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Water (Prevention and Control of Pollution) Amendment bill, 2024

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Why is in news? What are the changes in the new Water Act?

The Lok Sabha this week passed the Water (Prevention and Control of Pollution) Amendment Act, 2024.

The legislation, which was introduced and passed in the Rajya Sabha on February 5, makes important changes to the **Water (Prevention and Control of Pollution) Act, 1974**.

The Bill **decriminalises several violations, and instead imposes penalties**. It will initially apply to Himachal Pradesh, Rajasthan, and the union territories. Other states may pass resolutions to extend its applicability to their states.

Water (Prevention and Control of Pollution) Act, 1974:

This Act was the **first piece of legislation** in independent India that identified the need to have an institutional structure to **address contamination of water bodies**.

This led to the creation, in September 1974, of the **Central Pollution Control Boards (CPCB) and State Pollution Control Boards (SPCB)** that were charged with monitoring and preventing public water resources from getting contaminated by sewage and industrial effluents.

This Act made it **mandatory for industrial units to get permission** from their respective State boards before setting up factories and submitting themselves to checks on whether their manufacturing and other processes were complying with prescribed norms.

The Parliament of India in its wisdom enacted the Water (Prevention and Control of Pollution) Act in 1974 with a view to maintaining and restoring wholesomeness of our water bodies.

One of the mandates of the Central Pollution Control Board (CPCB) is to **collect, collate and disseminate technical and statistical data** relating to water pollution.

While the CPCB is empowered to conduct checks and provide guidance on technical standards to be adhered to, the SPCB files cases and is expected to enforce compliance.

Violating the provisions of the Water Act can mean industries being shut down; monetary fines as well as imprisonment of up to six years. That said, there have been no instances of companies or people in India having been imprisoned due to environmental violations.

Key highlights of the bill:

Consent exemptions for establishing industries:

Kamaraj IAS Academy

Plot A P.127, AF block, 6 th street, 11th Main Rd, Shanthi Colony, Anna Nagar, Chennai, Tamil Nadu 600040

Phone: **044 4353 9988 / 98403 94477** / Whatsapp : **09710729833**

As per the Act, **prior consent of the SPCB** is required for establishing any industry or treatment plant, which is likely to discharge sewage into a water body, sewer, or land

The Bill specifies that the **central government, in consultation with the CPCB, may exempt certain categories** of industrial plants from obtaining such consent.

The Bill also adds that the **central government may issue guidelines** for the grant, refusal, or cancellation of consent granted by the SPCB

Under the Act, establishing and operating an industry **without obtaining such consent** from the SPCB is **punishable with imprisonment up to six years and fine** The Bill retains this

It also penalises tampering with monitoring devices used in determining whether any industry or treatment plant can be set up The penalty will be between Rs 10,000 and Rs 15 lakh.

Chairman of State Board:

Under the Act, chairman of an SPCB is nominated by the state government

The Bill adds that the **central government will prescribe the manner of nomination** and the **terms and conditions** of service of the chairman.

Discharge of polluting matter:

Under the Act, the SPCB may issue directions to immediately restrain any activity which is leading to **discharge of noxious or polluting matter in water bodies**

The Act also **prohibits violation of standards** (laid down by SPCB) regarding polluting matter in water bodies or on land, barring some exemptions

Exemptions include depositing non-polluting materials on the bank of a stream for reclaiming land

Violation of these provisions is punishable with an imprisonment term between one and a half years and six years, and a fine The Bill **removes the punishment and instead, imposes a penalty** between Rs 10,000 and Rs 15 lakh.

Penalty for other offences:

Under the Act, an offence for which punishment is not explicitly specified is punishable with an imprisonment term of up to three months or a fine of up to Rs 10,000, or both

The Bill removes imprisonment as a punishment, and prescribes a penalty between Rs 10,000 and Rs 15 lakh

Failure to pay penalty for violation of any provision under the Act will **attract an imprisonment term of up to three years, or a fine up to twice** the amount of penalty imposed.

Adjudicating officer to determine penalties:

The Bill allows the **central government to appoint adjudication officers** to determine penalties under the Act

The officer must be of the level of a **Joint Secretary to the central government**, or of **Secretary to the state government**

Appeals against orders passed by the adjudicating officer may be made before the National Green Tribunal, after depositing 10% of the penalty levied

Penalties imposed by the adjudicating officer will be **credited to the Environment Protection Fund** established under the Environment (Protection) Act, 1986.

Cognizance of offences:

As per the Act, a court may take cognizance of an offence if a complaint is made by the CPCB or SPCB, or a person who has given a notice of the complaint to the Boards

The Bill adds that **cognizance may also be taken** if a complaint is made by the adjudicating officer.

Offences by government departments:

Under the Act, the head of a department will be deemed guilty for offences committed by government departments provided that they prove due diligence was carried out to avoid such contravention

The Bill specifies that the head of a department will be required to **pay penalty equal to one month of their basic salary if the department violates any provision** of the Act

Responses for the bill:

Explaining the rationale behind the amendments, Environment Minister, Bhupendra Yadav, who steered the Bill, said **outdated rules and regulations caused a “trust deficit.”**

The **imprisonment provisions for minor violations**, which are simple infringements and did not lead to any injury to humans or damage to the environment, often caused “harassment” to businesses and citizens and was not in consonance with the spirit of “ease of living and ease of doing business,” he added.

In discussions on the Act in the Lok Sabha, Members of Opposition parties raised concerns that the **amendments weakened the laws that protected rivers and water bodies** from industrial pollution.

They argued that the **fear of imprisonment** acted as an effective deterrent to industrial units that were lax with complying with strict regulations.