

DELHI WATER AND WASTEWATER REFORMS BILL, 2003**I N D E X**

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DELHI WATER AND WASTEWATER REFORMS BILL, 2003

A Bill to provide for constitution of a Regulatory Commission for the water and wastewater sector, reorganization of the water and wastewater sector, rationalization of water and wastewater tariff, increase avenues for participation of the private sector in the water and wastewater sector and taking measures conducive to the development and management of the water and wastewater sector in an efficient, commercial, economic and competitive manner in the National Capital Territory of Delhi and for matters connected therewith or incidental thereto.

Be it enacted by Legislative Assembly of the National Capital Territory of Delhi in the Fifty-fourth Year of the Republic of India as follows:-

CHAPTER I : PRELIMINARY

Short title, extent and commencemen t.	1	<p>(1) This Act may be called the Delhi Water and Wastewater Reforms Act, 2003</p> <p>(2) It extends to the whole of National Capital Territory of Delhi, excluding the areas under the jurisdiction of the New Delhi Municipal Council and the Delhi Cantonment Board.</p> <p>(3) It shall come into force on such date as the Government of NCT of Delhi may, by notification in the Official Gazette appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.</p>
Definitions.	2	<p>In this Act, unless the context otherwise requires, -</p> <p>(i) "Board" means the Delhi Water Board established under section 3 of the Delhi Water Board Act, 1998;</p> <p>(ii) "Chairperson" means the Chairperson of the Commission;</p> <p>(iv) "Commission" means the Delhi Water and Wastewater Regulatory Commission or a Multi Sector Regulatory Commission constituted under section 3;</p> <p>(v) "Company" means a Company incorporated and operating under the Companies Act, 1956;</p> <p>(vi) "Government" means the Central Government or any State Government or any undertaking or corporation or society or other authority owned or controlled by the Government;</p> <p>(vii) "Delhi" means the National Capital Territory of Delhi;</p> <p>(viii) "High Court" means the High Court of Delhi;</p> <p>(ix) "Licence" means a licence granted under section 30;</p> <p>(x) "Licensed business" means all or any of the activities for which a licence or an exemption has been granted in terms of this Act including water-supply, wastewater-removal and evacuation or transportation in relation thereto;</p> <p>(xi) "Licensee" means a person licensed under this Act to engage in the business of water-supply or wastewater-removal and shall include persons exempted under Section 33;</p> <p>(xii) "Member" means the Member of the Commission and shall include the</p>

Chairperson;

- (xiii) "prescribed" means prescribed by rules notified under this Act;
- (xiv) "regulations" means regulations made by the Commission in exercise of its powers under this Act;
- (xv) "rules" means rules made by the Government of NCT of Delhi in exercise of its powers under this Act;
- (xvi) "section" means a section of this Act;
- (xvii) "Selection Committee" means the Selection Committee constituted under section 7;
- (xviii) "specified" means as specified by regulations ;
- (xix) "tariff" means tariff applicable to licensees for water-supply or wastewater-removal;
- (xx) "undertaking" means a block of assets, liabilities and proceedings related to any business or activity in water-supply or wastewater-removal;
- (xxi) "Wastewater" means sewage, sullage, washings, excrementitious liquid matter, cesspool water or other liquid wastes by whatever name called and shall include industrial wastewater."
- (xxii) "Wastewater-removal" means collection, removal, treatment, disposal or recycling of wastewater;
- (xxiii) "Water-Supply" means treatment, conveyance, distribution and supply of water;
- (xxiv) "Water Board Act" means the Delhi Water Board Act, 1998;

CHAPTER II : CONSTITUTION OF WATER AND WASTEWATER REGULATORY COMMISSION

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| Establishment of the Commission. | 3 | <p>(1) The Government of NCT of Delhi shall, within three months of the coming into force of this Act, establish by notification in Official Gazette, a Commission to exercise the powers conferred on, and the functions assigned to the Commission under this Act.</p> <p>(2) Notwithstanding anything contained in sub section (1) above, the Government of NCT of Delhi may, whenever deemed appropriate in a one-time exercise, assign the functions and powers under this Act to a Multi-sector Regulatory Commission, which may be the duly reconstituted Delhi Electricity Regulatory Commission by a notification in the Official Gazette. Provided that -</p> <ul style="list-style-type: none"> (i) the constitution of such Multi-Sector Regulatory Commission shall satisfy the requirements of Section 5 of this Act; (ii) such Multi-Sector Regulatory Commission shall perform the functions and exercise the powers of the Commission under this Act; and <p>the serving Members of the Commission shall continue as members of the Multi-Sector Regulatory Commission for their tenure.</p> |
| Composition of the | 4 | <p>(1) Subject to any departures as a consequence of the constitution of a Multi-Sector Regulatory Commission, the Commission shall consist of</p> |

- Commission. three Members including the Chairperson. Provided that the Government of NCT of Delhi may initially constitute the Commission with one member for a period not exceeding 12 months from the date of this Act coming into force.
- (2) The Chairperson and the Members of the Commission shall be appointed by the Government of NCT of Delhi from among the panel of names recommended by the Selection Committee.
 - (3) For appointment to fill the vacancy for the post of Chairperson, the Selection Committee shall consider all serving members of the Commission besides others meeting the qualifications set out in this Act.
 - (4) The Chairperson shall be the Chief Executive of the Commission.
 - (5) The Chairperson and Members of the Commission shall be appointed as full time members and shall not hold any other office of profit.
- Qualification of Members. 5 The Chairperson and the Members shall be persons having adequate knowledge and suitable experience and shall be appointed in the following manner:-
- (a) One qualified engineer with experience in the fields of water-supply or wastewater-removal; and
 - (b) Two persons, each having post-graduate qualification and experience in finance, economics, management or law.
- Provided that at least two persons from the above shall be from outside the Government with at least 15 years experience in private industry or academic and research institutions in the field of water and wastewater sector. Provided further that in case the Selection Committee is unable to identify persons with suitable experience in the water and wastewater sector, at least two persons from the above shall be from outside Government with at least 15 years experience in private industry or academic and research institutions in other public utility and infrastructure sectors.
- Disqualification of Members. 6 A person shall be disqualified from being appointed as a Member if he, -
- (a) is a Member of the Parliament, or of any State legislature, or of any local authority, or
 - (b) holds any post in a political party, or
 - (c) has financial or any other interest, directly or indirectly in any private company or undertaking dealing with any business related to water and wastewater which may prejudicially affect his functioning as a Member, or
 - (d) has not tendered his resignation from Government service, or
 - (e) is [Chairperson or a Member or Convenor of the Selection Committee] OR [directly associated with the Selection Committee and its functioning].
- Constitution & functioning of Selection Committee. 7 (1) (a) The Government of NCT of Delhi shall constitute a selection committee, as often as may be required to select persons for appointment as members. The selection committee shall consist of 3 members, being:-
- (i) A serving or former Judge of the High Court appointed in consultation with the serving Chief Justice of the High Court, OR a serving/retired Chairperson or Member of UPSC.

- (ii) Chief Secretary to the Government of NCT of Delhi ... Member
- (iii) An eminent academician from
a reputed institution in the fields
of water and wastewater management, economics or law;
or a person outside the Government with expertise in the
field of water and wastewater management ... Member
- (b) The Secretary in charge of the Urban Development Department of the Government of NCT of Delhi shall act as the convenor of the Selection Committee.
- (2) The Government of NCT of Delhi shall make a reference to the Selection Committee for filling up of any impending vacancy -
- (a) within one month from the date of occurrence of any unanticipated vacancy by reason of death, resignation or removal, and
- (b) six months before the superannuation or end of tenure of the Chairperson or a Member.
- (3) The Selection Committee shall complete its process and recommend a panel of two names for every vacancy of Chairperson or Member referred to it.
- (4) All decisions of the Selection Committee shall be taken by majority vote.
- (5) Before the Selection Committee recommends any person for appointment as a Member, the persons who are considered for appointment as members of the Commission shall notify to the Selection Committee any potential conflict of interest arising out of -
- (a) any office, employment, consultancy agreement, other arrangement, equity holding or beneficial interest in a businesses of water-supply or wastewater-removal;
- (b) such other details and information as may be prescribed in the rules.
- (6) Each member of the Commission shall, before taking charge of the office as member or within such time not exceeding three months after taking charge as may be allowed by the Government of NCT of Delhi on the recommendation of the Selection Committee, divest himself from the interest in the businesses mentioned in sub-section (5) as a condition of his appointment.
- (7) So long as the person holds the office of the member and for a period of two years after he ceases to be a member for any reason whatsoever, he shall not acquire, hold or maintain (directly or indirectly) any equity holding or beneficial interest, office, employment or consultancy, or other arrangement in businesses mentioned in sub-section (5).

- (8) Before recommending any person as a member of the Commission, the selection committee shall satisfy itself that the person does not have any financial or other interest as referred to in sub-section (5) or otherwise which is likely to affect prejudicially his functions as a member.
- Terms and conditions of service. 8 (1) The Chairperson and the Members shall hold office for a period not exceeding five years from the date of his appointment or until the age of sixty-five years, whichever is earlier. Provided that no person shall be appointed as a Member after he attains the age of sixty one.
- (2) A Member shall be eligible for appointment as a Chairperson subject to his combined tenure in the Commission as Member and Chairperson shall not exceed five years, and that he shall not continue in office beyond 65 years of age. (3) The salary and allowances payable to, and other terms and conditions of service of the Chairperson and the Members shall be such as may be prescribed by the Government of NCT of Delhi. During the tenure, the salaries, allowances and other conditions of service shall not be varied to the disadvantage of a Chairperson or Member after appointment.
- (4) The Chairperson and Member shall, before entering upon office, make and subscribe to an oath of office and of secrecy in such Form and in such manner and before such authority as may be prescribed.
- (5) The salaries, allowances and other remunerations of the Chairperson and the Members of the Commission shall be charged on the Consolidated Fund of the Government of NCT of Delhi.
- Relinquishment of Office. 9 (1) Notwithstanding anything contained in section 8, a Chairperson or Member may,-
- (a) Relinquish his office by giving a written notice to the Government of NCT of Delhi of not less than three months; or
- (b) Be removed from his office in accordance with the provisions of section 10.
- (2) Any Chairperson or Member ceasing to hold office shall,-
- (a) be ineligible for further employment under the Government of NCT of Delhi for a period of two years from the date he ceases to hold such office;
- (b) not accept any commercial employment in any undertaking or its subsidiary or any other body in which it has an equity stake with which he has dealt with in his capacity as a regulator, for a period of two years from the date he ceases to hold such office;
- (c) not represent any person before the Commission in any manner.
- Explanation.*- For the purpose of this subsection:
- (i) "Employment under Government of NCT of Delhi" includes employment under any local or other authority within Delhi or under any corporation or society owned or controlled by the Government of NCT of Delhi.
- (ii) "Commercial employment" means employment in any capacity in any trading, commercial, industrial or financial business in the water and wastewater industry and also includes setting up practice either independently as an advisor or a consultant or as a partner of a firm.

- Removal of Members. 10 (1) In the event that the Government of NCT of Delhi is of the prima-facie view that a Member of the Commission has:
- (a) acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or
 - (b) so abused his position so as to render his continuance in office prejudicial to the public interest; or
 - (c) indulged in similar act of misbehaviour that, in the opinion of the Government of NCT of Delhi, is a fit ground for his removal,

the Government of NCT of Delhi shall make a reference of such matter to the High Court to enquire into the matter.

- (2) The Government of NCT of Delhi may, in consultation with the Chief Justice of the High Court, suspend any Member of the Commission in respect of whom a reference has been made to the High Court under sub-section (1) till the receipt of the report of the High Court on such reference.
- (3) Upon a reference under section 10(1), the High Court shall conduct an inquiry in accordance with the procedure prescribed in that behalf by the High Court and shall give an opportunity of hearing to the concerned Chairperson or Member. In the event that upon completion of inquiry the High Court recommends that the Chairperson or Member ought to be removed, he shall be removed from office by an order of the Government of NCT of Delhi.
- (4) Government of NCT of Delhi may, by order, remove from office any Chairperson or Member in the event that he -
 - (a) has been adjudged as insolvent; or
 - (b) has been convicted of an offence which, in the opinion of the Government of NCT of Delhi involves moral turpitude; or
 - (c) has become physically or mentally incapable of acting as a Member.
- (5) A Chairperson or Member who has been removed shall not be eligible for reappointment as a Member or in any other capacity in the Commission or in the Government of NCT of Delhi or in any undertaking owned or controlled by the Government of NCT of Delhi.

- Appointment of Staff. 11 (1) The Commission may determine the number, nature and categories of other officers and employees required to assist the Commission in the discharge of its functions, under this Act.
- (2) The salaries and allowances payable to, and other conditions of service of the officers and employees shall be determined by the Commission, by regulations with the approval of Government of NCT of Delhi.
 - (3) The method and manner of selection of the officers and other employees shall be as laid down by the Commission by regulations framed and notified in consultation with the Government of NCT of Delhi.
 - (4) The Commission may appoint consultants required to assist the Commission in the discharge of its functions, on such terms and conditions as may be determined by the Commission from time to time on case to case basis. The method and manner of selection of consultants shall be in accordance with

the regulations framed by the Commission in that behalf.

- Delegation of powers of Commission. 12 The Commission may by an order and subject to such conditions as may be specified in the order delegate to any officer of the Commission such of the administrative or financial powers as the Commission considers appropriate to aid and assist the Commission.

CHAPTER III: PROCEEDINGS, POWERS AND FUNCTIONS OF THE COMMISSION

- Functions of the Commission. 13 Subject to the provisions of this Act, the Commission shall discharge the following functions, namely:-
- (a) determine tariff for water-supply and wastewater-removal undertaken by Licensees at wholesale, bulk and retail levels ;
 - (b) determine charges for the use of ground water in a notified area, in case levied by the Board;
 - (c) determine tariff payable for the use of the facilities for conveyance of water and for the evacuation and disposal of wastewater through mains or pipes or other means;
 - (d) determine license conditions and issue licences for water-supply and wastewater-removal ;
 - (e) regulate the working of the licensees to ensure compliance with the provisions of this Act, the license and applicable rules, regulations, orders and directions issued from time to time;
 - (f) require licensees to formulate prospective plans and schemes in co-ordination with others to promote the water and wastewater sector and to ensure quality of service;
 - (g) promote competition, efficiency and economy in the activities of the water and waste water sector;
 - (h) aid and advise the Government of NCT of Delhi in the formulation of policy relating to water and waste water;
 - (i) associate with the environmental regulatory agencies and water quality monitoring agencies to develop appropriate policies and procedures for environmental regulation of the water and wastewater sector;
 - (j) to set and enforce service standards for the water and wastewater sector including standards relating to quantity, continuity and reliability of service;
 - (k) to lay down and enforce safety standards;
 - (l) to open avenues for participation of the private sector in the water and wastewater sector while ensuring sector viability and promoting consumer interests;
 - (m) to collect and publish data and forecasts on the demand for, and use of, water and groundwater and publish such data including through electronic media;
 - (n) to monitor the enforcement of the tariff and service standards of licensees and adjudicate upon the disputes and differences between a licensee and the Board, or any other licensee under this Act;

- (o) regulate the use by licensees and their sub-contractors of common assets relating to water-supply and wastewater-removal, including conveyance of water or evacuation of wastewater through mains or pipes; and
- (p) any other function as may be assigned to it by the Government of NCT of Delhi.
- Proceedings of the Commission. 14
- (1) The Headquarters of the Commission shall be at Delhi.
- (2) The Commission shall meet at such time as the Chairperson may direct and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be specified by regulations.
- (3) The Secretary shall convene the meeting of the Commission to be held at such time as the Chairperson may direct.
- (4) In the event of an unforeseen vacancy in the office of the Chairperson or, his inability to attend any meeting of the Commission, the senior-most Member present shall preside at the meetings/proceedings of the Commission.
- (5) The quorum for a meeting of the Commission shall be two. Save as otherwise provided in sub-section (6) the Chairperson and Members shall have one vote each.
- (6) All decisions of the Commission shall be on the basis of a majority of votes of the Members present and voting and in the event of a tie of votes, the Chairperson or the person presiding shall have a second or casting vote.
- (7) The Commission may decide urgent matters by circulation of the papers to Members.
- (8) All the orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Chairperson in this behalf.
- (9) No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of the existence of any vacancy in the constitution of the Commission.
- (10) The Commission shall formulate and notify regulations governing the procedure to be followed in its working in a transparent and equitable manner.
- Powers of the Commission. 15
- (1) The Commission shall, for the purpose of any inquiry or proceedings under this Act, have the powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters:
- (a) the summoning and enforcing of attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object, producible as evidence;
- (c) the reception of evidence on affidavits
- (d) the requisition of any public record;
- (e) the issue of commission for examination of witnesses;

- (f) review of its decisions, directions and orders; and
 - (g) any other matter which may be prescribed
- (2) The Commission shall have the power to require a licensee or its consumers to produce before it and allowed to be examined and kept in custody by an officer of the Commission authorised in this behalf, such books, accounts, or other documents relating to licensed businesses and functioning of Licensees, the examination of which the Commission considers necessary for the purposes of this Act or for due discharge of its functions, or which may be required by the Central Water Commission, or any Government.
 - (3) Where the Commission has reason to believe that any relevant books or documents of, or relating to, any unit or person in relation to which an inquiry or proceeding is pending, are being, or likely to be, destroyed, mutilated, altered, falsified or suppressed, it may authorise any officer of the Commission to exercise the powers of entry, search and seizure as may be exercised by an inspector appointed for inspection under sections 240 and 240-A of the Companies Act, 1956.
 - (4) The Commission shall have the power to issue such interim orders in any proceedings, hearing or matter before it, as the Commission considers appropriate in the interest of justice and in due discharge of its functions under the Act.
 - (5) For enforcing the attendance of witnesses, the local limits of the jurisdiction of the Commission shall be the limits of the territory of India.
 - (6) Notwithstanding anything contained in any other law for the time being in force, the Commission may, direct any person or licensees to furnish required information related to activities carried on by such person in areas of water-supply or wastewater-removal to enable the Commission to carry out its functions.
 - (7) In the discharge of its functions, the Commission may consult from time to time such person or group of persons as may be affected or are likely to be affected by the decisions of the Commission.
 - (8) Every person to whom notices may be issued under this Act shall be obliged to duly, faithfully and expeditiously furnish such information, details, books, accounts and other documents, as may be specified in the notice by the Commission.

CHAPTER IV : POWERS OF THE GOVERNMENT OF NCT OF DELHI

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| General Powers
of Government
of NCT of
Delhi. | 16 | <ol style="list-style-type: none">(1) In the discharge of its functions, the Commission shall be bound by such directions in matters of policy involving public interest and market structure as the Government of NCT of Delhi may issue from time to time. Provided that the Commission may refer back any policy direction with its comments and concerns for reconsideration by the Government of NCT of Delhi. Provided further that once the Government of NCT of Delhi responds with its decision, the same shall be final and binding.(2) If any question arises as to whether any direction by the Government of NCT of Delhi relates to a matter of policy involving public interest or market structure, the decision of the Government of NCT of Delhi thereon shall be final(3) The Government of NCT of Delhi shall be entitled to issue policy directions concerning grant of subsidy to be allowed for water-supply or wastewater- |
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removal to any consumer or class of consumers in the tariff determined by the Commission. Provided that for the portion of such subsidy which is not funded by cross-subsidy, the Government of NCT of Delhi shall, notwithstanding anything to the contrary, pay in advance and in the manner specified, the amount necessary to compensate the person affected by such grant as a pre-condition to the person implementing the subsidy. Provided further that no such policy direction shall be operative if the advance payment is not made, and the tariff fixed by the Commission shall be applicable.

- (4) The Government of NCT of Delhi shall consult the Commission in relation to any proposed legislation, rule or policy direction relating to the water and the wastewater sectors, and shall take into account the recommendations made by the Commission.

CHAPTER V : REORGANISATION & CORPORATISATION OF THE BOARD

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| Incorporation of Companies for performing functions of Board. | 17 | <p>(1) The Government of NCT of Delhi may, as soon as may be, after the commencement of this Act, establish one or more companies under the provisions of the Companies Act, 1956 for efficient management and performance of the diverse functions of the Board under Water Board Act in areas of water-supply and waste-water removal.</p> <p>(2) The Company or Companies established under sub-section (1) shall undertake such functions of the Board allocated to each of them, for which functions the Commission shall grant the requisite licences under Section 30.</p> <p>(3) The companies established under sub-section (1) may, in relation to any of their powers, functions and duties vested under section 19, contract out or assign in accordance with procedures approved by the Commission to any local body, limited company, registered society, research institute or government undertaking, including through private investment in works and ownership of facilities on such terms and conditions as may be imposed.</p> |
| Transfer from Board to Government of NCT of Delhi . | 18 | From the date on which any transfer scheme is published by the Government of NCT of Delhi "the effective date", any property, interest in property, rights and liabilities which immediately before the effective date vested in the Board shall vest in the Government of NCT of Delhi. |
| Rights and powers of Board to be exercised by the Company. | 19 | On the establishment of one or more companies under sub-section (1) of section 17, the Government of NCT of Delhi may transfer such powers, functions and duties of the Board under the Water Board Act to the said companies as notified in a transfer scheme, without anything further being required to be done. |
| Principal Company. | 20 | <p>(1) The Government of NCT of Delhi shall within six months of the coming into force of this Act, designate any Government Company established under Section 17(1) to be the Principal Company.</p> <p>(2) All powers and functions of the Board that are not transferred by Government of NCT of Delhi to other Companies shall continue to vest in such Principal Company, and shall include planning and co-ordination of the water-supply and wastewater-removal systems for Delhi in consultation with the Commission and other authorities.</p> |

- (3) Once the Principal Company is so established the Board shall cease to exist.
- (4) The Principal Company shall cease to exercise such of its functions and powers as are subsequently divested into other Companies by Government of NCT of Delhi through transfer schemes.
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| Treatment of debt, obligations and contracts entered. | 21 | All debts and obligations incurred, all contracts entered into and all matters and things done by, with or for the Board, before a transfer scheme becomes effective, shall, as allocated and specified in the transfer scheme, ll be deemed to have been incurred, entered into or done by, with or for the Government of NCT of Delhi or the Company or Companies established under section 17 and all suits or other legal proceedings instituted by or against the Board, shall be deemed to be continued or instituted by or against the Government of NCT of Delhi or the Company or Companies established under section 17, as the case may be. |
| Transfer Scheme. | 22 | <p>(1) A transfer scheme may,-</p> <p>(a) provide for the formation of subsidiaries, joint venture companies or other schemes of division, amalgamation, merger, reconstruction or arrangements;</p> <p>(b) define the property, interest in property, rights and liabilities to be allocated,-</p> <p style="padding-left: 40px;">(i) by specifying or describing the properties, rights and liabilities in question,</p> <p style="padding-left: 40px;">(ii) by referring to all the properties, interest in property, rights and liabilities comprised in a specified part of the transferors under-taking, or</p> <p style="padding-left: 40px;">(iii) partly in the one way and partly in the other,</p> <p>Provided that the properties, interest in property, rights and liabilities shall be subject to such further transfer as the Government of NCT of Delhi may specify;</p> <p>(c) provide that any rights or liabilities identified in the transfer scheme shall be enforceable by or against the transferor or the transferee;</p> <p>(d) impose on any licensee an obligation to enter into such written agreements with, or execute such other instruments in favour of any other subsequent licensee as may be specified in the scheme;</p> <p>(e) make such supplemental, incidental and consequential provisions as the transferor licensee considers appropriate including provision for specifying the order in which any transfer or transaction is to be regarded as taking effect; and</p> <p>(f) provide that the transfer shall be provisional subject to the provisions of section 28.</p> <p>(2) Notwithstanding anything contained in this section or any other Act, where -</p> <p style="padding-left: 40px;">(a) the transfer scheme involves the transfer of any property or rights to any person or undertaking not wholly owned by the Government of NCT of Delhi, the scheme shall give effect to the transfer only after fair value is paid by the transferee to the Government of NCT of Delhi; and</p> <p style="padding-left: 40px;">(b) any transaction of any description is effected pursuant to a transfer scheme, it shall be binding on all persons including third parties, even if</p> |

such persons have not consented to it.

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| Private Participation. | 23 | <p>(1) The Government of NCT of Delhi may disinvest equity holding and transfer management control of all or any of the Companies established under Section 17(1) through a transparent competitive bidding process.</p> <p>(2) In the event that the majority shareholding of any Company owned or controlled by the Government of NCT of Delhi is sold or transferred to any person which is not owned or controlled by the Government of NCT of Delhi, the proceeds from such sale or transfer shall be utilised in priority to all other dues in the following order, namely-</p> <p>(a) dues (including retirement benefits due) to the officers and employees of the Company or Companies established under section 17, who have been affected by the aforesaid sale or transfer;</p> <p>(b) payment of outstanding debt or other liabilities of such Company, as may be required by the existing loan covenants.</p> |
| Provisions relating to personnel. | 24 | <p>(1) The Government of NCT of Delhi may, by a transfer scheme provide for the transfer of the personnel from the Board or Principal Company, as the case may be, to the Company or Companies established under section 17 on the vesting of properties, rights and liabilities in such Company or Companies as the case may be.</p> <p>(2) Upon such transfer, the personnel shall hold office in the transferee Company on terms and conditions that may be specified in the transfer scheme. Provided that</p> <p>(a) the terms and conditions of the service applicable to them on such transfer shall not, in any way, be less favourable than those applicable to them before such transfer;</p> <p>(b) the personnel shall have continuity of service in all respects; and</p> <p>(c) the benefits of service accrued before the transfer shall be fully recognised and taken in account for all purposes including the payment of terminal benefits.</p> <p><i>Explanation:-</i> For the purpose of this section and the transfer scheme the term 'personnel' shall mean all persons, who on effective date, were employees of the Board.</p> <p>(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law as is applicable, and except for the provisions made in this Act, the transfer of the employment of the personnel referred to in section 26 shall not entitle such personnel to any compensation or damages under this Act or any other law or under the general law, save as provided in the transfer scheme.</p> |
| Variation of transfer by agreement or Provisional transfer. | 25 | <p>(1) The Government of NCT of Delhi may expressly provide that the transfers in terms of section 24 shall be provisional for a period not exceeding six months from the effective date. Within the provisionality period, the Government of NCT of Delhi shall have the right to alter, vary, modify, add or otherwise change the provisions of the transfer scheme terms as the Government of NCT of Delhi may notify.</p> |

- (2) At any time before the end of the period of six months commencing from the effective date, a Company or Companies established under section 17, to which properties, interest in property, rights, liabilities and personnel have been transferred, may, in consultation with the Government of NCT of Delhi, draw up a transfer scheme to vest some or all the properties, rights, liabilities and personnel in another licensee, subject to the consent of such other licensee to such vesting.

CHAPTER VI : GRANT OF LICENCES

Grant of
Licence.

26

- (1) No person other than those authorised to do so by licence or by virtue of exemption under this Act shall engage in Delhi in the licensed business of,-

(a) Water supply or wastewater-removal; and

(b) Conveyance of water or the evacuation and disposal of wastewater through mains or pipes or any other means except supply of water through bottles and tankers;

- (2) Any person desirous of undertaking any of the businesses set out in sub-section (1), may, on an application made in the prescribed form and on payment of the prescribed fee, seek the grant of such licence.

- (3) In respect of any application for grant of any such licence the following procedure shall be followed, namely:

(a) any person applying for a licence shall publish a notice of his application in such manner, and with such particulars as specified by the Commission within fourteen days after making the application

(b) The Commission shall not grant a licence until,-

- (i) all objections received by the Commission relating to application have been considered :

Provided that no objection shall be so considered unless it is received within three months from the date of the first publication of the notice under clause (a) above or within such time as may be extended by the Commission.; and

- (ii) In case of an application for a licence for an area including the whole or any part of any aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central Government for defence purposes, the Commission has ascertained that there is no objection to the grant of licence on the part of the Central Government.

(c) Where an objection is received from any local authority concerned, the Commission shall, if in its opinion the objection is insufficient, record and communicate to such local authority its reasons for such opinion;

- (4) Where any difference or dispute arises as to whether any person is engaged or about to engage in the business described in sub-section (1) above, the matter shall be referred to the Commission and the decision of the Commission thereon shall be final.

- (5) The Commission shall have the power to order any unlicensed person to discontinue his operations with respect to the business described in sub-section (1) and to disconnect or disengage his apparatus or equipment.

Terms and
Conditions of a
Licence.

- 27 (1) A licence may prescribe the duration, the extent, and the terms and conditions under which any licensed business may be undertaken. A licensee shall be bound by the applicable provisions of this Act, its licence and all applicable rules, regulations, orders, directions and notifications. Provided that a licensee shall duly implement all such applicable provisions notwithstanding that it intends to seek a review thereof or to challenge the same, unless permitted otherwise by a competent authority.
- (2) Without prejudice to the generality of sub-section (1), conditions included in a licence may require a licensee to-
- (a) enter into agreement on specified terms with other persons for the use of any facilities or equipment operated by the licensee;
 - (b) refer all disputes arising under the licence for determination by the Commission;
 - (c) furnish information, documents and details which the Commission may require for its own purpose or for the purposes of the Government of NCT of Delhi, the Central Government or Central Water Commission;
 - (d) undertake such functions and obligations of the Board as the Commission may prescribe;
 - (e) obtain such approvals of the Commission for diverse activities as may be required;
 - (f) provide the Commission with adequate information regarding any scheme that the licensee proposes to undertake whenever such information is requested by the Commission;
 - (g) carry out all its operations in an economical manner;
 - (h) establish a tariff or to calculate its charges from time to time in accordance with the requirements specified by the Commission.
- (3) The licence may contain provisions whereby specific conditions are stipulated to cease to have effect or be modified in such manner and in such circumstances as may be specified in, or determined by or under the provision.
- (4) Unless expressly stated in a licence, the grant of a licence under this Act shall not hinder or restrict the grant of a licence to another person within the same area of supply for undertaking the same Licensed business.
- (5) A licence granted by the Commission shall provide specifically that the licensee shall have the powers and authority to take appropriate action for
- (a) revenue realisation including provisional assessment of revenue for defective meters or unauthorised connections,
 - (b) prosecution for - (i) theft, (ii) by-passing, tampering or destruction of meters, (iii) diversion of water-supply, (iv) damage or breach of any pipelines and transportation assets related to water-supply and wastewater-removal, and
 - (c) taking remedial and other action regarding all such and similar matters adversely affecting due discharge of any Licensed business and related

obligations .

(6) Every licensee shall develop, maintain and provide to the consumers or the licensees, as the case may be, or to any other person, efficient, co-ordinated and economical system of service related to the Licensed business in its area.

Exemption
from
requirement to
have a licence.

28

(1) Before grant of exemption from the requirement to have a licence, the Commission shall notify regulations identifying the circumstances under which exemption can be granted, and the terms and conditions which will govern such exemptions such that the same is not iniquitous for the incumbent licensee concerned.

(2) An exemption may be granted for a pre-determined period, subject to holding a suitable hearing as determined by the Commission, with reasons for grant of such exemption recorded in writing to persons of a particular category, or to a particular person.

(3) The exemption granted may be revoked by the Commission at any time for reasons to be recorded in writing.

(4) An exemption, unless previously revoked, shall continue in force for such period as may be specified in or determined by or under the exemption.

(5) Every regulation made or exemption granted by the Commission under this Act shall be published in the Official Gazette atleast 7 days before the same comes into effect. In addition, every exemption shall be also published atleast 7 days before the same comes into effect in such manner as the Commission considers appropriate for bringing it to the attention of that person or persons of that category and of the public in general.

Amendment of
Licences.

29

(1) The Commission may, on the application of the licensee concerned, or of its own accord if in its opinion the public interest so requires, make such amendments to the terms and conditions of a licence as it thinks fit consistent with the objects and purposes of this Act. Provided that no such amendments, other than an amendment pursuant to a licence condition referred to in sub-section (4) of section 27 and sub-section (5) of section 30, shall be made except with the consent of the licensee.

(2) Where the licensee has made an application under sub-section (1) proposing any amendments in his licence, the following provisions shall apply -

(a) the licensee shall publish a notice of the application in the manner and with the particulars as may be specified by the Commission seeking public objections within 30 days, and

(b) the Commission shall not make any amendments until all objections received by it with reference to the application have been considered.

(3) Before making any amendments in a licence, other than on the application of the licensee, the Commission shall publish the proposed amendments in the specified manner and consider all objections received by it with reference to the proposed amendments within 30 days from the date of the publication of the notice.

Procedure for
Revocation of

30

(1) The Commission may inquire into the conduct and functioning of any licensee in carrying out its obligations under this Act, the rules and the regulations

Licences.

framed thereunder and the terms and conditions of the licence upon,-

- (a) receiving a complaint from any consumer, consumer association or any trade association; or
 - (b) a reference made to it by the Government of NCT of Delhi or the Central Government or by the Central Water Commission; or
 - (c) receiving a complaint from any company or person involved in water-supply or wastewater-removal; or
 - (d) its own knowledge or information derived from any source.
- (2) The Commission may revoke a licence by a reasoned order in any of the following cases, namely:
- (a) Where the licensee commits a breach of any of the terms and conditions of his licence, the breach of which is expressly declared by such licence to render it liable to revocation;
 - (b) Where the licensee, in the opinion of the Commission, has committed a wilful or a prolonged default in complying with any of its material obligations;
 - (c) Where the licensee fails within the period specified in his licence or any longer period which the Commission may allow by order to show to the satisfaction of the Commission that he is in a position to
 - (i) fully and efficiently discharge the duties and obligations imposed on him by the licence, or
 - (ii) to make the deposit or furnish the security required by his licence.
- (3) Notwithstanding the provisions of sub-section (1) and (2), where in its opinion the public interest so requires, the Commission may revoke a licence by a reasoned order, for the whole or any part of the area of supply or service upon such terms and conditions as it thinks fit.
- (4) Prior to revocation of a licence under sub section (2) or (3), the Commission shall give to the licensee not less than one months' notice in writing, stating -
- (a) the grounds on which it is proposed to revoke the licence, and
 - (b) the timeframe within which the licensee may show cause against the proposed revocation.
- (5) The Commission may, for reasons recorded in writing instead of revoking the licence, permit it to remain in force subject to such further terms and conditions as it thinks fit to impose. Such further terms or conditions shall be binding upon and be observed by the licensee as if they were contained in the licence.
- 31 (1) Where the Commission revokes any licence under sub-section (2) of section 30, following provisions shall apply:-
- (a) The Commission shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect.
 - (b) With effect from the revocation date, or an earlier date on which the undertaking of the licensee is sold to a purchaser in terms of this Act, all

Provisions
where licence
is revoked.

the rights, duties, obligations and liabilities of the licensee shall absolutely cease and determine, except for any liabilities that have accrued as on that date;

- (c) The Commission shall invite applications for acquiring the undertaking of the licensee whose licence has been revoked and determine terms and conditions of the sale of the undertaking;
- (d) The Commission may, by notice in writing, require the licensee to sell, and thereupon the licensee shall sell the undertaking to the person whose application has been accepted by the Commission;
- (e) The Commission may make such interim arrangement in regard to the undertaking of the licensee for maintaining water-supply and wastewater-removal as may be considered appropriate including the appointment of administrators and special directors for the undertaking.
- (2) Where an undertaking is sold under sub-section (1), the purchaser shall pay to the licensee the purchase price of the undertaking determined in accordance with the application submitted by the purchaser.
- (3) Where the Commission issues any notice under sub-section (1) requiring the licensee to sell the undertaking, it may, by such notice, require the licensee to deliver, and thereupon the licensee shall deliver, on a date specified in the notice, the undertaking to the designated purchaser, pending the payment of the purchase price of the undertaking. Provided that in any such case, the Commission shall provide suitable security for the payment of purchase price and the purchaser shall pay to the licensee interest on the purchase price at a rate determined by the Commission, being not less than the State Bank of India's prime lending rate in force at the time of delivery of the undertaking, for the period from the date of delivery of the undertaking to the date of payment of the purchase price.
- (4) Where before the revocation date fixed in the notice issued under clause (a) of sub-section (1), no notice has been issued to the licensee requiring him to sell the undertaking, or where for any reason no sale of the undertaking has been effected, the Government of NCT of Delhi shall acquire the undertaking on the date of revocation of the licence and shall pay to the licensee an amount determined in accordance with regulations framed in this regard by the Commission. In such circumstances, with effect from the revocation date, the Government of NCT of Delhi shall perform all the obligations of the licensee and the licensee shall be discharged of such obligations in terms of this section.
- (5) The Government of NCT of Delhi shall endeavour to sell the undertaking acquired in terms of sub-section (4) to a new licensee expeditiously and without undue delay.
- Restriction on licensees. 32 (1) No licensee shall, at any time, without prior approval of the Commission, acquire by purchase or otherwise, the licence or the undertaking or associate himself with any Licensed business of any other licensee under this Act.

Provided that before granting or refusing such consent, the Commission shall hear such person.

- (2) The licensee shall not, at any time, assign his licence or transfer his undertaking or any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of the Commission.

- (3) Any agreement relating to any transaction of the nature described in sub-section (1) or (2) unless made or given effect to with, or subject to such consent as aforesaid, shall be void.
- Annual Accounts and Finances of licensees. 33
- (1) Every licensee shall prepare and render to the Commission, on or before the date in each year specified in the licence, an annual statement for each of its undertakings or business units as specified in the licence, in such form and containing such particulars, as may be set out in the licence.
- (2) Such statements shall be published in manner as specified in the regulations
- (3) The Government of NCT of Delhi may, from time to time make grants and subventions to any licensee for the purpose of this Act for such amounts as may be recommended by the Commission or as Government of NCT of Delhi deems fit, on such terms and conditions as the Government of NCT of Delhi may determine.
- (4) The Government of NCT of Delhi may from time to time advance loans to any licensee which for the time being is wholly or partly owned by the Government of NCT of Delhi, on such terms and conditions not inconsistent with the provisions of this Act as the Government of NCT of Delhi may determine.
- (5) The Government of NCT of Delhi shall have the powers to inspect and verify the accounts of every licensee obtaining the benefits under sub-section (3) and (4).

CHAPTER VII : TARIFFS

- Power to Levy Tariffs. 34 Notwithstanding anything contained in any other law, the tariff for any Licensed business activity shall be determined by the Commission in accordance with the provisions of this Act.
- Principles for levy of tariffs. 35
- (1) The Commission shall determine, by regulations, the terms and conditions for the fixation of tariff, and in doing so, shall be guided by the following principles, namely:
- (a) financial sustainability of the Licensed business, progressively reflecting the cost of water-supply or wastewater-removal at an adequate and improving level of efficiency;
- (b) reasonable return on investment;
- (c) multi year tariff principles and performance based regulation;
- (d) need to cross-subsidize based on the ability to pay criterion;
- (e) the factors which would encourage efficiency, economical use of resources, good performance, optimum investments and other matters which the Commission considers appropriate including demand management and discouraging wasteful water consumption;
- (f) safeguarding the interests of the consumers;
- (g) improve access of the poor to water and sanitation services;
- (h) plans for prospective development of water-supply and wastewater-removal sectors.

- (2) The Commission, while determining the tariff under this Act, shall not show any undue preference to any particular consumer, but may differentiate according to -
- (a) the consumer's total consumption of water or the total quantity of wastewater requiring removal during any specified period of time at which the supply or service is required,
 - (b) consumer's income and ability to pay,
 - (c) the geographical position of any area,
 - (d) the nature of supply or service, and
 - (e) the purpose for which the supply or service is required.
- (3) No tariff or part thereof may ordinarily be revised more frequently than once in any financial year, except in respect of any changes expressly permitted as may be specified by the Commission

Procedure for
tariff
application.

36

- (1) The Commission may require a licensee to comply with such procedures as may be specified by regulations for calculating the expected revenue from charges which he is permitted to recover and in determining the tariffs to collect those revenues.
- (2) Every licensee shall provide to the Commission, at least three months before the ensuing financial year, full details of his calculations for that financial year, of the expected aggregate revenue from charges which he believes to recover pursuant to the terms of its licence and furnish such further information as the Commission may reasonably require to assess the licensee's calculation.
- (3) Within ninety days of the date on which the licensee has furnished all the information that the Commission requires and after considering all suggestions and objections received from the public, the Commission shall notify the licensee either,-
- (a) that it accepts the licensee's calculation; or
 - (b) that it does not consider the licensee's calculation to be in accordance with the methodology or procedure in its licence.
- (4) The notice under sub-section (3) shall-
- (i) specify the reasons why the Commission considers that the licensee's calculation does not comply with the methodology or procedures specified in its licence or is in anyway incorrect, and
 - (ii) propose a modification or an alternative calculation of the expected revenue from charges, which the licensee shall accept.
- (5) Each holder of licence shall publish in at least two daily newspapers, having circulation in the area of licence and make available to the public on request, the tariff or tariffs for the supply of water or removal of wastewater within its licensed area and such tariff or tariffs shall take effect only after seven days from the date of such publication.
- (6) A tariff order shall, unless amended or revoked, continue to be in force for such period as may be specified in the tariff order.

CHAPTER VIII : POWERS OF THE COMMISSION TO PASS ORDERS AND ENFORCE DECISIONS

- Commission to secure compliance of licence. 37 Where the Commission is satisfied that a licensee is contravening, or is likely to contravene any relevant condition or requirement, it may, if it thinks it appropriate, issue such directions as it deems proper for securing compliance in accordance with the provisions of this Chapter.
- Interim Orders. 38 (1) In determining whether it is appropriate that an interim order be made, the Commission shall have regard, in particular to -
- (a) the extent to which the contravention or likely contravention by the licensee will affect the achievement of the objects and purposes of this Act;
 - (b) the extent to which any person is likely to sustain loss or damage in consequence of anything which is likely to be done, or omitted to be done, in contravention of the relevant condition or requirement, before a final order can be made; and
 - (c) the extent to which there is any other available remedy in respect of the alleged contravention of a relevant condition or requirement.
- (2) If the Commission proposes to make an interim order, it shall give notice to the licensee -
- (a) stating that it proposes to make the order;
 - (b) setting out -
 - (i) the relevant condition or requirement of which the proposed order is intended to secure compliance;
 - (ii) the acts or omissions which, in its opinion constitute contravention of that condition or requirement;
 - (iii) the other facts which in its opinion, justify the making of the proposed order; and
 - (iv) the effects of the proposed order;
 - (c) specifying the period (being not less than ten days from the date of notice) within which the licensee may make representations or objections to the proposed order.
- (3) The Commission may, having considered any representation or objection from the licensee pursuant to clause (c) of sub-section (2), make an interim order at any time after the expiry of the period referred to in that clause, if -
- (a) the Commission has reason to believe that the licensee to whom the order relates has contravened or is contravening or is likely to contravene any relevant condition or requirement; and
 - (b) the provisions made by the order are necessary for the purpose of securing compliance with that condition or requirement.
- (4) An interim order-
- (a) shall require the licensee to whom it relates to do, or not to do, such

things as are specified in the order or are of a description so specified;

(b) shall take effect from such time, being the earliest practicable time as is determined by the order; and

(c) may be revoked, modified or rescinded at any time by the Commission, but in any event shall cease to have effect at the end of such period as is stated in the order unless the Commission declares the interim order to be a final order.

(5) As soon as practicable after making an interim order, the Commission shall-

(a) serve a copy of the order on the licensee to whom the order relates;

(b) publish the order in such manner as the Commission may specify by regulations for the purpose of bringing it to the attention of persons likely to be affected by it; and

(c) commence proceedings to declare the interim order to be a final order in accordance with section 46.

- Final Orders. 39
- (1) If the Commission proposes to make a final order or to declare an interim order to be a final order, the Commission shall give notice -
- (a) stating that it proposes to make a final order or to declare an interim order to be a final order and the reasons therefor; and
- (b) specifying the period (being not less than sixty days from the date of publication of the notice) within which representations or objections to the proposed order may be made and shall consider any representations or objections that are duly made and not withdrawn.
- (2) The Commission shall publish notice of such representations or objection and specify a period (being not less than thirty days from the date of publication of the notice) within which further representations or objections may be made.
- (3) A notice under sub-section (1) above shall be given -
- (a) by publishing the notice in such manner as the Commission may specify by regulations for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them; and
- (b) by serving a copy of the notice, and a copy of the proposed final order on the licensee to whom the order relates.
- (4) The Commission shall not modify the proposed final order as a result of any representations or objections received following publication of the notice referred to in sub-section (1), except -
- (a) with the consent of the licensee to whom the proposed final order relates, and
- (b) after complying with the requirements of sub-section (5) below.
- (5) If the Commission proposes to modify a final order as provided under sub-section (4) of Section 39, the Commission shall, -
- (a) serve on the licensee to whom the proposed final order relates such notice, as appears to the Commission to be necessary, of its proposal to

- modify the proposed final order, together with details of such modifications;
- (b) specify the period (being not less than thirty days from the date of the service of the notice) within which representations or objections to the proposed modifications can be made; and
- (c) consider any representations or objections which are made within the period specified under clause (b) of sub-section (5) of Section 39.
- (6) The provisions of clauses (a) and (b) of sub-section (4) of section 38 shall apply to final orders.
- Notice of revocation. 40 (1) The Commission may revoke a final order at any time, but before revoking a final order the Commission shall give notice.
- (a) stating that it proposes to revoke the order and setting out its effect; and
- (b) specifying the period (being not less than thirty days from the date of delivery of the notice) within which representations or objections to the proposed publication may be made ; and shall consider any representations or objection which are made within the period specified.
- (2) If, after giving a notice under sub-section (1) above, the Commission decides not to revoke the final order to which the notice relates, it shall give notice of its decision to the concerned persons.
- (3) A notice under sub-section (1) or sub-section (2) above shall be given by the procedure set out in sub-section (5) of section 38.
- Enforcement of orders. 41 (1) Without prejudice to any other provisions of this Act, all orders and directions, interim or final, passed by the Commission shall be enforceable in law as if it were a decree passed by a Civil Court.
- (2) The Commission shall be entitled to take such assistance of the police and other authorities in Delhi as required, to effectively enforce the order and direction given by the Commission.
- (3) The Commission shall be entitled to give directions for vesting with any person the assets, interests, rights, management and control of any of the undertakings of the licensee, pending any inquiry and passing of interim or final orders in the matter, if the Commission considers, taking into account the objects and purposes of this Act and the need to maintain continued water-supply to the consumer and wastewater-removal from the consumer.
- Levy of fines by the Commission. 42 (1) The Commission may impose such fines as may be specified by regulations for non-compliance by the licensee of the provisions of this Act, rules or regulations framed thereunder or any orders issued by the Commission under this Act.
- (2) The fines imposed shall not exceed five lakh rupees for any act of non-compliance or violation and shall not exceed a further amount of fifteen thousand rupees for every day during which the non-compliance or violation continues.
- (3) The Commission shall, while making an interim or final order under this Chapter be entitled to direct compensation to be paid by the person guilty of non-compliance or violation as provided in sub-section (1) to the person or persons affected by such non-compliance or violation.

- (4) The fines and compensation, which may be imposed by the Commission under this section, shall be in addition to and not in derogation of any other liability, which the person guilty of non-compliance or violation, may have incurred.

CHAPTER IX : ADVISORY COMMITTEE AND CONSUMER RELATIONS

Advisory
Committee.

43

- (1) The Commission shall constitute a committee to be known as 'Advisory Committee', in consultation with the Government of NCT of Delhi consisting of not less than five and not more than twelve members to represent the interests of licensees, commerce, industry, transport, agriculture, labour, consumers, non government organizations and academic and research institutions in the water and wastewater industry.
- (2) The Chairperson and Members of the Commission shall be ex-officio Chairperson and Members of the Advisory Committee.
- (3) The Advisory Committee shall meet at least once in every three months.
- (4) The functions of the Advisory Committee shall be to advise the Commission on,-
- (a) major questions of policy related to the water and wastewater sector in Delhi;
 - (b) matters relating to the quality, continuity and extent of service provided by licensees;
 - (c) compliance by licensees with the conditions and requirements of their licenses;
 - (d) protection of consumer interests;
 - (e) performance standards for supply of water and removal of wastewater.
- (5) The Commission will not be bound by the advice of the Advisory Committee, but may take into account the suggestions made by the Committee on any matters referred to in sub-section (4).

Consumer
Relations.

44

- (1) The Commission may, after consultation with
- (i) holder of supply licences ;
 - (ii) other persons or bodies appearing to the Commission to be representatives of persons and categories of persons likely to be affected ; and
 - (iii) the Advisory Committee,
- frame regulations prescribing, -
- (a) the circumstances in which such licensees are to inform customers of their rights;
 - (b) the standards of performance in relation to any duty arising under clause (a) above or otherwise in connection with the supply of water and removal of wastewater to the consumer ; and
 - (c) the circumstances in which licensees are to be exempted from any

requirements of these regulations.

- (2) Nothing in this or other provisions of this Act shall in any way prejudice or affect the rights and privileges of the consumers under other laws including but not limited to the Consumer Protection Act, 1986 (Central Act 68 of 1986).
- (3) The Commission may, after consultation with the licensees, the Advisory Committee, and with persons or bodies appearing to it to be representative of persons likely to be affected, from time to time -
 - (a) determine such standards of overall performance in connection with the provision of water and removal of wastewater and in connection with the promotion of the efficient use of water by consumers as, in its opinion, is economical and ought to be achieved by such licensees; and
 - (b) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards so determined.
- (4) Different standards may be determined for different licensees.

Disclosure of information.

- 45
- (1) The Commission shall, from time to time, collect information with respect to -
 - (a) the fines or penalties levied on licensees under this Act.
 - (b) the levels of overall performance achieved by such licensees in connection with the provision of water and removal of wastewater services; and
 - (c) the levels of performance achieved by such licensees in connection with the promotion of the efficient use of water by consumers.
 - (2) On or before such date in each year as may be specified by the Commission, each licensee shall furnish to the Commission the following information:-
 - (a) with respect to each standard, the number of cases in which a penalty was levied and the aggregate amount or value of those penalties; and
 - (b) with respect to each standard, such information with respect to the level of performance achieved by the licensee as may be so specified.
 - (3) The Commission shall, at least once in every year, arrange for the publication, in such form and in such manner as it considers appropriate, such of the information collected by or furnished to it under this section as may appear to the Commission to be so required
 - (4) Subject to the provisions of this Act, no confidential information with respect to any particular business which,-
 - (a) has been obtained by the Commission under or by virtue of any of the provisions of this Act; and
 - (b) relates to the affairs of any individual or to any particular business;
 - (c) any other information considered to be confidential by the Commission

shall during the lifetime of that individual or for so long as that particular business continues to be carried on, be disclosed by the Commission without the consent of that individual or the person for the time being carrying on that business.

- (5) The restriction contained in sub-section (4) above shall not apply to any disclosure of information which is made-
- (a) for the purpose of facilitating the carrying out by the Government of NCT of Delhi of any of its functions under a statute;
 - (b) for the purpose of facilitating the carrying out by the Central Government of any of its duties or functions under this Act or any Central legislation;
 - (c) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of India of his duties and functions under this Act;
 - (d) for the purpose of enabling or assisting any competent person to carry out his functions under the enactment relating to insolvency;
 - (e) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings; or
 - (f) for the purpose of any civil proceedings brought under or by virtue of this Act or any other law for the time being in force in Delhi to which the information is directly relevant.
- (6) The Commission shall within a specified period, after this Act comes into force, frame regulations with respect to having a formal mechanism for representing consumer interests and in doing so shall:
- (a) have a mechanism for consumer committees, resident welfare associations and commercial associations to assist in the collection of information under S. 52(1); and
 - (b) have an officer to represent the common interest of consumers in all matters, hearings and proceedings before the Commission, provided that such officer to represent the interests of the consumers shall be in addition to, and not in derogation in any manner of the other rights of the individual consumers and also the representations by consumer fora, and organisations before the Commission, as may be recognised by the Commission in the regulations or otherwise.

CHAPTER X : ARBITRATION AND APPEALS

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| Arbitration by the Commission. | 46 | (1) Any dispute arising between licensees or between a licensee and the Board or in respect of matters provided under section 44 shall be referred to the Commission.

(2) The Commission shall proceed to act as arbitrator to adjudicate and settle such dispute.

(3) The practice or procedure to be followed in connection with any such adjudication and settlement shall be as laid down in the Arbitration and Conciliation Act, 1996 (Central Act 26 of 1996).

(4) An award made by the Commission under sub-section (2) shall be enforceable as if it were a decree of the Civil Court.(5) The award given by the Commission under sub-section (2) shall be open to an appeal as provided in this Act. |
| Appeals against the orders of the Commission. | 47 | A person aggrieved by any decision or order of the Commission passed under this Act may file an appeal to the High Court of Delhi within ninety days from the date of communication of the decision or order of the Commission to him, on questions of law arising out of such order: |

Provided that, the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

CHAPTER XI : OFFENCES AND PENALTIES

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| Penalty for contravention of section 26. | 48 | Whoever in contravention of the provisions of section 26 engages in the business of supply of water or removal of wastewater, shall be punishable with imprisonment which may extend to three years or with fine which may extend to five lakh rupees, or with both, and in the case of an continuing offence, with further fine which may extend to twenty thousand rupees for each day after the first during which the offence continues. |
| Penalty for contravention of other provisions. | 49 | If any licensee or other person refuses or fails without reasonable excuse to comply with or give effect to, any direction, order or requirement made under any of the provisions of this Act or rules or regulations framed thereunder, he shall be punishable with imprisonment which may extend to two years, or with fine which may extend to five lakh rupees, or with both, for each contravention and in the case of a continuing offence, with further fine which may extend to twenty thousand rupees for each day after the first during which the offence continues. |
| Offences by Companies. | 50 | <p>(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was 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 the offence and shall be liable to be proceeded against and punished accordingly:</p> <p>Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act 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.</p> <p>(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act 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.</p> <p><i>Explanation-</i> For the purposes of this section, -</p> <p>(a) "company" means a body corporate, and includes a firm or other association of individuals; and</p> <p>(b) "director" in relation to a firm means a partner in the firm.</p> |
| Cognizance of Offences. | 51 | No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by the Commission or by any other officer of the Commission generally or specially authorised by the Commission for the purpose and no court other than that of a Metropolitan Magistrate or a court superior thereto shall try any such offence. |

CHAPTER XII : BUDGET, ACCOUNTS, AUDIT AND ANNUAL REPORT OF THE COMMISSION

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| Budget of the | 52 | The Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its work plan and budget for the next financial year, |
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Commission.		showing the estimated receipts and expenditure of the Commission and forward the same to the Government of NCT of Delhi to be tabled before the Legislative Assembly.
Grants by the Government of NCT of Delhi.	53	The Government of NCT of Delhi shall, after due appropriation made by the Legislative Assembly of the National Capital Territory of Delhi in this behalf, subject to a half-yearly audit by auditors of the Government of NCT of Delhi pay to the Commission, adequate sums of money by way of grants and loans to enable the Commission to carry out the activities set out in its work plan and budget.
Constitution of Fund.	54	<p>(1) There shall be constituted a Fund to be called the Delhi Water and Wastewater Regulatory Commission Fund and this Fund shall be managed by the Commission.</p> <p>(2) The Fund shall include all moneys received by the Commission by way of,-</p> <p>(a) Any grants or loans made to the Commission by the Government of NCT of Delhi under section 53;</p> <p>(b) All fees received by the Commission under this Act;</p> <p>(c) All sums received by the Commission from such other sources as may be decided upon by the Government of NCT of Delhi.</p> <p>(3) The Fund shall be applied by the Commission for meeting:-</p> <p>(a) The salary, allowances and other remunerations of the Secretary and officers and other employees of the Commission;</p> <p>(b) The expenses of the Commission in discharge of its functions;</p> <p>(c)The expenses on objects and for purposes authorized by this Act.</p>
Accounts and Audit.	55	<p>(1) The Commission shall maintain accounts and other records and shall cause to be prepared an annual statement of accounts in such form as may be prescribed.</p> <p>(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India, or by any officer authorised by him in this behalf.</p> <p>(3) The copies of annual statement of accounts of the Commission together with the audit report thereon shall be forwarded to the Government of NCT of Delhi.</p> <p>(4) A copy of the annual statement of accounts of the commission together with the audit report thereon received by the Government of NCT of Delhi shall be laid before the Legislative Assembly of the National Capital Territory of Delhi.</p>
Annual report of the Commission.	56	<p>(1) The Commission shall prepare, in such form for each financial year, as may be prescribed, and within six months of the end of the financial year an annual report, giving a full account of its activities during the previous financial year and copies thereof shall be forwarded to the Government of NCT of Delhi.</p> <p>(2) A copy of the report received above shall be laid, as soon as may be, after it is received, before the Legislative Assembly of National Capital territory of Delhi.</p>

CHAPTER XIII : MISCELLANEOUS

- Recovery of fees, fines and charges. 57 ~~The Commission shall be entitled to recover all sums due to it under this Act, whether by way of licence, fees or fines and charges in accordance with the provisions of the [Dues Recovery Act], as if any such sum were a public demand as defined in that Act and hand over the amount due to the person or authority concerned.~~
- [COMMENT: We recommend that the Law Department may consider a recovery mechanism akin to what is contained in the Delhi Municipal Corporation Act, 1957 or the Delhi Land Reforms Act, 1954. Under the DMC Act, the Commissioner has powers to attached immovable property or distrain movable for the recovery of municipal dues. Similar powers can be vested in an authority or special court to be notified by the Government of NCT of Delhi.]
- Application of fine and charges. 58 The Commission or Court imposing the fine and charges under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings.
- No part of the fines or penalties imposed to be passed on. 59 The licensee, generating companies and others on whom the fines, charges, penalties etc. are imposed under this Act shall not, directly or indirectly, pass the same to the consumers in the form of tariff or charges payable.
- Protection of action taken in good faith. 60 No suit or legal proceedings shall lie against the Commission or the Chairperson or members of the Commission or the staff or representatives of the Commission in respect of anything which is in good faith done or intended to be done under this Act or any rule or regulations or order made thereunder.
- Bar of jurisdiction (Central Act 26 of 1996). 61 No order or proposal made under this Act or rules or regulations framed thereunder, shall be open to an appeal except as provided in this Act and no Civil Court including an Arbitrator under the Arbitration and conciliation Act, 1996 shall have jurisdiction in respect of any matter which the Commission or the Appellate Authority under this Act is empowered by, or under, this Act.
- Power to remove difficulties. 62 (1) If any difficulty arises in giving effect to the provisions of this Act or rules, regulations, schemes or orders made thereunder, the Government of NCT of Delhi may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to be necessary or expedient for removing the difficulty:
- Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.
- (2) Every order made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of the National Capital territory of Delhi.
- Proceedings before the Commission to be judicial proceedings. 63 All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of section 193, 219 and 228 of the Indian Penal Code, 1860 and the Commission shall be deemed to be a Civil Court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.
- Members, officers and employees of Commission to be public 64 The Chairperson members, officers and other employees of the Commission appointed for carrying out the objects and purposes of this Act shall be deemed, when acting or purporting to act in pursuance of any provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

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| Powers to make rules. | 65 | <p>(1) The Government of NCT of Delhi may, by notification in the official Gazette, make rules to carry out the purposes of this Act.</p> <p>(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:-</p> <ul style="list-style-type: none"> (a) the procedure to be adopted by the selection committee for discharge of functions under section 7; (b) salaries, allowances and the conditions of the service in respect of the Chairperson and other members of the Commission under sub-section (3) of section 8; (c) the preparation and implementation of the transfer scheme, the transfer of assets, liabilities and personnel of Board, licensees and others in Delhi under section 22; (d) the financing, funding etc. to the persons involved in supply of water and service in Delhi under sub section (3) of section 33; (e) the form and time in which the budget is to be prepared by the Commission under section 52; (f) the form and time in which the annual statements of accounts is to be prepared by the Commission under section 55; (g) the form and time within which the annual report of the Commission shall be furnished to the Government of NCT of Delhi under section 56; and (h) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by rules. |
| Power to make regulations. | 66 | <p>(1) The Commission may by notification in the official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-</p> <ul style="list-style-type: none"> (a) the administration of the affairs of the Commission and conduct of its business under section 14; (b) the duties of the Secretary, officers and employees of the Commission, method and manner of their selection for appointment, their salaries, allowances and conditions of service under section 11; (c) the duties, powers, rights and obligations of the licensee under section 27; (d) the procedure for grant of licence, terms and conditions, revocation and alteration and amendment and effect thereof, of the licence, and all matters related to the above under sections 26, 27 and 29 to 32 ; (e) method and manner of determination of licensee's revenues, tariff fixation, the matters to be considered in such determination and fixation under section 35; |

- (f) manner of publishing notice under section 39(3)
- (g) the constitution of the Commission Advisory Committee under section 43;
- (h) the particulars to be furnished, the collection of information, details, particulars, documents, accounts, books etc., from or of the persons involved in the supply of water, the form and manner in which the same are to be furnished and enforcing and compelling the production of the same under section 45;
- (i) the amount of fines and penalties to be imposed for violation of provisions of this Act including the method and manner of imposition of fines and penalties and collection of the same under section 48;
- (j) any other matter which is to be, or may be, specified or in respect of which provision is to be made by regulations.
- Rules and Regulations to be laid before the Legislative Assembly.
- 67 (a) Every rule made by the Government of NCT of Delhi and every regulation made by the Commission under this Act shall be laid, as soon as may be after it is made, before the House of the Legislative Assembly of the National Capital Territory of Delhi.
- Priority 68 (1) Save as otherwise expressly provided in the Act provisions contained in the transfer scheme, license, rules, regulations framed by the commission or any agreement executed by any licensee shall:
- (a) Be interpreted consistent with and subject to the provisions of this Act;
- (b) Be interpreted harmoniously to give effect to all documents; and
- (c) In the event of irreconcilable conflict, supremacy in interpretation shall follow the order of priority set out below:-
- (i) Act,
- (ii) Transfer scheme,
- (iii) License,
- (iv) Rules and Regulations,
- (v) Agreement executed by any license.
- (2) Policy directives specifically provided in the Act shall have the effect mandated under the Act.

- Savings. 69
- (1) Save as otherwise provided herein, the provisions of the Water Board Act are to the extent that they are inconsistent with the provisions of this Act are hereby repealed.
 - (2) Notwithstanding such repeal -
 - (a) anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued or any appointment, confirmation or declaration made or any license, permission, authorization or exemption granted or any document or instrument executed or any direction given under the Water Board Act shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.
 - (b) all directions issued, before the commencement of this Act, by the Government under the Water Board Act shall continue to apply for the period for which such directions were issued by the Government or till fresh directions are issued under this Act or on the same subject.
 - (c) any contractual arrangements including those under Section 9, 57 and 69 of the Water Board Act shall be deemed to be valid under this Act, for such period as stipulated in the said contractual arrangement, provided that after a transition period of one year from the date of commencement of this Act, the said arrangements shall be governed by the provisions of this Act and rules and regulations framed thereunder.
 - (3) The Board shall continue to function under the Water Board Act, and shall exercise such powers and functions and shall perform such duties to the extent such powers, functions and duties of the Board under the Water Board Act which are not transferred to one or more companies under sub-section (1) of section 17 provided that all rights, powers and functions of the Board under the provisions of the Water Board Act which are inconsistent with this Act hereby stand repealed.
 - (4) The rules and regulations framed under the Water Board Act shall be deemed to be continued under this Act to the extent they are not inconsistent with the provisions of this Act, till such times the rules and regulations are framed under this Act.
 - (5) Save as otherwise provided above, the general principles of Section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals shall apply.