

DELHI COMMON EFFLUENT TREATMENT PLANTS ACT, 2000

DELHI

India

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Act 7 of 2000

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The following Act of the Legislative Assembly received the assent of the Lt. Governor of the National Capital Territory of Delhi on the 15th day of December, 2000 is hereby published for general information :An act to provide for recovery of the dues as arrears of land revenue in respect of the capital and recurring costs of common effluent treatment plants set up in the Industrial Estates in the National Capital Territory of Delhi and matters connected therewith or incidental thereto.Be it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Fifty First Year of Republic of India as Follows :

Chapter I PRELIMINARY

1. Short title and commencement

(1)This Act may be called the Delhi Common Effluent Treatment Plants Act, 2000.(2)It shall come into force at once.

2. Definitions

In this Act, unless the context otherwise requires –(1)“appellate authority” means the authority referred to in sub-clause(2)of Clause 13 of this Act ;(2)“appropriate authority” means the Commissioner of Industries or any other officer not below the rank of Joint Director authorized by him from time to time in this regard ;(3)“CETP” means common effluent treatment plant;(4)“CETP Society” means a society constituted under clause 3;(5)“clause” means a clause of this Act;(6)“Delhi” means the National Capital Territory of Delhi.(7)“effluent” includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any industry operation or process, or treatment and disposal system including domestic sewage;(8)“Government” means the Lieutenant Governor as referred to in Article 239 AA of the Constitution;(9)“Lieutenant Governor” means the Administrator of the National Capital Territory of Delhi appointed by the President under

an article 239 of the Constitution;(10)“occupier” in relation to any establishment, factory or premises, means the person who has control over the affairs of the establishment, factory or the premises, as the case may be, and includes, in relation to any substance, the person in possession of the substance;(11)“Prescribed” means prescribed by rules made by the Government under this Act.

Chapter II

CONSTITUTION OF CETP SOCIETIES AND THEIR FUNCTIONS

3. Constitution of CETP Societies

(1)An Industrial estate either by itself or along with one or more industrial estates in Delhi and any area included in the jurisdiction of any CETP Society or Societies may constitute a CETP society which shall be registered under the Societies Registration Act, 1860 (21 of 1860) and duly approved by the appropriate authority, for the purposes of performing such functions including setting up and operating a CETP for the units in that such industrial estate or estates, as may be entrusted to such society.(2)Every occupier shall be a member of that CETP Society referred to in sub clause (1).

4. Functions of CETP Societies

The CETP societies shall perform such functions as may be prescribed in the rules made under this Act.

Chapter III

CONSTITUTION, POWERS AND FUNCTIONS OF APPROPRIATE AUTHORITY

5. Constitution of appropriate authority

The Government shall with effect from such date as it may be notification in the official Gazette appoint, constitute an appropriate authority to exercise the powers conferred on, and perform the functions assigned to, that authority under this Act.

6. Functions of the appropriate authority

(1)Subject to the provisions of this Act, the main function of the appropriate authority shall be to recover any unpaid dues from the occupiers in order to ensure the proper setting up operation and maintenance of the CETP within Delhi ;(2)In particular and without prejudice to the generality of the foregoing function, the appropriate authority may perform all or any of the following functions, namely :(a)To carry out the apportionment of the cost among the occupiers of the CETP in respect of initial capital cost, recurring cost, operation and maintenance cost.(b)To recover any due from any occupier in the manner as laid down in this Act:(c)To take such other steps as may be necessary for

the fulfillment of the objects of this Act. Provided that the society managing the CETP shall be responsible for upgradation and technology of the installed CETP as per future requirements.

7. Levy and collection of apportioned cost

(1) The appropriate authority shall levy and collect from each occupier the apportioned cost in respect of the capital and recurring costs of the CETP. (2) The apportioned cost shall be payable by each occupier to the person / agency specified by the appropriate authority. The manner of calculation of the apportioned cost as well as collection from each occupier may be as prescribed by rules in this regard. (3) Every occupier liable to pay the apportioned cost under sub-clause (2) shall furnish to the appropriate authority such returns, in such form, at such intervals and containing such particulars as may be prescribed. (4) If an occupier liable to pay the apportioned cost under sub-clause (2) fails to furnish any return under sub-clause (3), the appropriate authority shall give a notice requiring such occupier to furnish such return before such date as may be specified in the notice.

8. Power to obtain information

(1) For the purpose of enabling the appropriate authority to perform the functions conferred on it by or under this Act the appropriate authority or any officer empowered by it in that behalf may permit in writing a specific officer or officers in each case to make survey of any area and gauge and keep record of the flow or volume and other characteristics of any effluent and may take steps for the installation and measurement of apparatus and works connected therewith including such other steps as may be necessary in order to obtain any information required for the purposes aforesaid. (2) The appropriate authority may give directions requiring any person, who, in its opinion is discharging effluent to give such information and in such form as may be specified in the directions. (3) Without prejudice to the provisions of sub-clause (2), the appropriate authority may give directions to any person in charge of any establishment where any industry, operation or process or treatment and disposal system is carried on to furnish to it information regarding the construction, installation or operation of such establishment or of any disposal system or of any extension or addition thereto, in such establishment and such other particulars as may be prescribed.

9. Power of entry and inspection

Subject to the provisions of this clause, any person empowered by the appropriate authority in this behalf shall have a right at any time to enter, with such assistance as he considers necessary, any place for the purpose of performing any of the functions of the appropriate authority as may be prescribed in rules.

10. Interest payable for delay in payment of dues

If any person fails to pay any amount payable under this Act within the date specified in the order

made under sub-clause (2) of Act (7), such person shall be liable to pay interest on the amount to be paid at the rate of one and half per cent for every month or part of a month comprised in the period from the date on which such payment is due till such amount is actually paid.

11. Penalty for non-payment within specified time

If any amount payable by any person is not paid within the date specified in the order, it shall be deemed to be in arrears and the appropriate authority may after such inquiry as it deems fit, impose on such person a penalty not exceeding the amount in arrears: Provided that before imposing any such penalty, such person shall be given a reasonable opportunity of being heard and if after such hearing the appropriate authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this clause.

12. Recovery of amount due under the Act

Any amount due under this Act (including any interest or penalty payable under clause 10 or clause 11, as the case may be) from any person may be recovered by the Government in the same manner as an arrear of land revenue: Provided that the appropriate authority may for the reasons to be recorded in writing, allow payment of amount due in installments.

13. Appeals

(1) Any person aggrieved by an order made by the appropriate authority may, within thirty days from the date on which such order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the Government may think fit to constitute: Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. (2) An appellate authority may consist of Financial Commissioner of the Govt. of NCT of Delhi or any other officer of equivalent rank as Chairperson and one expert in the field of public health engineering and one person in the field of Finance or Taxation as members. (3) The form and manner in which an appeal may be referred under sub-clause (1), the fees payable for such appeal and the procedure to be followed by the appellate authority shall be such as may be prescribed. (4) On receipt of an appeal preferred under sub-clause (1), the appellate authority shall, after giving the appellant and the appropriate authority an opportunity of being heard, dispose of the appeal within ninety days after first hearing of the appeal. opportunity of being heard, dispose of the appeal within ninety days after first hearing of the appeal.

14. Maintenance of CETP

The CETPs shall be operated and maintained effectively and efficiently by the CETP Societies subject to such conditions as may be specified by a notification issued by the Government. In case the Government considers that the CETP society has failed to effectively and efficiently discharge its duties of operation and maintenance then after giving due notice as prescribed by rule the

Government may by notification in the Official Gazette authorize any non-government organization, local body or any such other authority, as it may consider fit, to operate and maintain the plant efficiently and effectively.

15. Delegation of powers by the appropriate authority

The appropriate authority may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, subject to such conditions, if any, as may be specified in the notification, be exercisable by such authority officer or person or body of persons as may be specified therein.

16. Power to give directions

Notwithstanding anything contained in any other law, but subject to the provisions of this Act, the appropriate authority may, in exercise of its powers and performance of its functions under this Act, issue any directions in writing to any occupier, society, person, officer or authority, and such occupier, society, person officer or authority shall be bound to comply with such directions. Explanation – For the avoidance of doubts, it is hereby declared that the power to issue directions under this clause includes the power to direct – (a) the closure, prohibition or regulation of any industry, establishment, operation or process; or (b) the stoppage or regulation of supply of electricity, water or any other service.

Chapter IV

PENALTIES

17. Failure to comply with directions

(1) Whoever fails to comply with the directions given under sub-clause (2) or sub-clause (3) of clause 8 within such time as may be specified in the directions shall be liable to pay a penalty which may extend up to ten thousand rupees and in case the failure continues, with an additional penalty which may extend up to five hundred rupees for every day during which such failure continues after the imposition of penalty for the first such failure. (2) Whoever fails to comply with any direction issued under clause 15 shall in respect of each such failure, be liable to pay a penalty which may extend up to thirty thousand rupees and in case the failure continues, with an additional penalty which may extend up to five thousand rupees for every day during which such failure continues after the first such failure.

18. Penalty for certain acts

Whoever – (a) Obstructs any person acting under the orders or directions of the appropriate authority from exercising his powers and performing his functions under this Act; or (b) fails to furnish to any officer or other employee of the appropriate authority any information required by him for the

purpose of this Act; or (C) in giving any information which he is required to give under this Act knowingly or willfully makes a statement which is false in any material particular, shall be liable to pay a penalty which may extend up to five thousand rupees.

19. Penalty for contravention of certain provision of the Act

Whoever contravenes any of the provisions of this Act or fails to comply with any order or direction given under this Act, for which no penalty has been elsewhere provided in this Act, shall be liable to pay a penalty which may extend up to ten thousand rupees and in the case of a continuing contravention or failure with an additional penalty which may extend up to five hundred rupees for every day during which such contravention or failure continues after the first such contravention or failure.

10.

20. Contravention etc. by companies

(1) Where a contravention of any of the provisions of this Act or failure to comply with any order or direction given under this Act has been made by a company, every person who at the time the contravention or failure was made 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 contravention or failure, as the case may be, and shall be liable to be proceeded against the imposition of penalty accordingly: Provided that nothing contained in this sub-clause shall render any such person liable to any penalty, if he proves that such contravention or failure, as the case may be, was made without his knowledge or that he exercised all due diligence to prevent the making of such contravention or failure, as the case may be. (2) Notwithstanding anything contained in sub-clause (1), where a contravention or failure under this Act has been made by a company and it is proved that such contravention or failure has been made 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 or Manager, Secretary, or other officer shall also be deemed to be guilty of that contravention or failure, as the case may be and shall be liable to be proceeded against and imposed penalty accordingly. Explanation – For purposes of this clause (a) “company” means any body corporate, and includes a firm or other association of individuals; (b) “director”, in relation to a firm, means a partner in the firm.

Chapter V

MISCELLANEOUS

21. Local authorities to assist

All local authorities shall render such help and assistance and furnish such information to the appropriate authority as it may require for the discharge of its functions, and shall make available to

the appropriate authority for inspection and examination such records, maps, plans and other documents as may be necessary for the discharge of its functions.

22. Bar of jurisdiction

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an appellate authority constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

23. Cognizances of offences under this Act

(1) No court inferior to that of Metropolitan Magistrate shall take cognizance of any offence under this Act. (2) No court shall take cognizance of any offence under this Act except on a complaint filed by the appropriate authority or any officer authorized by him in this behalf. (3) All offences under this Act will be non-cognizable and bailable.

24. Power to compound offences

Any offence under this Act may be compounded by the appropriate authority at any time on payment of such amount not exceeding the amount of penalty imposed under this Act.

25. Other laws not affected

The provisions of this Act are in addition to and not in derogation of the provisions of any other law for the time being in force.

26. Power to make rules

(1) The Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act. (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 : (a) prescribing the functions to be performed by CETP Societies; (b) the manner of calculating the apportioned cost payable and collection thereof from each occupier; (c) prescribing returns to be furnished to the appropriate authority by every occupier, the form in which such returns shall be furnished and the intervals at which and particulars to be contained in such returns; (d) furnishing of information, regarding the construction, installation or operation of the establishment or of any disposal system or of any extension or addition thereto and any other particulars where an industry, operation or processor treatment and disposal system is carried on; (e) prescribing the form and manner in which an appeal may be filed against the orders of the appropriate authority, the fees payable for such appeal and the procedure to be followed by the appellate authority; (f) prescribing the form of notice to be given to a CETP Society under clause 14 of this Act; (g) The matters which are to be and may be prescribed under this Act. (3) Every rule made by the Government 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 while it is in session for a total period of thirty 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 House of the Legislative Assembly agrees in making any modification in the rules or the house agrees that the rule should not be made, the rule 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 or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the Official Gazette make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty; Provided that no such order shall be made after the expiry of the period of two years from the date on which this Act comes into force. (2) Every order made under this clause shall, as soon as may be after it is made, be laid before the Legislative Assembly of Delhi.