

THE WATER (PREVENTION & CONTROL OF POLLUTION) ACT, 1974 – RELEVANT PROVISIONS

Water (Prevention & Control of Pollution) Act, 1974

After the Stockholm conference on Human Environment on June, 1972, it was considered appropriate to have uniform law all over country for broad Environment problems endangering the health and safety of our people as well as of our flora and fauna. The Water (Prevention & Control of Pollution) Act, 1974 is the first enactment by the Parliament in this direction. This is also the first specific and comprehensive legislation institutionalizing simultaneously the regulatory agencies for controlling water pollution. The Pollution Control Board at the Centre and in the State came into being in terms of this Act.

According to the Article 51 A (g) it is the fundamental duty of every citizen of India to protect and improve the natural environment included Forest, Lakes, Rivers and Wildlife and to have compassion for living creatures.

Water Act is enacted with the aim of prevention and control of Water Pollution in India. Pollution means 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, gas and Solid substance into water (whether directly or indirectly) as may be the case or is likely to create 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 plant or of aquatic organizations.

Trade effluent includes any liquid or solid substance which is discharged from any premises used for carrying on any industry operation or process or treatment and disposal system, other domestic sewage.

This Act aims at establishment of Central and State Pollution Control Board at the central level and also at state level for each state and giving powers to the members so as to enable them to carry out the purposes of the Act. Board is having 17 members to carry out the said purposes and the functions of the Board.

- (a) To Plan a comprehensive programme for the prevention Control or abatement of pollution of streams and wells.
- (b) To advise the State Government on any matters concerning the prevention, Control or abatement of water pollution.
- (c) To collect and disseminate information relating to the water pollution and prevention, control or abatement thereof.
- (d) To encourage, conduct and participate in investigations and research relating to problems of water pollution, prevention, control or abatement of water pollution.
- (e) 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 plant 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.
- (f) Lay down, modify or annual effluent standards for the sewage and trade effluents and for the quantity of receiving water (not being) water in an inter-state stream) resulting from the discharge of effluents and to classify waters in the state.
- (g) 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 region 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 and other such functions.

Section 25/26 of the Water Act says that no industry or operator process or any treatment and disposal system can be established without the previous consent of the State Board and no industry or process can discharge sewage or trade effluent into a stream or well or sewer or land in excess of the standards & without the consent of the Board whoever contravenes the provisions of section 25 or section 26 of the Water Act shall be punishable with imprisonment for term which shall not be less than one and half year but which may extend to six years with fine under section 43/44 of the Water Act.

The industry can make an appeal if aggrieved against the orders of the Board under section 28 of the Water Act.

The Board can issue directions for closure of industry & disconnection of electricity in case of persistent defiance by any polluting industry under section 33-A of the Water Act.

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The Water Act is enacted with the objective of prevention & control of pollution in India. The Act aims at the maintaining or restoring the wholesome nature of water for the establishment of Boards and to vest them with such powers so as to enable them to carry out the purposes of the Act. The Water Act is followed by the Water (Prevention & Control of Pollution) Rules, 1975 and the Water (Prevention & Control of Pollution (Procedure for transaction of Business)Rules, 1975. The provisions of the Act shall have effect not with stranding anything contained to the contrary in any other enactment.

2.1 Important Definitions:

| Relevant provision | Term | Definition |
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| Section 2 (a) | Board | The Central Board or a State Board |
| Section 2(d) | Occupier | In relation to any factory or premises means that 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. |
| Section 2 (dd) | Outlet | Any conduit pipe or channel, open or closed carrying sewage or trade effluent or any other holding arrangements which causes or is likely to cause pollution. |
| Section 2 (e) | Pollution | Contamination of water or such alteration of the physical, chemical or biological water or such discharge of any other liquid, gaseous or solid substance into water (whether directly to 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 aquatic organisms. |
| Section 2(f) | Sewage effluent | Effluent from any sewerage system or sewage disposal works and includes sullage from open drains. |

| Relevant provision | Term | Definition |
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| Section 2 (gg) | Sewer | Any conduit pipe or channel, open or closed carrying sewage or trade effluent. |
| Section 2(h) | State Board | State Pollution Control Board constituted under Section 4 of the Act. |
| Section 2 (j) | Stream | Includes river, water course (whether flowing or for the time being dry), inland water (whether natural or artificial), sub-terranean waters, sea or tidal water 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 the behalf. |
| Section 2(k) | Trade effluent | Includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any (industry, operation or process or treatment and disposal system) other than domestic sewage. |
| Section 47 (2) (a) | Company | Any body corporate and includes a firm or other association of individuals. |
| Section 47 (2) (b) | Director | In relation to a firm means a partner in the firm. |
| Section 25 (8) | New Outlet | Any outlet which is wholly or partly constructed on or after the commencement of this Act or which is substantially altered after such commencement. |
| Section 25 (8) | New Discharge | A discharge which is not as respects the nature and composition, temperature, volume and rate of discharge of the effluent substantially continuation of a discharge made within the preceding twelve months(whether by the same or different outlet), so however that a discharge which is in other respects as 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. |

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2.2 Constitution of State Boards, Terns & Conditions of Service of Members.

| Relevant provision | Description of provision | Scope of the provision |
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| Section 4 | Constitution of the State Board | <p>The State Govt. shall constitute a State Pollution control Board , to exercise the powers conferred and perform the function assigned under this Act. The State Board shall consist of the following members.</p> <ul style="list-style-type: none">(a) A whole time or part time Chairman nominated by the State Govt. Qualification - Person having special knowledge or practical experience in respect of matters relating to the environmental protection or having knowledge and experience in administering institutions dealing with the matters aforesaid.(b) Maximum of 5 officials nominated by the State Govt. representing Govt.(c) Maximum of 5 officials nominated by the State Govt. from amongst the members of the local authorities functioning within the State.(d) Maximum of 3 non-officials, nominated by the State Govt. to represent the interest of agriculture, fishery or industry or trade or any other interest which, in the opinion of the State Govt., ought to be represented.(e) Two persons nominated by the State Govt. to represent companies/corporations owned, controlled or managed by the Govt. |

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| Relevant provision | Description of provision | Scope of the provision |
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| Section 4 | Constitution of the Board | (f) A full-time Member Secretary processing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, appointed by the State Govt. |
| Section 50 | Deemed 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 the Act and the rules made there under shall be deemed to be “public servants” within the meaning of section 21 of the Indian Penal Code. |
| Section 6 | Disqualifications of members | (1) No person shall be a member of the Board who 1) is, or at any time has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or 2) is of unsound mind and declared by a competent court, or 3) 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 Govt. involves moral turpitude, or 4) is, or at any time has been convicted of an offence under this Act, or 5) 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 |

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| | | <p>6) is a director or a secretary, manager or other salaries officer or employee of any company or firm having any contract with the Board, or with the Govt. constituting the Board, or with a local authority in the State, or with a company or corporation owned, controlled or managed by the Govt. for the carrying out of sewerage schemes or for the installation of plants for the treatment of sewage or trade effluents, or</p> <p>7) has so abused, in the opinion of the Central Govt. or as the case may be, of the State Govt. his position as a member, as to render his continuance on the Board detrimental to the interest of the general public.</p> <p>(2) Order of removal shall be made by the Central Govt. or the State Govt. after giving the member concerned a reasonable opportunity of showing cause against the same. A member who has been removed under this section shall not be eligible for renomination as a member.</p> |
| Section 5 | Terms and Conditions of service of members | <p>(1) Any member other than, member-secretary shall hold office for a term of three years from the date of this nomination unless provided by this Act and shall continue to hold office until his successor enters upon his office.</p> <p>(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 office by virtue of which he was nominated.</p> |

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| | | <p>(3) The Central Govt. or the State Govt. may remove any members of a Board before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.</p> <p>(4) Any member, other than member secretary may resign by writing under his hand addressed (a) in the case of Chairman, to the Central Government as the case may be, the State Government and (b) in any other case to the Chairman of the Board.</p> <p>(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, or where he is nominated under clause (c) or clause (e) of sub section 92) of section (3) or under clause (c) of clause (e) of sub section (20 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 Govt. or the State Govt. and such vacation of seat shall, in either case, take effect from such date as the central Govt. or as the case may be, the State Government may, by notification in the Official Gazette, specify.</p> |
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2.4 Powers and Functions of State Boards

| Relevant provision | Description of provision | Scope of the provision |
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| Section 17 | Functions of the State Board | <p>(1) The functions of the State Board shall be</p> <p>(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.</p> <p>(b) To advise the State Government on any matter concerning the prevention control or abatement of water pollution.</p> <p>(c) To collect and disseminate information relating to water pollution and the prevention, control or abatement thereof.</p> <p>(d) To encourage, conduct and participate in investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution.</p> <p>(e) to collaborate with the control Board in organizing the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of water pollution and to organize mass education programmes relating thereof.</p> <p>(f) To inspect sewage or trade effluents, works and plants for the treatment of sewage and trade effluents and to review plants, specifications or other data relating to plants set up 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</p> |

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| | | <p>required by this Act.</p> <ul style="list-style-type: none">(g) lay down, modify or annual 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 difference regions and more specially 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 utilization 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 other<ul style="list-style-type: none">(i) for the prevention, control or abatement of discharge of waste into stream or wells. |
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| | | <p>(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.</p> <p>(iii) 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 annual effluent standards for the sewage and trade effluent.</p> <p>(iv) to advice the State Government with respect to the location of any industry the carrying on of which is likely to pollute a stream or well;</p> <p>(v) to perform such other functions as may be prescribed or as may, from time to time be entrusted to it by the Centra Board or the State Government.</p> <p>(2) The Board may establish or recognize a laboratory or laboratories ort 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.</p> |
| Section 20 | Power to give directions to obtain information | <p>The State Board or any officer empowered by it in this behalf may take such measures as it may be necessary in order to obtain information to carry out the functions of the State Board [Section 20(1)]</p> <p>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 or well or</p> |

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| | | <p>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 [Section 20 (2)]</p> <p>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 (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 establishments or of any disposal system or of any extension or addition thereto in such establishment and such other particulars as may be prescribed. [Section 20 (3)]</p> |
| Section 21 | Power to take samples of effluents. | <p>The State Board or any officer authorized in this behalf shall have the power.</p> <p>(i) to take samples of water from any stream or well.</p> <p>(ii) to take samples of any sewage or trade effluent passing from any plant or vessel or over any place into any such stream or well.</p> <p>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 a legal proceeding unless the provision of sub-sections (3) (4) and (5) regarding such procedure for collecting samples has been complied with. [Section 21 (2)]</p> |
| Section 23 | Power of entry and inspection | <p>Any person authorized in this behalf by the State Board shall have the right to enter at any time for the purpose of any functions entrusted by the Board for example to determine whether an order</p> |

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| | | <p>or direction is being complied with or for the purposes of examining plant, premises or any material object or for search and seizure of any material object which may furnish evidence of commission of an offence under the Act. Entry shall be at reasonable hours if the premises are used for residential purposes.</p> |
| <p>Section 25</p> | <p>Authorization for new outlets and new discharges and power of State Board to take action with regard to unauthorized outlets.</p> | <p>Prior Consent of the State Board under section 25 is necessary</p> <p>(i) to set up any industry, plant or process which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land ;or</p> <p>(ii) bring into use any new or altered outlets for the discharge of sewage; or</p> <p>(iii) begin to make any new discharge of sewage.</p> <p>Where, such prior consent is required as per section 25 (1) has not taken then 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, to 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. [Section 25 (5)]</p> <p>Every State Board shall maintain a register containing particulars or 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</p> |

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| | | authorized by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject such conditions. |
| Section 27 | Power to refuse or withdrawal of consent by State Board | State Board shall not grant consent under Section 25 (4) if the industry, operation or process or treatment and disposal system is not installed. |
| Section 30 | Power to the State Board to carry out certain works specified under section 25 or 26 | In continuance of the power under section 25 & 26, the State Board may serve upon the person a notice asking the person concerned to do a specified work within the specified time failing which the board itself shall execute the work the expenses of which shall be borne by the defaulting party. |
| Section 32 | Power to take emergency measures in case of pollution of stream or well | State Board may issue orders to remove the matter, which is, or may cause pollution ; or remedy or mitigate the pollution, or issue prohibition orders to the concerned persons from discharging any poisonous or noxious or polluting matter. |
| Section 33 | Power of Board to make application to courts for restraining apprehended pollution of waste in streams or wells | <p>(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.</p> <p>(2) On receipt of an application under section 33 (1) the court make such order as it deems fit.</p> <p>(3) Where under section 33 (2) the court makes an order restraining any person from polluting the water in</p> |

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| | | <p>any stream or well, it may in that order:-</p> <p>(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 such stream or well, such matter and</p> <p>(ii) authorize the Board, if the direction under section 33 (3) (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.</p> <p>(4) All expenses incurred by the Board in removing any matter to pursuance of the authorization 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 and revenue or of public demand.</p> |
| Section 33 A | Power to give directions | <p>Subject to the provisions of this Act, and to any direction that the Central Government may give in this behalf, a Board may 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. This includes the power to direct the closure, prohibition or regulation of any industry, operation or process; or the stoppage or regulation of supply of electricity, or water or any other service.</p> |

2.5 Powers and Functions of the State Government

| Relevant provision | Description of provision | Scope of the provision |
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| Section 18 | Power to give direction to the State Board | Every State Board shall be bound by such directions in writing as the Central Board or the State Govt. may give to it. Provided where a direction given by the State Govt. is inconsistent with the direction by the Central Board the matter shall be referred to the Central Govt. for its decision. |
| Sections 19 (1) & (3) | Power to restrict the application of the Act to certain areas | Notwithstanding contained in this Act, if the State Government, after consultation with, or on the recommendation of the State Board is of the 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. 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 52 | State Govt. to set up State water laboratory and prescribe rules thereof | The State Government may, by notification in the Official Gazette; (a) Establish a State Water Laboratory; or (b) Specify any State laboratory or institute as a State Water Laboratory, to carry out the functions entrusted to the State Water Laboratory under this Act. |

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| | | <p>The State Government may, after consultation with the State Board, make rules prescribing the functions of the State Water laboratory; the procedure for the submission to the said laboratory of sampled of water or of sewage or trade effluents for analysis or rests, the form of the laboratory's report thereon and the fees payable in respect of such report; such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.</p> |
| <p>Section 62</p> | <p>Power to supersede the State Board</p> | <p>(1) If at any time the State Government is of opinion.</p> <p>(a) that the State Board has persistently made default in the performance of the functions imposed on it by or under this Act; or</p> <p>(b) that circumstances exists which render it necessary in the public interest so to do.</p> <p>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 the State government shall give a reasonable opportunity to the State Board to show cause why it should not be superseded ands shall consider the explanations and objections, if any, of the State Board.</p> <p>(2) Upon the publication of a notification for 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</p> |

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| | | supersession of the central Board or a Joint Board by the Central Government. |
| Section 64 | Power to the State Govt. 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 ³ ; <i>Provided that when the State Board has been constituted, no such rule shall be made varied, amended or repeated without consulting that Board.</i> |

2.6 Offences and Penalties

| Relevant provision | Description of provision | Scope of the provision | Punishment |
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| Section 24 & Section 43 | Prohibition on use of stream or well for disposal of polluting matter and penalty for contravention thereof | No person shall knowingly cause or permit any poisonous, noxious or polluting matter as determined by the State Board to enter into any stream or sewer or on land; or No person shall knowingly cause or permit to enter any other matter which may impede the flow of water of the stream in a manner leading or may likely to lead to a substantial aggravation of pollution due to other causes or of its consequences. | Imprisonment which shall not be less than one year and six months which may extend up to six years and with fine. |

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| | | Unless the State Govt. has after consultation with the State Board exempted any persons subject to the fulfillment of certain conditions from the operation of this provision. [Section 24 (3)] | |
| Section 41 (1) | | Failure to comply with the direction under S.20 (2) or 20 (3) | On conviction, the failure shall be punishable with imprisonment up to 3 months or fine upto Rs. 10,000 or both if the failure continues, an additional fine of Rs. 5000 per day. |
| Section 41 (2) | | Failure to comply with any order under section 32 (1) (c) or direction by a court under section 33 (2) or a direction under section 33 A. | Failure shall be punishable with imprisonment for one year and six months which may be extended to six years with fine. An additional fine upto Rs. 5000/- per day in cases where the failure continues. |
| Section 41 (3) | | Failure under section 41 (2) continues beyond a period of one year after the date of conviction. | Offender, on conviction shall be punishable with imprisonment for a term which shall not be less than two years which may extend upto seven years and fine. |
| Section 42 | Penalty for certain acts | Whoever- (a) destroys pulls | Imprisonment for a term which may |

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| | | <p>down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up inscribed and placed by or under the authority of the Board;</p> <p>or</p> <p>(b) Obstructs any person acting under the orders or direction of the Board from exercising his powers and performing his functions under this Act; or</p> <p>(c) Damages any works or property belonging to the Board;</p> <p>or</p> <p>(d) Fails to furnish any officer other employee of the Board any information required by him for the purposes of this Act; or</p> <p>(e) Fails to intimate the occurrence if an accident or other event under section 31 to the Board and other authorities or agencies as required by that section; or</p> <p>(f) in giving any information which he is required to give under this Act or willfully makes a statement which is false in any material particular; or</p> <p>(g) for the purpose of obtaining any consent under section 25 or 26</p> | <p>extend upto three months or with fine to Rs. 10,000/- or with both.</p> |
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| | | knowingly or willfully makes a statement which is false in any material particular; | |
| Section 44 | | Contravention of Section 25 or 26 | <p>Imprisonment which shall not be less than two years which may extend upto six years and with fine.</p> <p>In addition liable to pay a higher water cess as per Schedule II of the Water (Prevention & Control of Pollution) Cess Act, 1977.</p> |
| Section 45 | Enhanced penalty after previous conviction under sections 25, 25 or 26 | | <p>If any person is again found guilty of an offence under the same provision, on the second and every subsequent conviction shall be punishable with imprisonment which shall not be less than one and a half years which may extend upto six years and with fine.</p> |
| Section 45 A | Penalty for contravention of any provision of the Act which no penalty has been | | <p>Shall be punishable with imprisonment upto three months or with fine which may extend upto Rs.</p> |

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| | provided elsewhere in the Act. | | 10,000/- or with both. In continuing contravention of failure. An additional fine which may extend to Rs. 5000/- per day. |
| Section 40 | Publication of the names of the offender | 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. |

2.7 Liability for offence committed by Companies or Government Departments

| Relevant provision | Description of provision | Who is liable | When not liable |
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| Section 47 | Offences by Companies | Every person who at the time the offence was committed was directly incharge of, and was responsible in charge of, and was responsible to the company for the conduct of the business of the company. Any director, manager, secretary or other officer of the company shall also be liable/guilty if it is proved that the offence has been committed with their consent or company or connivance or is attributable to any neglect on their part. | Not liable is he proves that the offence was committed without the knowledge or that he exercised all due diligence to prevent the commission of such offence. |
| Section 48 | Offences by Government Departments | The Head of the Department Any other officer shall also be liable/guilty if it is proved that the offence has been committed with his consent or connivance or is attributable to any neglect on his part. | Not liable if he proves that the offence was committed knowledge or that he exercised all due diligence to prevent the commission of such offence. |

2.8 Protection for action taken in good faith

| Relevant provision | Description of provision | Scope of the provision |
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| Section 59 | Protection for action taken in good faith | No suit or legal proceedings shall lie against the government or any officer of the government or any member or officer of the Board in respect of anything, which is done in good faith or intended to be done in pursuance of this Act or the rules thereunder. |

2.9 Cognizance and Trial of Offences

| Relevant provision | When Cognizance can be taken? | Who can try the Offences? |
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| Section 49 | 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 (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 authorized as aforesaid. | No court inferior to that of Metropolitan Magistrate or a Judicial Magistrate of the first class. Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 it shall be lawful for any 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 time exceeding two thousand rupees on any person convicted of an offence punishable under this Act. |
| Section 54 | Admissibility of reports as evidence | Any documents 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. |

2.10 Protection for action taken in good faith

| Relevant provision | Description of provision | Scope of the provision |
|---------------------------|---|---|
| Section 28 | Appeals against orders of the State Board | <ol style="list-style-type: none">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 or which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellant authority) as the State Government may think fit to constitute. Provided that the appellant authority may entertain the appeal after the expiry of the said period of thirty days of such authority is satisfied that the appellate was prevented by sufficient cause from filing the appeal in time.2. An appellant 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 appellant authority shall be such as may be prescribed.4. On receipt of an appeal preferred under sub-section (1), the appellant 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 appellant 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. |

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| | | (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. |
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| Relevant provision | Description of provision | Scope of the provision |
|---------------------------|--------------------------------------|---|
| Section 29 | Power of revision of the State Govt. | <p>(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 fit.</p> <p>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.</p> <p>(2) The State Government shall not revise any order made under section 25, Section 26 & Section 27 where an appeal against the 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.</p> |

2.11 Bar to Jurisdiction of civil Courts

| Relevant provision | Description of provision | Scope of the provision |
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| Section 58 | Bar to Jurisdiction | No civil court shall have jurisdiction to entertain any suit to processing in respect of any matter which an appellate authority constituted under this Act is empowered 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 betaken in pursuance of any power conferred by or under this Act. |
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