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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

NOTIFICATION

No. 2110-L.—31st August, 2005.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XVIII of 2005

THE WEST BENGAL GROUND WATER RESOURCES (MANAGEMENT, CONTROL AND REGULATION) ACT, 2005.

[Passed by the West Bengal Legslature.]

[Assent of the Governor was first published in the *Kolkata Gazette. Extraordinaty*, of the 31st August, 2005.]

The West Bengal Ground Water Resources (Management, Control and Regulation) Act, 2005.

(Sections 1,2.)

An Act to manage, control and regulate indiscriminate extraction of ground water in West Bengal and to provide for matters connected therewith or incidental thereto.

WHEREAS it is expedient to manage, control and regulate indiscriminate extraction or use of ground water;

AND WHEREAS it is further expedient to provide against the widespread contamination of ground water with arsenic, fluoride, chloride, iron, other heavy metals or metalloids, organic and inorganic pesticides, fungicides, and rodenticides;

It is herby enacted in the Fifty-sixth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the West Bengal Ground Water Resources (Management, Control and Regulation) Act, 2005.

(2) It extends to the whole of the State of West Bengal.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Corporation Level Authority" means the Kolkata Municipal Corporation Level Ground Water Resources Development Authority established under sub-section (1) of section 5;

(b) "District Level Authority" means the District Level Ground Water Resources Development Authority established under sub-section (1) of Section 4;

(c) "ground water" means the water which exists below the surface of the ground at any particular location;

(d) "notification" means a notification published in the *Official Gazette*;

(e) "prescribed" means prescrived by rules made under this Act;

(f) "sink", with all its grammatical variations and cognate expressions, includes, in relation to a well, any digging, drilling or boring of a well or deepening of an existing well.

Explanation—"Drilling" includes re-drilling or re-sinking;

(g) "State Government" means the Government of West Bengal;

(h) "State Level Authority" means the West Bengal State Level Ground Water Resources Development Authority established under sub-section (1) of section 3;

(i) "user" means—

i) an individual, or

ii) an institution, organization or establishment, whether or not owned, maintained and managed by the State Government or the Central Government, or

iii) a company, including a Government company, as defined in the Companies Act, 1956, or 1 of 1956.

iv) an industry, major, medium or minor,

owning or using, on personal or community basis, ground water resources for domestic, agriculture, or industrial purpose or for any other purpose;

(j) "well" means a well sunk for the search of extraction of ground water by any user, and includes an open well, dug well, bore well, dug-cum-bore well, tube-well, filter point, collector well or infiltration gallery, but does not include a well sunk by the Central Government or the State Government for carrying out any scientific investigation or exploration work for the survey and assessment of ground water resources.

Establishment of State Level Authority.

3. (1) The State Government shall, by notification, establish, with effect from such date as may be specified in the notification, an authority at the State level to be known as the West Bengal State Level Ground Water Resources Development Authority.

(2) The State Level Authority shall consist of the following members:—

(i) Director, State Water Investigation Directorate, Water Investigation and Development Department, Government of West Bengal, — Chairman,

(ii) an officer not below the rank of Chief Engineer, Water Investigation and Development Department, Government of West Bengal, — Member,

(iii) an officer not below the rank of Chief Engineer, Irrigation and Waterways Department, Government of West Bengal, — Member,

(iv) an officer not below the rank of Joint Secretary, Department of Panchayats and Rural Development, Government of West Bengal, — Member,

(v) an officer not below the rank of Joint Secretary, Department of Agriculture, Government of West Bengal, — Member,

(vi) an officer not below the rank of Chief Engineer, Public Health Engneering Department, Government of West Bengal, — Member,

(vii) an officer not below the rank of Joint Secretary, Department of Science and Technology, Government of West Bengal,	Member,
(viii) an officer not below the rank of Joint Secretary, Department of Environment, Government of West Bengal,	Member,
(ix) an officer not below the rank of Joint Secretary, Forests Department, Government of West Bengal,	Member,
(x) one representative of the Central Water Commission,	Member,
(xi) Director, All-India Institute of Hygiene and Public Health,	Member,
(xii) Regional Director, Central Ground Water Board, Eastern Region,	Member,
(xiii) one representative of the Director-General, Geological Survey of India, Eastern Region,	Member,
(xiv) an officer not below the rank of Joint Secretary, Department of Municipal Affairs, Government of West Bengal,	Member,
(xv) one eminent hydro-geologist from any institution or organisation working in connected field at national level, to be appointed by the State Government,	Member,
(xvi) one expert from the National Remote Sensing Authority, to be appointed by the State Government,	Member,
(xvii) two Chairman of any of the two District Level Authorities to be appointed by the State Government by rotation for a term of one year.	Member,
(xviii) Superintendent Geologist, State Water Investigation Directorate, Government of West Bengal,	Member-Secretary,

(3) The State Level Authority shall have the power to invite any eminent person and technical expert in its meetings for deliberation if it feels necessary so to do in the public interest.

(4) The term of office and the other conditions of srevice of the Chairman, the Member-Secretary, and other members of the State Level Authority shall be such as may be prescribed.

(5) The State Water Investigation Directorate under the Water Investigation and Development Department of the State Government shall act as the functional organ of the State Level Authority in the discharge of its functions under this Act.

(6) The office of the Superintendent Geologist of the State Water Investigation Directorate shall be the secretariat of the State Level Authority and shall act as the nodal office.

Establishment of District Level Authority.

4. (1) The State Government may, for the purpose of enabling the State Level Authority to perform its functions and exercise its powers under this Act efficiently, by notification, establish, with effect from such date as may be specified in the notification, for every District other than Kolkata, an authority at the district level to be known as the District Level Ground Water Resources Development Authority bearing the name of the district.

(2) The District Level Authority shall have jurisdiction over every area within the jurisdiction of a Municipality, or a Block, or a notified Area Authority, established or constituted under any law for the time being in force, within the jurisdiction of the concerned district.

(3) A District Level Authority shall consist of the following Members:—

(Section 4.)

(i) District Magistrate of the district,	Chairman,
(ii) Karmadhakshya, *Krishi-Sech-O-Samabaya Sthayee Samity* of the *Zilla Parishad* of the districrt.	Member,
(iii) Karmadhakshya, *Janasasthya-O-Paribesh Sthayee Samity* of the *Zilla Parishad* of the district.	Member,
(iv) Executive Engineer of the district under the Water Resources Development Directorate, Government of West Bengal.	Member,
(v) Executive Engineer of the district under the Public Health Engineering Directorate, Government of West Bengal,	Member,
(vi) Executive Engineer of the district under the Irrigation and Waterways Directorate, Government of West Bengal,	Member,
(vii) Principal Agricultural Officer of the district,	Member,
(viii) Chief Medical Officer of Health of the district,	Member,
(ix) Divisional Forest Officer of the district,	Member,
(x) one representative of the West Bengal State Pollution Control Board,	Member,
(xi) two representatives of the Department of Municipal Affairs, Government of West Bengal,	Member,
(xii) any other officer of the State Government as the State Government may think fit,	Member,
(xiii) Geologist of the State Water Investigation Directorate, Government of West Bengal, having jurisdiction:	Member-Secretary.

Provided that where there is no Geologist having his office in the district, the Geologist of the State Water Investigation Directorate, Government of West Bengal, shall act as a member of that district as the State Government may, by notification, appoint.

(4) The total number of members of the District Level Authority shall be limited to twenty.

(5) The office of the Member-Secretary shall be the secretariat of the District Level Authority and shall act as the nodal office.

Establishment of Corporation Level Authority.

5. (1) The State Government may, for the purpose of enabling the State Level Authority to perform its functions and exererise its powers under this Act efficiently, by notification, establish, with effect from such date as may be specified in the notification, an authority for the area Kolkata Municipal Corporation as specified in Schedule I to the Kolkata Municipal Corporation Act, 1980, to be known as the Corporation Level Ground Water Resources Development Authority.

West Ben. Act LIX of 1980.

(2) The Corporation Level Authority shall have jurisdiction over the area of the Kolkata Municipal Corporation as Specified in Schedule I to the Kolkata Municipal Corporation Act, 1980.

(3) The Corporation Level Authority shall consist of the following members:—

(i) the Municipal Commissioner of the Corporation, — Chairman,

(ii) the Chief Executive Officer, Kolkata Metropolitan Development Authority, — Member,

(iii) two elected representatives of the Kolkata Municipal Corporation, to be nominated by the Mayor, Kolkata Municipal Corporation. — Members,

(iv) one expert from the Central Ground Water Board as may be nominated by the Regional Director, Central Ground Water Board, — Member,

(v) two experts in the field of conservation, protection, or development of ground water resources as the State Government may, by notification appoint, — Member,

(vi) two eminent persons of the locality as the State Government may, by notification, appoint, — Member,

(vii) one representative of the Public Health Engineering Directorate, Government of West Bengal, — Member,

(viii) one representative of the West Bengal State Pollution Control Board, — Member,

(ix) Superintendent Geologist, State Water Investigation Directorate, Government of West Bengal, — Member Secretary.

(4) The office of the Superintendent Geologist, State Water Investigation Directorate, Government of West Bengal, shall be the secretariat of the Corporation Level Authority and shall act as the nodal office.

Powers and duties of State Level Authority.

6. (1) The State Level Authority shall be under the administrative control of the Water Investigation and Development Department, Government of West Bengal and shall be the apex body of all the District Level Authorities and the Corporation Level Authotity.

(2) The State Level Authority shall—

(a) take into consideration every aspect to manage the ground water resources in West Bengal including issuing of certificate of registration or pemit in accordance with the provision of the Act;

(b) initiate a policy to conserve the gorund water resources by way of recharging, replenishing, recycling or reusing, in a co-ordinated manner;

(c) create mass awareness and encourage interaction between modern technologies and age-old practices of ground water conservation and management by harnessing traditional knowledge in sustainable water management and dovetailing such traditional knowledge with modern technologies;

(d) organise people's participation and involvement in planning and actual management of ground water resources;

(e) keep under constant review area-specific ground water levels and publishing the revised data periodically for wide circulation for mass awareness and for devising and implementing plans and programmes of use such water;

(f) continuously analyse, study and review the physical, chemical, bacteriological, and virological qualities of ground water and devise and implement pragmatic strategies;

(g) promote and implement modern and traditional water harvesting technologies to ensure minimum extraction of ground water;

(h) maintain separate registers for issuing permit or certificate of registration granted by it in the manner as may be prescribed.

Sinking of walls for extracting or using ground water on and from date of coming into force of Act.

7. (1) On and from the date of coming into force of the Act, no user shall sink any well for extracting or using ground water without obtaining a permit issued by the State Level Authority or the District Level Authority or the Corporation Level Authority, as the case may be, as stated in sub-section (3), sub-section (4) or sub-section (5), in such Form as may be prescribed:

Provided that where any user extracting or using ground water for irrigation or domestic purposes, sinks—

(a) any tube-well or hand-pump; or

(b) any well from which such extraction or use is made without the help or any mechanical or electrical devices,

such user may sink tube-well or hand-pump or well, as the case may be, without obtaining a permit of the concerned authority as provided in this section:

Provided futher that where the State Government is of the opinion that the sinking of any well or category of wells for extracting or using ground water is necessary for the public interest, the State Government may, by notification, exempt such well or category of wells from the purview this section.

(2) Any user desiring to sink a well for any purpose other than the purposes as stated in the first proviso to sub-section (1) shall make an application in such Form and on payment of such fees, as may be prescribed, to the State Level Authority or the District Level Authority or the Corporation Level Authority, as the case may be, for obtaining a permit as stated in sub-section (1).

(3) (a) The District Level Authority shall, on receipt of any application as stated in sub-section (2) within its jurisdiction, scrutinize the application in terms of the assessment of the ground water balance, quality and quantity of ground water available in the locality made by the State Water Investigation Directorate and consider whether a permit may be issued to the applicant for sinking such well.

(b) The District Level Authority shall have power to issue a permit for sinking a well for extraction or use of ground water at the rate not exceeding 50 cubic metre per hour from each well under intimation to the State Level Authority.

(c) The application for sinking a well for the purpose of extracting or using ground water exceeding 50 cubic metre per hour, shall be forwarded to the State Level Authority within a period of one month of receipt of such application alongwith the observations and suggestions after assessing the prevailing ground water condition in or around the locality, quality and quantity of ground water available with reference to its porposed use, long-term gorund water behaviour in the locality, probable projections of recharge of ground water in near future with the probable drawal of the existing sources, rainfall projection or any other matter as it considers necessary.

(4) (a) The Corporation Level Authority shall, on receipt of the application as stated in sub-section (2) within its jurisdiction, scrutinize the application in terms of assessment of ground water balance, quality and quantity of ground water available in the locality made by the State Water Investigation Directorate and consider whether a permit may be issued to the applicant for sinking such well.

(b) The Corporation Level Authority shall have power to issue a permit for sinking a well for extraction or use of ground water at the rate not exceeding 100 cubic metre per hour from each well under intimation to the State Level Authority.

(c) The application for sinking a well for the purpose of extracting or using ground water exceeding 100 cubic metre per hour, shall be forwarded to the State Lavel Authority within a period of one month of receipt of such application alongwith the observations and suggestions after assessing the prevailing ground water condition in or around the locality, quality and quantity of ground water available with reference to its proposed use, long-term ground water behaviour in the locality, probable projections of recharge of ground water in near future with the probable drawal of the existing sources, rainfall projection or any other matter as it considers necessary.

(5) (a) On receipt of an application forwarded by the District Level Authority or the Corporation Level Authority, as the case may be, for issuing of a permit of sinking a well for the purpose of extracting or using ground water exceeding 50 cubic metre per hour or 100 cubic metre per hour, as the case may be, the State Level Authority may, if it is satisfied that it is necessary so to do in the public interest, grant a permit, subject to such conditions or restrictions as may be specified therein:

Provided that the State Level Authority may, for reasons to be recorded in writing, refuse to grant any such permit after giving the applicant an opportunity of being heard by itself, or by authorising the District Level Authority or the Corporation Level Authority, as the case may be, to give the applicant an opportunity of being heard and convey its recommendations to the State Level Authority, for the purpose of disposal of such application.

(b) Any decision regarding grant or refusal of permit by the State Level Authority shall be intimated to the applicant within a period of four months from the date of receipt of the application by the District Level Authority or the Corporation Level Authority, as the case may be. If such an application is not disposed of within a period of four months as aforesaid, it shall be deemed to have been granted by the State Level Authority.

Extracting or using gorund water before date of coming into force of Act.

8. (1) Any user who has sunk a well for extracting or using ground water in an area before the date of coming into force of the Act shall make an application, within such period, in such Form and in such manner, as may be prescribed, to the District Level Authority of such area or the Corporation Level Authority of such area, as the case may be, for obtaining a certificate registration authorising such user the extraction or use of ground water:

Provided that where any user has sunk—

(a) any tube-well or hand-pump; or

(b) any well from which such extraction or use is made without the help of any mechanical or electrical devices,

for extracting or using ground water before the date of coming into force of the Act for irrigation or domestic purposes, such user may continue to use such tube-well or hand-pump or well, as the case may be, without obtaining a certificate of registration from the concerned authority as provided in this section:

Porvided futher that where the State Government is of the opinion that the extracting or using of ground water from any well or category of wells is necessary for the public interest, the State Government may, by notification, exempt such well or category of wells from the purview of this section.

(2) (a) The District Level Authority shall, on receipt of any application as stated in sub-section (1) within its jurisdiction, scrutinize the application in terms of the assessment of the ground water balance, quality and quantity of ground water available in the locality made by the State Water Investigation Directorate and consider whether a certificate of registration may be issued to the application for authorising such user the extraction or use of ground water.

(b) The District Level Authority shall have power to issue a certificate of registration for extraction or use of ground water at the rate not exceeding 50 cubic metre per hour from each well under intimation to the State Level Authority.

(c) The application for the purpose of issuing of certificate of registration with a view to authorising the applicant extracting or using ground water exceeding 50 cubic metre per hour shall be forwarded to the State Level Authority within a period of one month of receipt of such application alongwith the observations and suggestions after assessing the prevailing ground water condition in or around the locality, quality and quantity of ground water available with reference to its proposed use, long-term ground water

behaviour in the locality, probable projections of recharge of ground water in near futur with the probable drawal of the existing sources, rainfall projection or any other matter as it considers necessary.

(3) (a) The Corporation Level Authority shall, on receipt of the application as stated in sub-section (1) within its jurisdiction, scrutinize the application in terms of assessment of ground water balance, quality and quantity of ground water available in the locality made by the State Water Investigation Directorate and consider whether a certificate of registration may be issued to the applicant for authorising such user the extraction or use of ground water.

(b) The Corporation Level Authority shall have power to issue a certificate of registration for extraction or use of ground water at the rate not exceeding 100 cubic metre per hour from each well under intimation to the State Level Auhority.

(c) The application for the purpose of issuing of certificate of registration with a view to authorising the applicant for sinking a well for the purpose of extracting or using ground water exceeding 100 cubic metre per hour, shall be forwarded to the State Level Authority within a period of one month of receipt of such application alongwith the observations and suggestions after assessing the prevailing ground water condition in or around the locality, quality and quantity of ground water available with reference to its proposed use, long-term ground water behaviour in the locality, probable projections of recharge of ground water in near future with the probable drawal of the existing sources, rainfall projection or any other matter as it considers necessary.

(4) (a) On receipt of an application forwarded by the District Level Authority or the Corporation Level Authority, as the case may be, for issuing of a certificate of registration for the purpose of authorising the applicant extracting or

using ground water exceeding 50 cubic metre per hour or 100 cubic metre per hour, as the case may be, the State Level Authority may, if it is satisfied that it is necessary so to do in the public interest, grant a certificate of registration, subject to such conditions or restrictions as may be specified therein :

Provided that the State Level Authority may, for reasons to be recorded in writing, refuse to grant any such certificate of registration after giving the applicant an opportunity of being heard by itself, or by authorising the District Level Authority or the Corporation Level Authority, as the case may be, to give the applicant an opportunity of being heard and convey its recommendations to the State Level Authority, for the purpose of disposal of such application.

(b) Any decision regarding grant or refusal of certificate of registration by the State Level Authority shall be intimated to the applicant within a period of four months from the date of receipt of the application by the District Level Authority or the Corporation Level Authority, as the case may be.

Powers and functions of District or Corporation Level Authority.

9. The District or Corporation Level Authority shall, in such manner as may be prescribed,—

(a) prepare district profile on ground water resources in the district or corporation, as the case may be, in every five years;

(b) issue permit or certificate of registration under clause (b) of sub-section (3) of section 7 and sub-section (2) of section 8, respectively or under clause (b) of sub-section (4) of section 7 and under sub-section (2) of section 8, respectively;

(c) keep a regular vigil on the quality and quantity of water available from the ground water resources in the district or the corporation, as the case may be, and promptly bring to the notice of

the State Level Authority and sudden deterioration in ground water resources or contamination of ground water resources with poisonous metals or chemicals or otherwise;

(d) ensure that the provisions of this Act or the rules made, orders or directions issued, thereunder have been complied with in respect to the existing or new ground water resources in the district or the corporation, as the case may be;

(e) help to prepare a plan for conservation, maintenance and utilization of ground water within the district or the corporation, as the case may be, and send such plan to the State Level Authority for enforcement during the next five years;

(f) bring to the notice of the State Level Authority, if any unexpected deterioration or contamination of ground water resources is reported within the said plan period and after necessary investigation into the cause, take step to rectify the situation under the guidance and supervision of the State Level Authority;

(g) maintain separate registers for issuing permit or certificate of registration granted by the District Level Authority under clause (b) of sub-section (3) of section 7 or under sub-section (2) of section 8, as the case may be, and the Corporation Level Authority under clause (b) of sub-section (4) of section 7 or under sub-section (2) of section 8, as the case may be.

Authorization by State Level Authority for enforcement of the provision of the Act.

10. The State Level Authority may, by order in writing, authorize a District Level Authority of the Corporation Level Authority or any institution of organization or any person—

(a) to enter at any resonable time any land or building in order to investigate, take samples of water and make any measurement of ground water structure located within such land or building, as the case may be;

(b) to inspect any well which is being sunk or has been sunk and the soils and other materials excavated therefrom;

(c) to take specimens of such soils and other materials or water extracted from such wells;

(d) to require any person sinking a well to keep and preserve in the prescribed manner specimens of soils or any material excavated therefrom for such period, not exceeding three months from the date of completion or abandonment of the work, as may be specified by the State Level Authority;

(e) to inspect, and to take over, the relevant records or documents, and to ask any question necessary for obtaining any information (including diameter or depth of the well which is being, or has been, sunk, the level at which the water is, or was, struck and subsequently restored or rested, static water level, seasonal variation of water level, types of *strata* encountered in the sinking of the well and quality of the water), required for carrying out the purposes of this Act;

(f) to require any user to install a water-measuring device on any water-supply installation to properly administer ground water, where there is reason to believe that the user does not comply with the provisions of this Act, or for any other sufficient reason in the public interest:

Provided that where the user does not comply with any such requirement within a period of thirty days from the date of the order as aforesaid, the State Level Authority may itself install such water-measuring device and recover the cost from such user in such manner as may be prescribed;

(g) to seize any mechanical equipment utilised for illegal sinking and to destroy or dismantle the work executed fully of partly;

(h) to require any user, who does not comply with the provisions of this Act or the rules made thereunder, to destroy or damage any hydraulic work done, in contravention of the provisions of this Act or the rules made thereunder:

Provided that where the user does not comply with such requirement within a period of sixty days from the date of the order as aforesaid, the State Level Authority may itself carry out the necessary work and recover the cost from such user;

(i) to enter and search any place at all reasonable times with such assistance, if any, as it may consider necessary, if it has reason to believe that an extraction or use of ground water has been, or is being, made in contravention of the provisions of this Act or the rules made thereunder;

(j) to direct the user who has been or is committing an offence under the Act, to stop committing such offence;

(k) to inspect any place or object, to interrogate any person, and to cause necessary investigation, for detecting ground water;

(l) to take such other steps as may be necessary for carrying out the purposes of this Act or the rules made thereunder.

Service of orders etc.

11. (1) Every order under clause (d), or clause (f), or clause (h), of section 10 shall be served—

(a) by giving or tendering the order, or by sending it by registered post, to the user for whom it is intended, or

(b) if such user cannot be found, by affixing the order on some conspicuous part of his last known place of residence or place of business, or by giving or tendering the order to some adult male member or servant of his family, or by causing it to be affixed on some conspicuous part of the land or the building in which the well is being sunk or the water-measuring device is required to be installed or the water-supply system is required to be closed down or the hydraulic work is required to be destroyed, as the case may be.

(2) Where the person on whom an order is to be served is a minor, service of such order upon his guardian in the manner provided in sub-section (1) shall be deemed to be service upon the minor.

Delegation of powers and duties.

12. The State Level Authority may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances or conditions, if any, as may be specified in the order, be excercised or discharged by the District Level Authority or the Corporation Level Authority, as the case may be.

Members and employees of State Level Authority, District Level Authority, Corporation Level Authority to be public servants.

13. The members and the officers and other employees of the State Level Authority, the District Level Authority and the Corporation Level Authority and the person authorized by the State Level Authority shall, while acting, or purporting to act, in pursuance of any provision of this Act or the rules made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860

Protection of action taken in good faith.

14. No prosecution, suit or other legal proceeding shall lie, or shall be instituted, against the State Level Authority, the District Level Authority, or the Corporation Level Authority or any member or officer or other employee of, or any person authorized by, the State Level Authority for anything done or intended to be done in good faith under this Act or the rules made thereunder.

Cognizance and trial of offence.

15. No prosecution for any offence under this Act shall be instituted except with the written consent of the State Level Authority.

Offences and penalties.

16. If any person, in the matter of sinking, or construction, or use, of any well,—

(a) contravenes, or fails to comply with, any of the provisions of this Act or the rules made thereunder, or

(b) obstructs the State Level Authority, or the District Level Authority or the Corporation Level Authority, or any person authorized by the State Level Authority, he shall be punishable,—

(i) for the first offence, with fine which may extend to five thousand rupees; and

(ii) for the second or subsequent offence, with fine which may extend to ten thousand rupees.

Compounding of offences.

17. Any offence under this Act may, before or after the institution of any proceeding, be compounded by the State Level Authority in such manner as may be prescribed.

Offences by companies.

18. (1) where an offence under this Act has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the coduct 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:

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

(2) Notwithstanding anything contained in sub-section (1), where any 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 neglecet on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Appeal.

19. (1) Any user, aggrieved by any action taken, or any decision made, by the State Level Authority or the District Level Authority or the Corporation Level Authority or any other person authorized by the State Level Authority under this Act, may, within a period of sixty days from the date on which such action was taken or such decision was communicated to him, and on payment of such fee as may be prescribed, prefer an appeal to such authority as may be prescribed (hereinafter referred to as the appellate authority):

Provided that the appellate authority may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time.

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

Power to make rules.

20. (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for any matter, which may be or is required to be prescribed.

(3) All rules made under this section shall be laid, as soon as may be after it is made, before the State Legislature, while it is in session, for a total period of fifteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rules of the State Legislature agrees that such rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification of annulment shall be without prejudice to the validity of anything previously done under those rules.

Act to have overriding effect.

21. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any judgement, decree or order of any court, tribunal or other authority, or in any instrument haveing effect by virtue of any law other than this Act.

Power to remove difficulties.

22. If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders not inconsistent with the provisions of the Act or the rules made thereunder, as the State Government may consider necessary for removing such difficulty.

By order of the Governor,

MD. HESAMUDDIN,
Secy.-in-charge to the Govt. of West Bengal,
Law Department.