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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 13th December, 1978/Agrahayana 22, 1900 (Saka)

The following Act of Parliament received the assent of the President on the 12th December, 1978, and is hereby published for general information:—

THE WATER (PREVENTION AND CONTROL OF POLLUTION) AMENDMENT ACT, 1978

NO. 44 OF 1978

[*12th December*, 1978]

An Act to amend the Water (Prevention and control of Pollution) Act, 1978

WHEREAS, in pursuance of clause (1) of article 252 of the Constitution, the Water (Prevention and Control of Pollution) Act, 1974, had been passed by Parliament;

AND WHEREAS from the practical experience gained in the working of the aforesaid Act it is considered necessary to make certain amendments thereto;

AND WHEREAS, in pursuance of clause (1) of article 252 of the Constitution read with clause (2) thereof, resolutions have been passed by the Legislative Assemblies of the States of Assam, Haryana and West Bengal to the effect that the said Act should be amended by an Act of Parliament for the purposes hereinafter appearing;

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

Short title, application and commencement.

1. (*1*) This Act may be called the Water (Prevention and Control of Pollution) Amendment Act, 1978.

(2) It applies, in the first instance, to the whole of the States of Assam, Haryana 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 read with clause (2) thereof.

(3) It shall come into force, at once in the States of Assam, Haryana and West Bengal and the Union territories, and in any other State which adopts this Act under clause (1) of article 252 of the Constitution read with clause (2) thereof on the date of such adoption and any reference in section 22 of 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.

Amendment of section 2.

2. In section 2 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the principal Act),— 6 of 1974.

(*a*) after clause (*d*), the following clause shall be inserted, namely:—

'(*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;';

(*b*) after clause (*g*), the following clause shall be inserted, namely:—

'(*gg*) "sewer" means any conduit pipe or channel, open or closed, carrying sewage or trade effluent;'.

Amendment of section 3.

3. In section 3 of the principal Act, in sub-section (*2*),—

(*a*) in clause (*a*), for the words "matters relating to the use and conservation of water resources or the prevention and control of water pollution", the words "matters relating to environmental protection" shall be substituted;

(*b*) in clause (*b*), for the words "five officials", the words "such number of officials, not exceeding five," shall be substituted;

(*c*) in clause (*d*), for the words "three non-officials", the words "such number of non-officials, not exceeding three," shall be substituted;

(*d*) in clause (*f*), for the words "and having administrative experience", the words "and having practical experience in respect of matters relating to environmental protection" shall be substituted.

Amendment of section 4.

4. In section 4 of the principal Act,—

(*a*) in sub-section (*1*), the brackets and words "(being a date not later than six months of the commencement of this Act in the State)" shall be omitted and shall be deemed always to have been omitted;

(*b*) in sub-section (*2*),—

(*i*) in clause (*a*),—

(*1*) the word "full-time" shall be omitted;

(*2*) for the words "matters relating to the use and conservation of water resources or the prevention and control of water pollution", the words "matters relating to environmental protection" shall be substituted;

(3) the following proviso shall be inserted at the end namely:—

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

(*ii*) in clause (*b*), for the words "five officials", the words "such number of officials, not exceeding five," shall be substituted;

(*iii*) in clause (*c*), for the words "five persons", the words "such number of persons, not exceeding five," shall be substituted;

(*iv*) in clause (*d*), for the words "three non-officials", the words "such number of non-officials, not exceeding three," shall be substituted;

(*v*) in clause (*f*), for the words "and having administrative experience", the words "and having practical experience in matters relating to environmental protection" shall be substituted.

Amendment of section 5.

5 In section 5 of the principal Act,—

(*a*) for sub-section (2), the following sub-section shall be substituted, namely:—

"(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.";

(*b*) in sub-section (5), for the words, brackets, letters and figures "or where he is nominated under clause (*c*) of sub-section (2) of section 3 or under clause (*c*) of sub-section (2) of section 4, if he ceases to be a member of the State Board, or as the case may be, of the local authority", the following shall be substituted, namely:—

"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. In section 10 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(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.".

Insertion of new section 11A.

7. After section 11 of the principal Act, the following section shall be inserted, namely:—

Delegation of powers to Chairman.

"11A. 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.".

Amendment of section 12.

8. In section 12 of the principal Act,—

(*a*) in sub-section (*3*), the words "and the rules so made may provide for the salaries and allowances and other terms and conditions of service of such officers and employees" shall be omitted;

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*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.".

Amendment of section 14.

9. In section 14 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*a*), for the words "matters relating to the use and conservation of water resources or the prevention and control of water pollution", the words "matters relating to environmental protection" shall be substituted;

(*ii*) in clause (*f*), for the words "and having administrative experience", the words "and having practical experience in respect of matters relating to environmental protection" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) in clause (*a*), for the words "matters relating to the use and conservation of water resources or the prevention and control of water pollution", the words "matters relating to environmental protection" shall be substituted;

(*ii*) in clause (*f*), for the words "and having administrative experience", the words "and having practical experience in respect of matters relating to environmental protection" shall be substituted.

Amendment of section 21.

10. In section 21 of the principal Act, for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(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.".

Amendment of section 23.

11. In section 23 of the principal Act, in sub-section (2),—

(a) for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted;

5 of 1898.
2 of 1974.

(b) for the word and figures "section 98", the word and figures "section 94" shall be substituted.

Amendment of section 25.

12. In section 25 of the principal Act —

(a) in sub-section (1), for the words "stream or well" at both the places where they occur, the words "stream or well or sewer or on land" shall be substituted;

(b) in sub-section (2), after the words, brackets and figure "under sub-section (1)", the words "shall be accompanied with such fees as may be prescribed and" shall be inserted;

(c) in sub-section (4), in clause (a), for the words "stream or well", the words "stream or well or sewer or on land" shall be substituted;

(d) in sub-section (5), for the words "stream or well", the words "stream or well or sewer or on land" shall be substituted.

Amendment of section 26.

13 In section 26 of the principal Act,—

(a) for the words "stream or well", the words "stream or well or sewer or on land" shall be substituted;

(b) for the words "shall be made within a period of three months of the constitution of the State Board", the words "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" shall be substituted,

Amend-ment of section 27.

14. In section 27 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) A State Board may from time to time review—

(*a*) any condition imposed under section 25 (other than a condition to be satisfied before an outlet is brought into use or a new discharge is made), or section 26 and may serve on the person using the outlet or making the discharge, as the case may be, 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.".

Amend-ment of section 28.

15. In section 28 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*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."

Amend-ment of section 36.

16. In section 36 of the principal Act,—

(*a*) in sub-section (*1*), after the word "benefactions", the word ", fees" shall be inserted;

(*b*) in sub-section (*2*), after the words "under this Act", the words "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" shall be inserted.

Amend-ment of section 37.

17. In section 37 of the principal Act,—

(*a*) in sub-section (*1*), after the word "benefactions", the word ", fees" shall be inserted;

(*b*) in sub-section (*2*), after the words "under this Act", the words "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" shall be substituted.

Amend-ment of section 39.

18. In section 39 of the principal Act, in sub-section (*1*), for the words "six months", the words "nine months" shall be substituted.

Amend-ment of section 49.

19. In section 49 of the principal Act,—

(*a*) in sub-section (*1*), for the words "Presidency Magistrate or a Magistrate", the words "Metropolitan Magistrate or a Judicial Magistrate" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) for the words and figures "section 32 of the Code of Criminal Procedure, 1898", the words and figures "section 29 of the Code of Criminal Procedure, 1973" shall be substituted; 5 of 1898. 2 of 1974.

(*ii*) for the words "Magistrate of the first class or for any Presidency Magistrate" the words "Judicial Magistrate of the

first class or for any Metropolitan Magistrate" shall be substituted.

Amendment of section 63.

20 In section 63 of the principal Act,—

(a) in sub-section (2) —

(i) for clause (d), the following clause shall be substituted, namely:—

"(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;";

(ii) clauses (h) and (i) shall be omitted;

(b) in sub-section (3), for the words "before the expiry of the session in which it is so laid or the successive sessions aforesaid", the words "before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

Amendment of section 64.

21. In section 64 of the principal Act, in clause (d) of sub-section (2), the words "and the fees and allowances payable to such persons" shall be inserted at the end.

Validation.

22. Notwithstanding anything contained in section 4 of the principal Act, as it stood immediately before the commencement of this Act, every State Board for the prevention and control of water pollution constituted under that section after the expiry of a period of six months of the commencement of the principal Act in the State concerned, shall be deemed to have been validly constituted and accordingly anything done or any action taken by such State Board before the commencement of this Act shall be deemed to have been validly done or taken and no such thing or action shall be called in question in any court merely on the ground that such State Board was constituted after the expiry of the period specified therefor under the said section 4.

R. V. S PERI SASTRI.
Secy. to the Govt. of India.

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