

The Water (Pollution Prevention and Control) Act, 1974

This Act is designed for prevention and control of water pollution and for maintaining or restoring the wholesomeness of water. Under the 1974 Water Act, the Central Pollution Control Board (CPCB), a statutory body, was set up at the national level. State Pollution Control Boards (SPCBs) at the state level were also established. This Act provides that the CPCB, in consultation with the State Governments, lay down, modify, and annul standards for streams, sewers, and land. This is mandated because water is a state subject and the SPCBs can prescribe stricter standards if the receiving body so demands. Also, the SPCBs shall advise the State Governments about the suitability of any location for carrying out industrial activity that is likely to cause pollution. The CPCB has laid down Minimal National Standards (MINAS) for major sectors of the industry including fertilizers. The SPCBs follow these standards or make more stringent standards if the situation warrants.

The control of water pollution through legal provisions is achieved through the "instrument of consent system". While establishing an industry or any other activity resulting in the discharge of waste water, the promoter must obtain consent to establish from the respective Pollution Control Boards. After the industry is established, a consent to operate must be obtained; this is granted after verifying that the conditions under which the consent to establish was issued have been fully complied with. Already established industries, local bodies, and agencies are also required to obtain the consent from the respective board for the discharge of effluents including sewage. The consent regulates what and how much can be discharged and prescribes a time bound program for installation of wastewater treatment plants to comply with the prescribed standards. Penalties and procedures are prescribed for failure to comply with the directives or for the violation of various provisions of the Act.

The Water (Pollution Prevention and Control) Amendment Act was passed in 1988 to overcome the difficulties associated with implementation because of administrative and practical constraints. Through this amendment, operation, process, treatment, and disposal systems were brought into the limits of the legislation and more stringent penalties for offenders were prescribed. The amendment Act also stipulates that the permission of the Pollution Control Boards should be obtained even before the siting of an industry. Further, the Amendment Act vested power to the Boards to give directions for closure, prohibition, or regulation of any industry/operation or process including the stoppage or regulation of electricity, water supply, and other services. Individual citizens were also given the right to initiate legal action against any polluting industry.

To provide revenue to the Central and State Boards for the enforcement of the regulations, the Water (Pollution Prevention and Control) Cess (assessment) Act was enacted in 1977 levying a water cess. The water cess payable varies depending on the purpose for which the water is consumed such as domestic consumption, industrial cooling, boiler feed, processing by which water gets polluted, or whether pollutants are biodegradable or not easily biodegradable as prescribed in the Schedule to the Water Cess Act. Further, this Act prescribes that the installation of a plant for treatment of effluent, including sewage, shall entitle any person or local authority liable to pay cess under the Act to a rebate of 70 % of the cess payable. The Act and the Rules thereunder describe the procedure for furnishing cess returns, assessment of cess, granting of rebates, crediting proceeds of cess to the Government of India, and penalties for non payment of the cess.

The Water Cess Act was amended in 1991 and 1992. In the amended Act, the rate of cess to be charged and the rebate to be given were revised. The rebate of 70% of the cess payable because of implementation of sewage/effluent treatment facilities has been reduced to 25%. Furthermore, the Act and the rules stipulate that the consumer is not entitled to the rebate in water cess if water consumption exceeds the maximum consumption limits specified in the Schedule for various categories of industry or fails to comply with the provisions of the Water Act (1974) or any of the standards laid down by the Central Government under the Environment (Protection) Act of 1986.
