under sub-section (1), having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by the said name, sue or be sued.

(3) Notwithstanding anything contained in this section, no State Board shall be constituted for a Union territory and in relation to a Union territory, the Central Board shall exercise the powers and perform the functions of a State Board for that Union territory:

Provided that in relation to any Union territory the Central Board may delegate all or any of its powers and functions under this sub-section to such person or body of persons as the Central Government may specify.

[1] The brackets and words "(being a date not later than six months of the commencement of the Act in the State)" omitted by Act 44 of 1978, s. 4 (w.e.f. 12-12-1978).

[2] Subs. by Act 53 of 1988, s. 4, for "State Board" (w.e.f. 29-9-1988).

[3] The word "full-time" omitted by Act 44 of 1978, s. 4 (w.e.f. 12-12-1978).
[4] Subs. by s. 4, ibid., for certain words (w.e.f. 12-12-1978).
[5] Ins. by Act 5 of 2024, s. 2 (w.e.f. 15-2-2024).
[6] The proviso ins. by Act 44 of 1978, s. 4, (w.e.f. 12-12-1978).
[7] Subs. by s. 4, ibid., for "five officials" (w.e.f. 12-12-1978).
[8] Subs. by s. 4, ibid., for "five persons" (w.e.f. 12-12-1978).
[9] Subs. by s. 4, ibid., for "three non-officials" (w.e.f. 12-12-1978).
[10] Subs. by Act 53 of 1988, s. 3, for clause (f) (w.e.f. 29-9-1988).

Section 5. Terms and conditions of service of members

(1) Save as otherwise provided by or under this Act, a member of a Board, other than a member-secretary, shall hold office for a term of three years from the date of his nomination:

Provided that a member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

[1][(2) The term of office of a member of a Board nominated under clause (b) or clause (e) of sub-section (2) of section 3 or clause (b) or clause (e) of sub-section (2) of section 4 shall come to an end as soon as he ceases to hold the office under the Central Government or the State Government or, as the case may be, the company or corporation owned, controlled or managed by the Central Government or the State Government, by virtue of which he was nominated.]

(3) The Central Government or, as the case may be, the State Government may, if it thinks fit, remove any member of a Board before the expiry of his term of office, after giving him a reasonable opportunity of showing cause against the same.

(4) A member of a Board, other than the member-secretary, may at any time resign his office by writing under his hand addressed-

(a) in the case of the chairman to the Central Government or, as the case may be, the State Government; and

(b) in any other case, to the chairman of the Board,

and the seat of the chairman or such other member shall thereupon become vacant.

(5) A member of a Board, other than the member-secretary, shall be deemed to have vacated his seat if he is absent without reason, sufficient in the opinion of the Board, from three consecutive meetings of the Board, [2][or where he is nominated under clause (c) or clause (e) of sub-section (2) of section 3 or under clause (c) or clause (e) of sub-section (2) of section 4, if he ceases to be a member of the State Board or of the local authority or, as the case may be, of the company or corporation owned, controlled or managed by the Central Government or the State Government and such vacation of seat shall, in either case, take effect from such date as the Central Government or, as the case may be, the State Government may, by notification in the Official Gazette, specify].

(6) A casual vacancy in a Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the member in whose place he was nominated.

(7) A member of a Board [3][shall be eligible for renomination].

(8) The other terms and conditions of service of a member of a Board, other than the chairman and member-secretary, shall be such as may be prescribed.

(9) The other terms and conditions of service of the chairman shall be such as may be prescribed [4][by the Central Government].

[1] Subs. by Act 44 of 1978, s. 5, for sub-section (2) (w.e.f. 12-12-1978).
[2] Subs. by s. 5, ibid., for certain words, brackets, letters and figures (w.e.f. 12-12-1978).
[3] Subs. by Act 53 of 1988, s. 5, for "shall not be eligible for renomination for more than two terms" (w.e.f. 29-9-1988).
[4] Ins. by Act 5 of 2024, s. 3, (w.e.f. 15-2-2024).

Section 6. Disqualifications

(1) No person shall be a member of a Board, who-

(a) is, or at any time has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or

(b) is of unsound mind and stands so declared by a competent court, or

(c) is, or has been, convicted of an offence which, in the opinion of the Central Government or, as the case may be, of the State Government, involves moral turpitude, or

(d) is, or at any time has been, convicted of an offence under this Act, or

(e) has directly or indirectly by himself or by any partner, any share or interest in any firm or company carrying on the business of manufacture, sale or hire of machinery, plant, equipment, apparatus or fittings for the treatment of sewage or trade effluents, or

(f) is a director or a secretary, manager or other salaried officer or employee of any company or firm having any contract with the Board, or with the Government constituting the Board, or with a local authority in the State, or with a company or corporation owned, controlled or managed by the Government, for the carrying out of sewerage schemes or for the installation of plants for the treatment of sewage or trade effluents, or

(g) has so abused, in the opinion of the Central Government or as the case may be, of the State Government, his position as a member, as to render his continuance on the Board detrimental to the interest of the general public.

(2) No order of removal shall be made by the Central Government or the State Government, as the case may be, under this section unless the member concerned has been given a reasonable opportunity of showing cause against the same.

(3) Notwithstanding anything contained in sub-sections (1) and (7) of section 5, a member who has been removed under this section shall not be eligible for renomination as a member.

Section 7. Vacation of seats by members

If a member of a Board becomes subject to any of the disqualifications specified in section 6, his seat shall become vacant.

Section 8. Meetings of Board

A Board shall meet at least once in every three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed:

Provided that if, in the opinion of the chairman, any business of an urgent nature is to be transacted, he may convene a meeting of the Board at such time as he thinks fit for the aforesaid purpose.

Section 9. Constitution of committees

(1) A Board may constitute as many committees consisting wholly of members or wholly of other persons or partly of members and partly of other persons, and for such purpose or purposes as it may think fit.

(2) A committee constituted under this section shall meet at such time and at such place, and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(3) The members of a committee (other than the members of the Board) shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the Board as may be prescribed.

Section 10. Temporary association of persons with Board for particular purposes

(1) A Board may associate with itself in such manner, and for such purposes, as may be prescribed any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.

(2) A person associated with the Board under sub-section (1) for any purpose shall have a right to take part in the discussions of the Board relevant to that purpose, but shall not have a right to vote at a meeting of the Board, and shall not be a member for any other purpose.

[1][(3) A person associated with the Board under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the Board, as may be prescribed.]

[1] Ins. by Act 44 of 1978, s. 6 (w.e.f. 12-12-1978).

Section 11. Vacancy in Board not to invalidate acts or proceedings

No act or proceeding of a Board or any committee thereof shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board or such committee, as the case may be.

Section 11A. Delegation of powers to Chairman

[1][The Chairman of a Board shall exercise such powers and perform such duties as may be prescribed or as may, from time to time, be delegated to him by the Board.]

[1] Ins. by s. 7, ibid. (w.e.f. 12-12-1978).

Section 12. Member-secretary and officers and other employees of Board

(1) The terms and conditions of service of the member-secretary shall be such as may be prescribed.

(2) The member-secretary shall exercise such powers and perform such duties as may be prescribed or as may, from

time to time, be delegated to him by the Board or its chairman.

(3) Subject to such rules as may be made by the Central Government or, as the case may be, the State Government in this behalf, a Board may appoint such officers and employees as it considers necessary for the efficient performance of its functions [1]***.

[2][(3A) The method of recruitment and the terms and conditions of service (including the scales of pay) of the officers (other than the member-secretary) and other employees of the Central Board or a State Board shall be such as may be determined by regulations made by the Central Board or, as the case may be, by the State Board:

Provided that no regulation made under this sub-section shall take effect unless,-

(a) in the case of a regulation made by the Central Board, it is approved by the Central Government; and

(b) in the case of a regulation made by a State Board, it is approved by the State Government.]

[3][(3B) The Board may, by general or special order, and subject to such conditions and limitations, if any, as may be specified in the order delegate to any officer of the Board such of its powers and functions under this Act as it may deem necessary.]

(4) Subject to such conditions as may be prescribed, a Board may from time to time appoint any qualified person to be a consulting engineer to the Board and pay him such salaries and allowances and subject him to such other terms and conditions of service as it thinks fit.

[1] Certain words omitted by s. 8, ibid. (w.e.f. 12-12-1978).
[2] Ins. by s. 8, ibid. (w.e.f. 12-12-1978).
[3] Ins. by Act 53 of 1988, s. 6 (w.e.f. 29-9-1988).

CHAPTER III JOINT BOARDS

Section 13. Constitution of Joint Board

(1) Notwithstanding anything contained in this Act, an agreement may be entered into-

(a) by two or more Governments of contiguous States, or

(b) by the Central Government (in respect of one or more Union territories) and one or more Governments of States contiguous to such Union territory or Union territories, to be in force for such period and to be subject to renewal for such further period, if any, as may be specified in the agreement to provide for the constitution of a Joint Board,-

(i) in a case referred to in clause (a), for all the participating States, and

(ii) in a case referred to in clause (b), for the participating Union territory or Union territories and the State or States.

(2) An agreement under this section may-

(a) provide, in a case referred to in clause (a) of sub-section (1), for the apportionment between the participating States and in a case referred to in clause (b) of that sub-section, for the apportionments between the Central Government and the participating State Government or State Governments, of the expenditure in connection with the Joint Board;

(b) determine, in a case referred to in clause (a) of sub-section (1), which of the participating State Governments and in a case referred to in clause (b) of that sub-section, whether the Central Government or the participating State Government (if there are more than one participating State, also which of the participating State Governments) shall exercise and perform the several powers and functions of the State Government under this Act and the references in this Act to the State Government shall be construed accordingly;

(c) provide for consultation, in a case referred to in clause (a) of sub-section (1), between the participating State Governments and in a case referred to in clause (b) of that sub-section, between the Central Government and the participating State Government or State Governments either generally or with reference to particular matters arising under this Act;

(d) make such incidental and ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

(3) An agreement under this section shall be published, in a case referred to in clause (a) of sub-section (1), in the Official Gazette of the participating States and in a case referred to in cause (b) of that sub-section, in the Official Gazette of the participating Union territory or Union territories and participating State or States.

Section 14. Composition of Joint Boards

(1) A Joint Board constituted in pursuance of an agreement entered into under clause (a) of sub-section (1) of section 13 shall consist of the following members, namely:-

(a) a full-time chairman, being a person having special knowledge or practical experience in respect of [1][matters relating to environmental protection] or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the Central Government;

(b) two officials from each of the participating States to be nominated by the concerned participating State Government to represent that Government;

(c) one person to be nominated by each of the participating State Governments from amongst the members of the local authorities functioning within the State concerned;

(d) one non-official to be nominated by each of the participating State Governments to represent the interests of agriculture, fishery or industry or trade in the State concerned or any other interest which, in the opinion of the participating State Government, is to be represented;

(e) two persons to be nominated by the Central Government to represent the companies or corporations owned, controlled or managed by the participating State Governments;

[2][(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.] (2) A Joint Board constituted in pursuance of an agreement entered into under clause (b) of sub-section (1) of section 13 shall consist of the following members, namely:-

(a) a full-time chairman, being a person having special knowledge or practical experience in respect of [3][matters relating to environmental protection] or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the Central Government;

(b) two officials to be nominated by the Central Government from the participating Union territory or each of the participating Union territories, as the case may be, and two officials to be nominated, from the participating State or each of the participating States, as the case may be, by the concerned participating State Government;

(c) one person to be nominated by the Central Government from amongst the members of the local authorities functioning within the participating Union territory or each of the participating Union territories, as the case may be, and one person to be nominated, from amongst the members of the local authorities functioning within the participating State or each of the participating States, as the case may be, by the concerned participating State Government;

(d) one non-official to be nominated by the Central Government and one person to be nominated by the participating State Government or State Governments to represent the interests of agriculture, fishery or industry or trade in the Union territory or in each of the Union territories or the State or in each of the States, as the case may be, or any other interest which in the opinion of the Central Government or, as the case may be, of the State Government is to be represented;

(e) two persons to be nominated by the Central Government to represent the companies or corporations owned, controlled or managed by the Central Government and situate in the participating Union territory or territories and two persons to be nominated by the Central Government to represent the companies or corporations owned, controlled or managed by the participating State Governments;

[4][(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.]

(3) When a Joint Board is constituted in pursuance of an agreement under clause (b) of sub-section (1) of section 13, the provisions of sub-section (4) of section 4 shall cease to apply in relation to the Union territory for which the Joint Board is constituted.

(4) Subject to the provisions of sub-section (3), the provisions of sub-section (3) of section 4 and sections 5 to 12 (inclusive) shall apply in relation to the Joint Board and its member-secretary as they apply in relation to a State Board and its member-secretary.

(5) Any reference in this Act to the State Board shall, unless the context otherwise requires, be construed as including a Joint Board.

[1] Subs. by Act 44 of 1978, s. 9, for certain words (w.e.f. 12-12-1978).
[2] Subs. by Act 53 of 1988, s. 7, for clause (f) (w.e.f. 29-9-1988).
[3] Subs. by Act 44 of 1978, s. 9, for certain words (w.e.f. 12-12-1978).
[4] Subs. by Act 53 of 1988, s. 7, for clause (f) (w.e.f. 29-9-1988).

Section 15. Special provision relating to giving of directions

Notwithstanding anything contained in this Act where any Joint Board is constituted under section 13,-

(a) the Government of the State for which the Joint Board is constituted shall be competent to give any direction under this Act only in cases where such direction relates to a matter within the exclusive territorial jurisdiction of the State;

(b) the Central Government alone shall be competent to give any direction under this Act where such direction relates to a matter within the territorial jurisdiction of two or more States or pertaining to a Union territory.

CHAPTER IV POWERS AND FUNCTIONS OF BOARDS

Section 16. Functions of Central Board

(1) Subject to the provisions of this Act, the main function of the Central Board shall be to promote cleanliness of streams and wells in different areas of the States.

(2) In particular and without prejudice to the generality of the foregoing function, the Central Board may perform all or any of the following functions, namely:-

(a) advise the Central Government on any matter concerning the prevention and control of water pollution;

(b) co-ordinate the activities of the State Boards and resolve disputes among them;

(c) provide technical assistance and guidance to the State Boards, carry out and sponsor investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;

(d) plan and organise the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of water pollution on such terms and conditions as the Central Board may specify;

(e) organise through mass media a comprehensive programme regarding the prevention and control of water pollution;

[1][(ee) perform such of the functions of any State Board as may be specified in an order made under sub- section (2) of section 18;]

(f) collect, compile and publish technical and statistical data relating to water pollution and the measures devised for its effective prevention and control and prepare manuals, codes or guides relating to treatment and disposal of sewage and trade effluents and disseminate information connected therewith;

(g) lay down, modify or annul, in consultation with the State Government concerned, the standards for a stream or well:

Provided that different standards may be laid down for the same stream or well or for different streams or wells, having regard to the quality of water, flow characteristics of the stream or well and the nature of the use of the water in such stream or well or streams or wells;

(h) plan and cause to be executed a nation-wide programme for the prevention, control or abatement of water pollution;

(i) perform such other functions as may be prescribed.

(3) The Board may establish or recognise a laboratory or laboratories to enable the Board to perform its functions under this section efficiently including the analysis of samples of water from any stream or well or of samples of any sewage or trade effluents.

[1] Ins. by Act 53 of 1988, s. 8 (w.e.f. 29-9-1988)

Section 17. Functions of State Board

(1) Subject to the provisions of this Act, the functions of a State Board shall be-

(a) to plan a comprehensive programme for the prevention, control or abatement of pollution of streams and wells in the State and to secure the execution thereof;

(b) to advise the State Government on any matter concerning the prevention, control or abatement of water pollution;

(c) to collect and disseminate information relating to water pollution and the prevention, control or abatement thereof;

(d) to encourage, conduct and participate investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;

(e) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in

programmes relating, to prevention, control or abatement of water pollution and to organise mass education programmes relating thereto;

(f) to inspect sewage or trade effluents, works and plants for the treatment of sewage and trade effluents and to review plans, specifications or other data relating to plants set up for the treatment of water, works for the purification thereof and the system for the disposal of sewage or trade effluents or in connection with the grant of any consent as required by this Act;

(g) to lay down, modify or annul effluent standards for the sewage and trade effluents and for the quality of receiving waters (not being water in an inter-State stream) resulting from the discharge of effluents and to classify waters of the State;

(h) to evolve economical and reliable methods of treatment of sewage and trade effluents, having regard to the peculiar conditions of soils, climate and water resources of different regions and more especially the prevailing flow characteristics of water in streams and wells which render it impossible to attain even the minimum degree of dilution;

(i) to evolve methods of utilisation of sewage and suitable trade effluents in agriculture;

(j) to evolve efficient methods of disposal of sewage and trade effluents on land, as are necessary on account of the predominant conditions of scant stream flows that do not provide for major part of the year the minimum degree of dilution;

(k) to lay down standards of treatment of sewage and trade effluents to be discharged into any particular stream taking into account the minimum fair weather dilution available in that stream and the tolerance limits of pollution permissible in the water of the stream, after the discharge of such effluents;

(l) to make, vary or revoke any order-

(i) for the prevention, control or abatement of discharges of waste into streams or wells;

(ii) requiring any person concerned to construct new systems for the disposal of sewage and trade effluents or to modify, alter or extend any such existing system or to adopt such remedial measures as are necessary to prevent, control or abate water pollution;

(m) to lay down effluent standards to be complied with by persons while causing discharge of sewage or sullage or both and to lay down, modify or annul effluent standards for the sewage and trade effluents;

(n) to advise the State Government with respect to the location of any industry the carrying on of which is likely to pollute a stream or well;

(o) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government.

(2) The Board may establish or recognise a laboratory or laboratories to enable the Board to perform its functions under this section efficiently, including the analysis of samples of water from any stream or well or of samples of any sewage or trade effluents.

Section 18. Powers to give directions

[1][(1)] In the performance of its functions under this Act-

(a) the Central Board shall be bound by such directions in writing as the Central Government may give to it; and

(b) every State Board shall be bound by such directions in writing as the Central Board or the State Government may give to it: Provided that where a direction given by the State Government is inconsistent with the direction given by the Central Board, the matter shall be referred to the Central Government for its decision.

[2][(2) Where the Central Government is of the opinion that any State Board has defaulted in complying with any directions given by the Central Board under sub-section (1) and as a result of such default a grave emergency has arisen and it is necessary or expedient so to do in the public interest, it may, by order, direct the Central Board to perform any of the functions of the State Board in relation to such area, for such period and for such purposes, as may be specified in the order.

(2) Where the Central Board performs any of the functions of the State Board in pursuance of a direction under sub-section (2), the expenses, if any, incurred by the Central Board with respect to the performance of such functions may, if the State Board is empowered to recover such expenses, be recovered by the Central Board with interest (at such reasonable rate as the Central Government may, by order, fix) from the date when a demand for such expenses is made until it is paid from the person or persons concerned as arrears of land revenue or of public demand.

(3) For the removal of doubts, it is hereby declared that any directions to perform the functions of any State Board

given under sub-section (2) in respect of any area would not preclude the State Board from performing such functions in any other area in the State or any of its other functions in that area.]

[1] S. 18 renumbered as sub-section (1) thereof by Act 53 of 1988, s. 9 (w.e.f. 29-9-1988).

[2] Ins. by Act 53 of 1988, s. 9 (w.e.f. 29-9-1988).

CHAPTER V PREVENTION AND CONTROL OF WATER POLLUTION

Section 19. Power of State Government to restrict the application of the Act to certain areas

(1) Notwithstanding anything contained in this Act, if the State Government, after consultation with, or on the recommendation of, the State Board, is of opinion that the provisions of this Act need not apply to the entire State, it may, by notification in the Official Gazette, restrict the application of this Act to such area or areas as may be declared therein as water pollution, prevention and control area or areas and thereupon the provisions of this Act shall apply only to such area or areas.

(2) Each water pollution, prevention and control area may be declared either by reference to a map or by reference to the line of any watershed or the boundary of any district or partly by one method and partly by another.

(3) The State Government may, by notification in the Official Gazette,-

(a) alter any water pollution, prevention and control area whether by way of extension or reduction; or

(b) define a new water pollution, prevention and control area in which may be merged one or more water pollution, prevention and control areas, or any part or parts thereof.

Section 20. Power to obtain information

(1) For the purpose of enabling a State Board to perform the functions conferred on it by or under this Act, the State Board or any officer empowered by it in that behalf, may make surveys of any area and gauge and keep records of the flow or volume and other characteristics of any stream or well in such area, and may take steps for the measurement and recording of the rainfall in such area or any part thereof and for the installation and maintenance for those purposes of gauges or other apparatus and works connected therewith, and carry out stream surveys and may take such other steps as may be necessary in order to obtain any information required for the purposes aforesaid.

(2) A State Board may give directions requiring any person who in its opinion is abstracting water from any such stream or well in the area in quantities which are substantial in relation to the flow or volume of that stream well or is discharging sewage or trade effluent into any such stream or well, to give such information as to the abstraction or the discharge at such times and in such form as may be specified in the directions.

(3) Without prejudice to the provisions of sub-section (2), a State Board may, with a view to preventing or controlling pollution of water, give directions requiring any person in charge of any establishment where any [1][industry, operation or process, or treatment and disposal system] is carried on, to furnish to it information regarding the construction, installation or operation of such establishment or of any disposal system or of any extension or addition thereto in such establishment and such other particulars as may be prescribed.

[1] Subs. by Act 53 of 1988, s. 10, for "industry or trade" (w.e.f. 29-9-1988).

Section 21. Power to take samples of effluents 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 water from any stream or well or samples of any sewage or trade effluent which is passing from any plant or vessel or from or over any place into any such stream or well.

(2) The result of any analysis of a sample of any sewage or trade effluent taken under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provisions of sub-sections (3), (4) and (5) are complied with.

(3) Subject to the provisions of sub-sections (4) and (5), when a sample (composite or otherwise as may be warranted by the process used) of any sewage or trade effluent is taken for analysis under sub-section (1), the person taking the sample shall-

(a) serve on the person in charge of, or having control over, the plant or vessel or in occupation of the place (which person is hereinafter referred to as the occupier) or any agent of such occupier, 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, divide the sample into two parts;

(c) cause each part to be placed in a container 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 one container forthwith,-

(i) in a case where such sample is taken from any area situated in a Union territory, to the laboratory established or recognised by the Central Board under section 16; and

(ii) in any other case, to the laboratory established or recognised by the State Board under section 17; (e) on the request of the occupier or his agent, send the second container,-

(i) in a case where such sample is taken from any area situated in a Union territory, to the laboratory established or specified under sub-section (1) of section 51; and

(ii) in any other case, to the laboratory established or specified under sub-section (1) of section 52.

[1][(4) When a sample of any sewage or trade affluent 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) and the occupier or his agent wilfully absents himself, then,-

(a) the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause (e) of sub-section (3) and such person shall inform the Government analyst appointed under sub-section (1) or sub-section (2), as the case may be, of section 53, in writing about the wilful absence of the occupier or his agent; and

(b) the cost incurred in getting such sample analysed shall be payable by the occupier or his agent and in case of default of such payment, the same shall be recoverable from the occupier or his agent, as the case may be, as an arrear of land revenue or of public demand: Provided that no such recovery shall be made unless the occupier or, as the case may be, his agent has been given a reasonable opportunity of being heard in the matter.]

(5) When a sample of any sewage or trade effluent 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) and the occupier or his agent who is present at the time of taking the sample does not make a request for dividing the sample into two parts as provided in clause (b) of sub-section (3), then, the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause (d) of sub-section (3).

[1] Subs. by Act 44 of 1978, s. 10, for sub-section (4) (w.e.f. 12-12-1978).

Section 22. Reports of the result of analysis on samples taken under section 21

(1) Where a sample of any sewage or trade effluent has been sent for analysis to the laboratory established or recognised by the Central Board or, as the case may be, the State Board, the concerned Board analyst appointed under sub-section (3) of section 53 shall analyse the sample and submit a report in the prescribed form of the result of such analysis in triplicate to the Central Board or the State Board, as the case may be.

(2) On receipt of the report under sub-section (1), one copy of the report shall be sent by the Central Board or the State Board, as the case may be, to the occupier or his agent referred to in section 21, 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 concerned Board.

(3) Where a sample has been sent for analysis under clause (e) of sub-section (3) or sub-section (4) of section 21 to any laboratory mentioned therein, the Government analyst referred to in that sub-section shall analyse the sample and submit a report in the prescribed form of the result of the analysis in triplicate to the Central Board or, as the case may be, the State Board which shall comply with the provisions of sub-section (2).

(4) If there is any inconsistency or discrepancy between, or variation in the results of, the analysis carried out by the laboratory established or recognised by the Central Board or the State Board, as the case may be, and that of the laboratory established or specified under section 51 or section 52, as the case may be, the report of the latter shall prevail.

(5) Any cost incurred in getting any sample analysed at the request of the occupier or his agent 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.

Section 23. Power of entry and inspection

(1) Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right at any time to enter, with such assistance as he considers necessary, any place-

(a) for the purpose of performing any of the functions of the Board entrusted to him;

(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 of 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 any 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 plant, record, register, document or other material object, if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder:

Provided that the right to enter under this sub-section for the inspection of a well shall be exercised only at reasonable hours in a case where such well is situated in any premises used for residential purposes and the water thereof is used exclusively for domestic purposes.

(2) The provisions of [1][the Code of Criminal Procedure, 1973 (2 of 1974)], or, in relation to the State of Jammu and Kashmir*, the provisions of any corresponding law in force in that State, 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 [2][section 94] of the said Code, or, as the case may be, under the corresponding provisions of the said law.

Explanation.-For the purposes of this section, "place" includes vessel.

[1] Subs. by Act 44 of 1978, s. 11, for "the Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 12-12-1978).
[2] Subs. by s. 11, ibid., for "section 98" (w.e.f. 12-12-1978).

Section 24. Prohibition on use of stream or well for disposal of polluting matter, etc

(1) Subject to the provisions of this section,-

(a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any [1][stream or well or sewer or on land]; or

(b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

(2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely:-

(a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;

(b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;

(c) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream;

(d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.

(3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of sub-section (1) subject to such conditions, if any, as may be specified in the notification and any condition so specified may by a like notification be altered, varied or amended.

[1] Subs. by Act 53 of 1988, s. 11, for "stream or well" (w.e.f. 29-9-1988).

Section 25. Restrictions on new outlets and new discharges

[1][(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,-

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or

well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) bring into use any new or altered outlet for the discharge of sewage; or

(c) begin to make any new discharge of sewage:

[2][Provided that the Central Government may in consultation with the Central Board, by notification in the Official Gazette, exempt certain categories of industrial plants from the provisions of this sub-section.]

(2) An application for consent of the State Board under sub-section (1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.]

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed.

[3][(4) The State Board may-

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being-

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order,

and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system of extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.

(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent, from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.]

(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.

(8) For the purposes of this section and sections 27 and 30,-

(a) the expression "new or altered outlet" means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or not) is substantially altered after such commencement;

(b) the expression "new discharge" means a discharge which is not, as respects to nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge.

[1] Subs. by s. 12, ibid., for sub-sections (1) and (2) (w.e.f. 29-9-1988).

[2] Subs. by Act 5 of 2024, s. 4, for the proviso (w.e.f. 15-2-2024).

[3] Subs. by Act 53 of 1988, s. 12, for sub-sections (4), (5) and (6) (w.e.f. 29-9-1988).

Section 26. Provision regarding existing discharge of sewage or trade effluent

Where immediately before the commencement of this Act any person was discharging any sewage or trade effluent into a [1][stream or well or sewer or on land], the provisions of section 25 shall, so far as may be, apply in relation to

such person as they apply in relation to the person referred to in that section subject to the modification that the application for consent to be made under sub-section (2) of that section [2][shall be made on or before such date as may be specified by the State Government by notification in this behalf in the Official Gazette].

[1] Subs. by Act 44 of 1978, s. 13, for "stream or well" (w.e.f. 12-12-1978).
[2] Subs. by s. 13, ibid., for certain words (w.e.f. 12-12-1978).

Section 27. Refusal or withdrawal of consent by State Board

[1][(1) A State Board shall not grant its consent under sub-section (4) of section 25 for the establishment of any industry, operation or process, or treatment and disposal system or extension or addition thereto, or to the bringing into use of a new or altered outlet unless the industry, operation or process, or treatment and disposal system or extension or addition thereto, or the outlet is so established as to comply with any conditions imposed by the Board to enable it to exercise its right to take samples of the effluent.]

[2][(2) A State Board may from time to time review-

[3][(a) any condition imposed under section 25 or section 26 and may serve on the person to whom a consent under section 25 or section 26 is granted a notice making any reasonable variation of or revoking any such condition;]

(b) the refusal of any consent referred to in sub-section (1) of section 25 or section 26 or the grant of such consent without any condition, and may make such orders as it deemed fit.]

(3) Any condition imposed under section 25 or section 26 shall be subject to any variation made under sub-section (2) and shall continue in force until revoked under that sub-section.

[1] Subs. by Act 53 of 1988, s. 13, for sub-section (1) (w.e.f. 29-9-1988).
[2] Subs. by Act 44 of 1978, s. 14, for sub-section (2) (w.e.f. 12-12-1978).
[3] Subs. by Act 53 of 1988, s. 13, for clause (a) (w.e.f. 29-9-1988)

Section 27A. Power to issue guidelines

[1][(1) Notwithstanding anything in this Act, the Central Government in consultation with the Central Board, may, by notification in the Official Gazette, issue guidelines on the matters relating to the grant, refusal or cancellation of consent by any State Board for establishment of any industry, operation or process, or treatment and disposal system or to bringing into use of a new or altered outlet including the mechanism for time-bound disposal of the application made under section 25 or period of validity of such consent.

(2) Every State Board, in discharge of its functions for the purposes of grant, refusal or cancellation of consent under section 25 or section 27 shall act in accordance with the guidelines issued under sub-section (1).]

[1] Ins. by Act 5 of 2024, s. 5, (w.e.f. 15-2-2024).

Section 28. Appeals

(1) Any person aggrieved by an order made by the State Board under section 25, section 26 or section 27 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the State Government may think fit to constitute:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

[1][(2) An appellate authority shall consist of a single person or three persons, as the State Government may think fit, to be appointed by that Government.]

(3) The form and manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the appellate authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the appellate authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(5) If the appellate authority determines that any condition imposed, or the variation of any condition, as the case may be, was unreasonable, then,-

(a) where the appeal is in respect of the unreasonableness of any condition imposed, such authority may direct either that the condition shall be treated as annulled or that there shall be substituted for it such condition as appears to it to be reasonable;

(b) where the appeal is in respect of the unreasonableness of any variation of a condition, such authority may direct either that the condition shall be treated as continuing in force unvaried or that it shall be varied in such manner as appears to it to be reasonable.

[1] Subs. by Act 44 of 1978, s. 15, for sub-section (2) (w.e.f. 12-12-1978).

Section 29. Revision

(1) The State Government may at any time either of its own motion or on an application made to it in this behalf, call for the records of any case where an order has been made by the State Board under section 25, section 26 or section 27 for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it may think it:

Provided that the State Government shall not pass any order under this sub-section without affording the State Board and the person who may be affected by such order a reasonable opportunity of being heard in the matter.

(2) The State Government shall not revise any order made under section 25, section 26 or section 27 where an appeal against that order lies to the appellate authority, but has not been preferred or where an appeal has been preferred such appeal is pending before the appellate authority.

Section 30. Power of State Board to carry out certain works

[1][(1) Where under this Act, any conditions have been imposed on any person while granting consent under section 25 or section 26 and such conditions require such person to execute any work in connection therewith and such work has not been executed within such time as may be specified in this behalf, the State Board may serve on the person concerned a notice requiring him within such time (not being less than thirty days) as may be specified in the notice to execute the work specified therein.]

(2) If the person concerned fails to execute the work as required in the notice referred to in sub-section (1), then, after the expiration of the time specified in the said notice, the State Board may itself execute or cause to be executed such work.

(3) All expenses incurred by the State Board for the execution of the aforesaid work, together with interest, at such rate as the State Government may, by order, fix, from the date when a demand for the expenses is made until it is paid, may be recovered by that Board from the person concerned, as arrears of land revenue, or of public demand.

[1] Subs. by Act 53 of 1988, s. 14, for sub-section (1) (w.e.f. 29-9-1988).

Section 31. Furnishing of information to State Board and other agencies in certain cases

[1][(1) If at any place where any industry, operation or process, or any treatment and disposal system or any extension or addition thereto is being carried on, due to accident or other unforeseen act or event, any poisonous, noxious or polluting matter is being discharged, or is likely to be discharged into a stream or well or sewer or on land and, as a result of such discharge, the water in any stream or well is being polluted, or is likely to be polluted, then the person incharge of such place shall forthwith intimate the occurrence of such accident, act or event to the State Board and such other authorities or agencies as may be prescribed.]

(2) Where any local authority operates any sewerage system or sewage works, the provisions of sub-section (1) shall apply to such local authority as they apply in relation to the person in charge of the place where any industry or trade is being carried on.

[1] Subs. by s. 15, ibid., for sub-section (1) (w.e.f. 29-9-1988).

Section 32. Emergency measures in case of pollution of stream or well

(1) Where it appears to the State Board that any poisonous, noxious or polluting matter is present in [1][any stream or well or on land by reason of the discharge of such matter in such stream or well or on such land] or has entered into that stream or well due to any accident or other unforeseen act or event, and if the Board is of opinion that it is necessary or expedient to take immediate action, it may for reasons to be recorded in writing, carry out such operations as it may consider necessary for all or any of the following purposes, that is to say,-

(a) removing that matter from the [2][stream or well or on land] and disposing it of in such manner as the Board considers appropriate;

(b) remedying or mitigating any pollution caused by its presence in the stream or well;

(c) issuing orders immediately restraining or prohibiting the person concerned from discharging any poisonous, noxious or polluting matter [3][into the stream or well or on land], or from making insanitary use of the stream or well.

(2) The power conferred by sub-section (1) does not include the power to construct any works other than works of a temporary character which are removed on or before the completion of the operations.

[1] Subs. by Act 53 of 1988, s. 16, for "any stream or well" (w.e.f. 29-9-1988).

[2] Subs. by s. 16, ibid., for "stream or well" (w.e.f. 29-9-1988).

[3] Subs. by s. 16, ibid., for "into the stream or well" (w.e.f. 29-9-1988).

Section 33. Power of Board to make application to courts for restraining apprehended pollution of water in streams or wells

[1][(1) Where it is apprehended by a Board that the water in any stream or well is likely to be polluted by reason of the disposal or likely disposal of any matter in such stream or well or in any sewer or on any land, or otherwise, the Board may make an application to a court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class, for restraining the person who is likely to cause such pollution from so causing.]

(2) On receipt of an application under sub-section (1) the court may make such order as it deems fit.

(3) Where under sub-section (2) the court makes an order restraining any person from polluting the water in any stream or well, it may in that order-

(i) direct the person who is likely to cause or has caused the pollution of the water in the stream or well, to desist from taking such action as is likely to cause pollution or, as the case may be, to remove from such stream or well, such matter, and

(ii) authorise the Board, if the direction under clause (i) (being a direction for the removal of any matter from such stream or well) is not complied with by the person to whom such direction is issued, to undertake the removal and disposal of the matter in such manner as may be specified by the court.

(4) All expenses incurred by the Board in removing any matter in pursuance of the authorisation under clause (ii) of sub-section (3) or in the disposal of any such matter may be defrayed out of any money obtained by the Board from such disposal and any balance outstanding shall be recoverable from the person concerned as arrears of land revenue or of public demand.

[1] Subs. by s. 17, ibid., for sub-section (1) (w.e.f. 29-9-1988).

Section 33A. Power to give directions

[1][Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

Explanation.-For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct-

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) the stoppage or regulation of supply of electricity, water or any other service.]

[1] Ins. by s. 18, ibid. (w.e.f. 29-9-1988).

Section 33B. Appeal to National Green Tribunal

[1][Any person aggrieved by,-

(a) an order or decision of the appellate authority under section 28, made on or after the commencement of the National Green Tribunal Act, 2010; or

(b) an order passed by the State Government under section 29, on or after the commencement of the National Green Tribunal Act, 2010; or

(c) directors issued under section 33A by a Board, on or after the commencement of the National Green Tribunal Act, 2010,

may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.]

[1] Ins. by Act 19 of 2010, s. 36 and Schedule III (w.e.f. 18-10-2010).

CHAPTER VI FUNDS, ACCOUNTS AND AUDIT

Section 34. Contributions by Central Government

The Central Government may, after due appropriation made by Parliament by law in this behalf, make in each financial year such contributions to the Central Board as it may think necessary to enable the Board to perform its functions under this Act.

Section 35. Contributions by State Government

The State Government may, after due appropriation made by the Legislature of the State by law in this behalf, make in each financial year such contributions to the State Board as it may think necessary to enable that Board to perform its functions under this Act.

Section 36. Fund of Central Board

(1) The Central Board shall have its own fund, and all sums which may, from time to time, be paid to it by the Central Government and all other receipts (by way of gifts, grants, donations, benefactions [1][, fees] or otherwise) of that Board shall be carried to the fund of the Board and all payments by the Board shall be made therefrom.

(2) The Central Board may expend such sums as it thinks fit for performing its functions under this Act, [1][and, where any law for the time being in force relating to the prevention, control or abatement of air pollution provides for the performance of any function under such law by the Central Board, also for performing its functions under such law] and such sums shall be treated as expenditure payable out of the fund of the Board.

[1] Ins. by Act 44 of 1978, s. 16 (w.e.f. 12-12-1978).

Section 37. Fund of State Board

(1) The State Board shall have its own fund, and the sums which may, from time to time, be paid to it by the State Government and all other receipts (by way of gifts, grants, donations, benefactions [1][, fees] or otherwise) of that Board shall be carried to the fund of the Board and all payments by the Board shall be made therefrom.

(2) The State Board may expend such sums as it thinks fit for performing its functions under this Act, [1][and, where any law for the time being in force relating to the prevention, control or abatement of air pollution provides for the performance of any function under such law by the State Board, also for performing its functions under such law] and such sums shall be treated as expenditure payable out of the fund of that Board.

[1] Ins. by s. 17, ibid. (w.e.f. 12-12-1978).

Section 37A. Borrowing powers of Board

[1][A Board may, with the consent of, or in accordance with, the terms of any general or special authority given to it by the Central Government or, as the case may be, the State Government, borrow money from any source by way of loans or issue of bonds, debentures or such other instruments, as it may deem fit, for the performance of all or any of its functions under this Act.]

[1] Ins. by Act 53 of 1988, s. 19 (w.e.f. 29-9-1988).

Section 38. Budget

The Central Board or, as the case may be, the State Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipt and expenditure, and copies thereof shall be forwarded to the Central Government or, as the case may be, the State Government.

Section 39. Annual report

[1][(1) The Central Board shall, during each financial year, prepare, in such form as may be prescribed, an annual report giving full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the Central Government within four months from the last date of the previous financial year and that Government shall cause every such report to be laid before both Houses of Parliament within nine months from the last date of the previous financial year.

(2) Every State Board shall, during each financial year, prepare, in such form as may be prescribed, an annual report giving full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the State Government within four months from the last date of the previous financial year and that Government shall cause every such report to be laid before the State Legislature within a period of nine months from the last date of the previous financial year.]

[1] Subs. by s. 20, ibid., for section 39 (w.e.f. 29-9-1988).

Section 40. Accounts and audit

(1) Every Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government or, as the case may be, the State Government.

(2) The accounts of the Board shall be audited by an auditor duly qualified to act as an auditor of companies under

section 226 of the Companies Act, 1956 (1 of 1956).

(3) The said auditor shall be appointed by the Central Government or, as the case may be, the State Government on the advice of the Comptroller and Auditor General of India.

(4) Every auditor appointed to audit the accounts of the Board under this Act shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(5) Every such auditor shall send a copy of his report together with an audited copy of the accounts to the Central Government or, as the case may be, the State Government.

(6) The Central Government shall, as soon as may be after the receipt of the audit report under sub-section (5), cause the same to be laid before both Houses of Parliament.

(7) The State Government shall, as soon as may be after the receipt of the audit report under sub-section (5), cause the same to be laid before the State Legislature.

CHAPTER VII PENALTIES AND PROCEDURE

Section 41. Failure to comply with provisions of section 20 or directions issued thereunder

[1][(1) Whoever contravenes or does not comply with the directions given under sub-section (2) or sub-section (3) of section 20, within such time as may be specified in the direction, shall, in respect of each such contravention or non-compliance, be liable to pay a penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.

(2) Where any person continues contravention or non-compliance under sub-section (1), he shall be liable to pay an additional penalty of ten thousand rupees every day during which such contravention continues.

[1] Subs. by Act 5 of 2024, s. 6, for section 41, (w.e.f. 15-2-2024).

Section 41A. Failure to comply with provisions of section 32, or directions issued under section 33 or section 33A

(1) Whoever contravenes or does not comply with any order or direction issued under clause (c) of sub-section (1) of section 32 or any direction issued by a court under sub-section (2) of section 33 or any direction issued under section 33A, shall, in respect of each such contravention or noncompliance, be liable to pay the penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.

(2) Where any person continues contravention or non-compliance under sub-section (1), he shall be liable to pay an additional penalty of ten thousand rupees every day during which such contravention continues.]

Section 42. Penalty for certain acts

(1) Whoever-

(a) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board, or

(b) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act, or

(c) damages any works or property belonging to the Board, or

(d) fails to furnish to any officer or other employee of the Board any information required by him for the purpose of this Act, or

(e) fails to intimate the occurrence of any accident or other unforeseen act or event under section 31 to the Board and other authorities or agencies as required by that section, or

(f) in giving any information which he is required to give under this Act, knowingly or wilfully makes a statement which is false in any material particular, or

(g) for the purpose of obtaining any consent under section 25 or section 26, knowingly or wilfully makes a statement which is false in any material particular,

[1][shall be liable to pay penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.]

[2][(2) Where any person continues contravention or non-compliance under sub-section (1), he shall be liable to pay an additional penalty of ten thousand rupees every day during which such contravention continues.]

[1] Subs. by Act 5 of 2021, s. 7, for long line (w.e.f. 15-2-2024).

[2] Subs. by s. 7, ibid., for sub-section (2) (w.e.f. 15-2-2024).

Section 43. Penalty for contravention of provisions of section 24

[1][Whoever contravenes the provisions of section 24, shall be liable to pay the penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees and where such contravention continues, he shall be liable to pay an additional penalty of ten thousand rupees every day during which such contravention continues.

[1] Subs. by s. 8, ibid., for section 43 and 44 (w.e.f. 15-2-2024).

Section 44. Penalty for contravention of section 25 or section 26

Where for the purpose of grant of a consent in pursuance of the provisions of section 25 or section 26, the use of a meter or gauge or other measure or monitoring device is required and such device is used for the purposes of those provisions, any person who knowingly or wilfully alters or interferes with that device so as to prevent it from monitoring or measuring correctly shall be liable to pay penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.]

Section 45. Enhanced penalty after previous conviction

[Enhanced penalty after previous conviction.] Omitted by the Water (Prevention and Control of Pollution Amendment) Act, 2024 (5 of 2024), s. 9 (w.e.f. 15-2-2024).

Section 45A. Penalty for contravention of certain provisions of Act

[1][If any person contravenes any of the provisions of this Act or any order or direction issued thereunder, for which no penalty has been provided for in this Act, shall be liable to pay the penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees, and where such contravention continues, he shall be liable to pay an additional penalty which may extend to ten thousand rupees for every day during which such contravention continues.

[1] Subs. by s. 10, ibid., for section 45A (w.e.f. 15-2-2024).

Section 45B. Adjudicating officer

(1) The Central Government, for the purposes of determining the penalties under the provisions of this Act shall appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold an inquiry and to impose the penalty in the manner, as may be prescribed:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

(2) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has contravened the provisions of this Act, he may determine such penalty as he thinks fit under the provisions of this Act:

Provided that no such penalty shall be imposed without giving the person concerned an opportunity of being heard in the matter.

(3) The amount of penalty imposed under the provisions of sections 41, 41A, 42, 43, 44, 45A and 48, shall be in addition to the liability to pay relief or compensation under section 15 read with section 17 of the National Green Tribunal Act, 2010 (19 of 2010).

Section 45C. Appeal

(1) Any person aggrieved by the order passed by the adjudicating officer under section 45B may prefer an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010 (19 of 2010).

(2) Every appeal under sub-section (1) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.

(3) The National Green Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) Where an appeal is preferred against any order of the adjudicating officer under sub-section (1), such appeal shall not be entertained by the Tribunal unless such person has deposited with the Tribunal ten per cent. of the amount of the penalty imposed by the adjudicating officer.

Section 45D. Penalty amount to be credited to Environmental Protection Fund

Where an adjudicating officer imposes penalty or additional penalty, as the case may be, under the provisions of this Act, the amount of such penalty shall be credited to the Environmental Protection Fund established under section 16 of the Environment (Protection) Act, 1986 (29 of 1986).

Section 45E. Offences for failure to comply with provisions of section 25 or 26 and for failure to pay penalty

(1) Whoever fails to comply with the provisions of section 25 or section 26, in respect of each such failure, shall be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to fifty thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(2) If the failure referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.

(3) Where any person fails to pay the penalty or the additional penalty, as the case may be, imposed under the provisions of this Act within ninety days of such imposition, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to twice the amount of the penalty or additional penalty so imposed or with both.

(4) Where any offence under sub-section (1) or sub-section (2) or sub-section (3) has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of such offence and he shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in sub-section (1) or sub-section (2) or sub-section (3), if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(5) Notwithstanding anything in sub-section (4), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section,-

(a) "company" includes body corporate, firm, trust, society and any other association of individuals;

(b) "director", includes director of the company, partner of the firm, members of the society or trust or member of any association of individuals, as the case may be.]

Section 46. Publication of names of offenders

If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine

Section 47. Offences by companies

[Offences by companies.] Omitted by the Water (Prevention and Control of Pollution Amendment) Act, 2024 (5 of 2024), s. 11, (w.e.f. 15-2-2024).

Section 48. Penalty for contravention by Government Department

[1][(1) Where contravention of any provision of this Act has been committed by any Department of the Central Government or State Government, the Head of the Department shall be liable to pay the penalty equal to one month of his basic salary:

Provided that such Head of the Department shall not be liable for such contravention, if he proves that the contravention was committed without his knowledge or instructions or that he exercised all due diligence to prevent such contravention.

(2) Where any contravention under sub-section (1) is attributable to any neglect on the part of, any officer, other than

the Head of the Department, such officer shall be liable to pay the penalty equal to one month of his basic salary:

Provided that such officer shall not be liable for the contravention, if he proves that he exercised all due diligence to avoid such contravention.]

[1] Subs. by Act 5 of 2024, s. 12, for section 48, (w.e.f. 15-2-2024).

Section 49. Cognizance of offences

[1][(1) No court shall take cognizance of any offence under this Act except on a complaint made by-

(a) a Board or any officer authorised in this behalf by it; or

[2][(aa) the adjudicating officer or any officer authorised by him in this behalf; or]

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Board or officer authorised as aforesaid,

and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.]

[3][(2) Where a complaint has been made under clause (b) of sub-section (1), the Board shall, on demand by such person, make available the relevant reports in its possession to that person:

Provided that the Board may refuse to make any such report available to such person if the same is, in its opinion, against the public interest.]

[4][(3)] Notwithstanding anything contained in [5][section 29 of the Code of Criminal Procedure, 1973 (2 of 1974)], it shall be lawful for any [6][Judicial Magistrate of the first class or for any Metropolitan Magistrate] to pass a sentence of imprisonment for a term exceeding two years or of fine exceeding two thousand rupees on any person convicted of an offence punishable under this Act.

[1] Subs. by Act 53 of 1988, s. 26, for sub-section (1) (w.e.f. 29-9-1988).
[2] Ins. by Act 5 of 2024, s. 13, (w.e.f. 15-2-2024).
[3] Ins. by Act 53 of 1988, s. 26, (w.e.f. 29-9-1988).
[4] Sub-section (2) renumbered as sub-section (3) thereof by s. 26, ibid. (w.e.f. 29-9-1988).
[5] Subs. by Act 44 of 1978, s. 19, for "section 32 of the Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 12-12-1978).
[6] Subs. by s. 19, ibid., for "Magistrate of the first class or for any Presidency Magistrate" (w.e.f. 12-12-1978).

Section 50. Members, officers and servants of Board to be public servants

All members, officers and servants of a Board when acting or purporting to act in pursuance of any of the provisions of this Act and the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

CHAPTER VIII MISCELLANEOUS

Section 51. Central Water Laboratory

(1) The Central Government may, by notification in the Official Gazette,-

(a) establish a Central Water Laboratory; or

(b) specify any laboratory or institute as a Central Water Laboratory, to carry out the functions entrusted to the Central Water Laboratory under this Act. (2) The Central Government may, after consultation with the Central Board, make rules prescribing-

(a) the functions of the Central Water Laboratory;

(b) the procedure for the submission to the said laboratory of samples of water or of sewage or trade effluent for analysis or tests, the form of the laboratory's report thereunder 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.

Section 52. State Water Laboratory

(1) The State Government may, by notification in the Official Gazette,-

(a) establish a State Water Laboratory; or

(b) specify any laboratory or institute as a State Water Laboratory, to carry out the functions entrusted to the State Water Laboratory under this Act. (2) The State Government may, after consultation with the State Board, make rules prescribing-

(a) the functions of the State Water Laboratory;

(b) the procedure for the submission to the said laboratory of samples of water or of sewage or trade effluent 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.

Section 53. Analysts

(1) The Central 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 water or of sewage or trade effluent sent for analysis to any laboratory established or specified under sub-section (1) of section 51.

(2) 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 water or of sewage or trade effluent sent for analysis to any laboratory established or specified under sub-section (1) of section 52.

(3) Without prejudice to the provisions of sub-section (3) of section 12, the Central Board or, as the case may be, the State Board may, by notification in the Official Gazette, and with the approval of the Central Government or the State Government, as the case may be, appoint such persons as it thinks fit and having the prescribed qualifications to be Board analysts for the purpose of analysis of samples of water or of sewage or trade effluent sent for analysis to any laboratory established or recognised under section 16, or, as the case may be, under section 17.

Section 54. Reports of analysts

Any document purporting to be a report signed by a Government analyst or, as the case may be, a Board analyst may be used as evidence of the facts stated therein in any proceeding under this Act.

Section 55. Local authorities to assist

All local authorities shall render such help and assistance and furnish such information to the Board as it may require for the discharge of its functions, and shall make available to the Board for inspection and examination such records, maps, plans and other documents as may be necessary for the discharge of its functions.

Section 56. Compulsory acquisition of land for the State Board

Any land required by a State Board for the efficient performance of its functions under this Act shall be deemed to be needed for a public purpose and such land shall be acquired for the State Board under the provisions of the Land Acquisition Act, 1894 (1 of 1894), or under any other corresponding law for the time being in force.

Section 57. Returns and reports

The Central Board shall furnish to the Central Government, and a State Board shall furnish to the State Government and to the Central Board such reports, returns, statistics, accounts and other information with respect to its fund or activities as that Government, or, as the case may be, the Central Board may, from time to time, require.

Section 58. Bar of jurisdiction

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an appellate authority constituted under this Act is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Section 59. Protection of action taken in good faith

No suit or other legal proceedings shall lie against the Government or any officer of Government or any member or officer of a Board in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

Section 60. Overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

Section 61. Power of Central Government to supersede the Central Board and Joint Boards

(1) If at any time the Central Government is of opinion-

(a) that the Central Board or any Joint Board has persistently made default in the performance of the functions imposed on it by or under this Act; or

(b) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Central Board or such Joint Board, as the case may be, for such period, not exceeding one year, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (a), the Central Government shall give a reasonable opportunity to the Central Board or such Joint Board, as the case may be, to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Central Board or such Joint Board, as the case may be.

(2) Upon the publication of a notification under sub-section (1) superseding the Central Board or any Joint Board,-

(a) all the members shall, as from the date of supersession vacate their offices as such;

(b) all the powers, functions and duties which may, by or under this Act, be exercised, performed or discharged by the Central Board or such Joint Board shall, until the Central Board or the Joint Board, as the case may be, is reconstituted under sub-section (3) be exercised, performed or discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Central Board or such Joint Board shall, until the Central Board or the Joint Board, as the case may be, is reconstituted under sub-section (3) vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may-

(a) extend the period of supersession for such further term, not exceeding six months, as it may consider necessary; or

(b) reconstitute the Central Board or the Joint Board, as the case may be, by fresh nomination or appointment, as the case may be, and in such case any person who vacated his office under clause (a) of sub-section (2) shall not be deemed disqualified for nomination or appointment:

Provided that the Central Government may at any time before the expiration of the period of supersession, whether originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

Section 62. Power of State Government to supersede State Board

(1) If at any time the State Government is of opinion-

(a) that the State Board has persistently made default in the performance of the functions imposed on it by or under this Act; or

(b) that circumstances exist which render it necessary in the public interest so to do,

the State Government may, by notification in the Official Gazette, supersede the State Board for such period, not exceeding one year, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (a), the State Government shall give a reasonable opportunity to the State Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the State Board.

(2) Upon the publication of a notification under sub-section (1) superseding the State Board, the provisions of sub-sections (2) and (3) of section 61 shall apply in relation to the supersession of the State Board as they apply in relation to the supersession of the Central Board or a Joint Board by the Central Government.

Section 63. Power of Central Government to make rules

(1) The Central Government may, simultaneously with the constitution of the Central Board, make rules in respect of the matters specified in sub-section (2):

Provided that when the Central Board has been constituted, no such rule shall be made, varied, amended or repealed without consulting the Board.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the terms and conditions of service of the members (other than the chairman and member-secretary) of the Central Board under sub-section (8) of section 5;

[1][(aa) the manner of nomination of the chairman of the State Board and the terms and conditions of service of the chairman of the State Board under clause (a) of sub-section (2) of section 4 and under sub-section (9) of section 5;]

(b) the intervals and the time and place at which meetings of the Central Board or of any committee thereof constituted under this Act, shall be held and the procedure to be followed at such meetings, including the quorum necessary for the transaction of business under section 8, and under sub-section (2) of section 9;

(c) the fees and allowances to be paid to such members of a committee of the Central Board as are not members of the Board under sub-section (3) of section 9;

[2][(d) the manner in which and the purposes for which persons may be associated with the Central Board under sub-section (1) of section 10 and the fees and allowances payable to such persons;]

(e) the terms and conditions of service of the chairman and the member-secretary of the Central Board under sub-section (9) of section 5 and under sub-section (1) of section 12;

(f) conditions subject to which a person may be appointed as a consulting engineer to the Central Board under sub-section (4) of section 12;

(g) the powers and duties to be exercised and performed by the chairman and the member-secretary of the Central Board;

[3]* * * * *

(j) the form of the report of the Central Board analyst under sub-section (1) of section 22; (h) the form of the report of the Government analyst under sub-section (3) of section 22;

[4][(l) the form in which and the time within which the budget of the Central Board may be prepared and forwarded to the Central Government under section 38;

(ll) the form in which the annual report of the Central Board may be prepared under section 39;]

(m) the form in which the accounts of the Central Board may be maintained under section 40;

[5][(ma) the manner of holding inquiry and imposing penalties by the adjudicating officer under section 45B;]

[6][(mm) the manner in which notice of intention to make a complaint shall be given to the Central Board or officer authorised by it under section 49;]

(n) any other matter relating to the Central Board, including the powers and functions of that Board in relation to Union territories;

(o) any other matter which has to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, [7][before the expiry of the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

[1] Ins. by Act 5 of 2024, s. 14, (w.e.f. 15-2-2024).
[2] Subs. by Act 44 of 1978, s. 20, for clause (d) (w.e.f. 12-12-1978)
[3] Clauses (h) and (i) omitted by s. 20, ibid. (w.e.f. 12-12-1978).
[4] Subs. by Act 53 of 1988, s. 27, for clause (l) (w.e.f. 29-9-1988).
[5] Ins. by Act 5 of 2024, s. 14, (w.e.f. 15-2-2024).
[6] Ins. by Act 53 of 1988, s. 27, (w.e.f. 29-9-1988)
[7] Subs. by Act 44 of 1978, s. 20, for certain words (w.e.f. 12-12-1978).

Section 64. Power of State Government to make rules

(1) The State Government may, simultaneously with the constitution of the State Board, make rules to carry out the purposes of this Act in respect of matters not falling within the purview of section 63:

Provided that when the State Board has been constituted, no such rule shall be made, varied, amended or repealed without consulting that Board.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the terms and conditions of service of the members (other than the chairman and the member-secretary) of the State Board under sub-section (8) of section 5;

(b) the time and place of meetings of the State Board or of any committee of that Board constituted under this Act and the procedure to be followed at such meeting, including the quorum necessary for the transaction of business under section 8 and under sub-section (2) of section 9;

(c) the fees and allowances to be paid to such members of a committee of the State Board as are not members of the Board under sub-section (3) of section 9;

(d) the manner in which and the purposes for which persons may be associated with the State Board under sub-section (1) of section 10 [1][and the fees and allowances payable to such persons];

(e) the terms and conditions of service of [2][the member-secretary of the State Board] under sub-section (1) of section 12;

(f) the conditions subject to which a person may be appointed as a consulting engineer to the State Board under sub-section (4) of section 12;

(g) the powers and duties to be exercised and discharged by the chairman and the member-secretary of the State Board;

(h) the form of the notice referred to in section 21;

(i) the form of the report of the State Board analyst under sub-section (1) of section 22;

(j) the form of the report of the Government analyst under sub-section (3) of section 22;

(k) the form of application for the consent of the State Board under sub-section (2) of section 25, and the particulars it may contain;

(l) the manner in which inquiry under sub-section (3) of section 25 may be made in respect of an application for obtaining consent of the State Board and the matters to be taken into account in granting or refusing such consent;

(m) the form and manner in which appeals may be filed, the fees payable in respect of such appeals and the procedure to be followed by the appellate authority in disposing of the appeals under sub-section (3) of section 23;

[3][(n) the form in which and the time within which the budget of the State Board may be prepared and forwarded to the State Government under section 38;

(nn) the form in which the annual report of the State Board may be prepared under section 39;]

(o) the form in which the accounts of the State Board may be maintained under sub-section (1) of section 40;

[4][(oo) the manner in which notice of intention to make a complaint shall be given to the State Board or officer authorised by it under section 49;]

(p) any other matter which has to be, or may be, prescribed.

[1] Ins. by s. 21, ibid. (w.e.f. 12-12-1978).

[2] Subs. by Act 5 of 2024, s. 15, ibid., for certain words (w.e.f. 15-2-2024).

[3] Subs. by Act 53 of 1988, s. 28, for clause (n) (w.e.f. 29-9-1988).

[4] Ins. by s. 28, ibid. (w.e.f. 29-9-1988).

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