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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.

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 15*th February*, 2024/*Magha* 26, 1945 (*Saka*)

The following Act of Parliament received the assent of the President on the 15th February, 2024 and is hereby published for general information:—

THE WATER (PREVENTION AND CONTROL OF POLLUTION) AMENDMENT ACT, 2024

NO. 5 OF 2024

[15*th February*, 2024.]

An Act further to amend the Water (Prevention and Control of Pollution) Act, 1974.

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; 6 of 1974

AND WHEREAS it is considered necessary to make certain amendments thereto for decriminalising and rationalising minor offences to further enhance trust-based governance for ease of living and doing business;

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 Himachal Pradesh and Rajasthan 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 Seventy-fifth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Water (Prevention and Control of Pollution) Amendment Act, 2024. Short title application and commencement.

(*2*) It applies, in the first instance, to the whole of the States of Himachal Pradesh and Rajasthan 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 Himachal Pradesh and Rajasthan 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.

Amendment of section 4.

2. In section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the principal Act), in sub-section (*2*), in clause (*a*), after the words "State Government", the words "in such manner as may be prescribed by the Central Government" shall be inserted. 6 of 1974.

Amendment of section 5.

3. In section 5 of the principal Act, in sub-section (*9*), after the word "prescribed", the words "by the Central Government" shall be inserted.

Amendment of section 25.

4. In section 25 of the principal Act, in sub-section (*1*), for the proviso, the following proviso shall be substituted, namely:—

"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.".

Insertion of new section 27A.

5. After section 27 of the principal Act, the following section shall be inserted, namely:—

Power to issue guidelines.

"27A. (*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*).".

Substitution of new sections 41 and 41A for section 41.

6. For section 41 of the principal Act, the following sections shall be substituted, namely:—

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

"41. (*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.

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

41A. (*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 non-compliance, 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.".

Amendment of section 42.

7. In section 42 of the principal Act,—

(*a*) in sub-section (*1*), for the long line, the following long line shall be substituted, namely:—

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

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

"(*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.".

Substitution of new sections for sections 43 and 44.

8. For sections 43 and 44 of the principal Act, the following sections shall be substituted, namely:—

Penalty for contravention of provisions of section 24.

"43. 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.

Penalty for contravention of section 25 or section 26.

44. 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.".

Omission of section 45.

9. Section 45 of the principal Act shall be omitted.

Substitution of new sections 45A to 45E for section 45A.

10. For section 45A of the principal Act, the following sections shall be substituted, namely:—

Penalty for contravention of certain provisions of Act.

'45A. 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.

Adjudicating officer.

45B. (*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.

Appeal.

45C. (*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.

Penalty amount to be credited to Environmental Protection Fund.

45D. 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.

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

45E. (*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 have 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.'.

Omission of section 47.

11. Section 47 of the principal Act shall be omitted.

Substitution of new section for section 48.

12. For section 48 of the principal Act, the following section shall be substituted, namely:—

Penalty for contravention by Government Department.

"48. (*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.".

Amendment of section 49.

13. In section 49 of the principal Act, in sub-section (*1*), after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) the adjudicating officer or any officer authorised by him in this behalf; or".

Amendment of section 63.

14. In section 63 of the principal Act, in sub-section (*2*),—

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

"(*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;";

(*ii*) after clause (*m*), the following clause shall be inserted, namely:—

"(*ma*) the manner of holding inquiry and imposing penalties by the adjudicating officer under section 45B;".

Amendment of section 64.

15. In section 64 of the principal Act, in sub-section (*2*), in clause (*e*), for the words, brackets and figures "the chairman and the member-secretary of the State Board under sub-section (*9*) of section 5 and", the words "the member-secretary of the State Board" shall be substituted.

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DR. RAJIV MANI,
Secretary to the Govt. of India.

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