

Annexure – C -18.12.2017 (2)

HARYANA POND DEVELOPMENT, PROTECTION & CONSERVATION, POND WATER AND STP TREATED AFFLUENT UTILISATION AUTHORITY BILL

(To be introduced in the Haryana Legislative Assembly)

A Bill to provide for establishment of Pond Development, Protection & Conservation, Pond Water and STP Treated Effluent Utilization Authority and other matters connected therewith or incidental thereto;

Whereas, the Apex Court has already ruled that right to water is a part of right to life guaranteed by Article 21 of the Constitution of India

Whereas, due to urbanization, industrialization and population explosion, ponds are being converted into housing, industrial and agricultural land use.

Whereas, in the State there are large number of ponds which have been traditional source of surface water storage, ground water augmentation, irrigation, domestic and drinking water and rural industries. These ponds are managed, protected, conserved and rejuvenated by various Government Departments like Irrigation, Rural Development and Urban Local Bodies etc.,

Whereas, large number of ponds have become non-functional due to encroachment, destruction or any other reason.

Whereas, such encroachment, destruction of ponds leads to acute shortage of water and rapid depletion of ground water and thereby affecting local availability of water for

irrigation, besides affecting aquatic flora and fauna and accordingly there is an urgent need for protection, conservation, development, redevelopment and rejuvenation of Ponds by a Single Authority.

Whereas, these ponds have socio -economic relevance to the society, there is a need to restore their entity with proper cultural fascination and suitable technical expertise.

Whereas, water resource getting scarce all over the State, there is an urgent need to construct new ponds also.

And now therefore, it is expedient to provide for establishment of a Pond Development, Protection & Conservation, Pond Water and STP Treated Effluent Utilization Authority having necessary powers and functions to achieve the object of development, protection, rejuvenation, conservation & management, utilization of pond water resulting into flooding of low lying area adjoining to ponds and utilization of treated effluent of sewage treatment plants for the purpose of irrigation thereby reducing stress on ground water exploitation and for other matters connected therewith or incidental thereto. The water quality criteria of designated best use for irrigation (class of water –E) as per Central Pollution Control Board provisions. General Environment Standards for irrigation use as prescribed by Haryana State Pollution Control Board shall regulate Pond water quality.

Be it enacted by the Haryana State Legislature in the sixty seventh year of the Republic of India as follows:-

CHAPTER - I
PRELIMINARY

1. Short title, commencement and application –

- (1) This Act may be called the Pond Development, Protection & Conservation, Pond Water and STP Treated Effluent Utilization Authority Act, _____. It shall come into force on such date as the Government may, by notification, appoint and different dates may be appointed for different provisions of the Act.
- (2) It applies to all the ponds as defined in para - "g" of section-2 in the Haryana State located outside notified forest areas. It does not apply to ponds having area as less than 0.5 acre.

2. Definitions –

- (1) In this Act, unless the context otherwise requires :-
 - (a) "Authority" means the Haryana Pond Development, Protection and Conservation, Pond Water and STP Treated Effluent Utilization authority;
 - (b) "Chief Executive Officer" means the Chief Executive Officer of the Authority appointed under section - 8 ;
 - (c) "District Pond Management Officer" means any officer of Authority appointed by the Government under section-10;
 - (d) "Government" means the Government of Haryana;
 - (e) "Gram Panchayat" means the Panchayat constituted at village level under the Haryana Panchayati Raj Act, 1994;
 - (f) "Industry" includes any operation or process or treatment and disposal system, which consumes, water or any other liquid or gives rise to sewage effluents or trade effluents, but does not include any hydro power unit;
 - (g) "Pond" includes tank or lake or any other inland water body having area as 0.5 acre or more; irrespective of whether it contains water or not, but mentioned in revenue records as talab, tank or by any other name and also includes the peripheral

catchments areas main feeder inlet and other inlets, bunds, weirs, sluices etc but does not include, wet lands notified by Government.

- (h) "Landscape" includes all forms of trees, shrubs, grasses whether naturally growing or planted in and around Pond water bodies to enhance aesthetic value and scenic beauty;
- (i) "STP" means sewage treatment plant.
- (j) "Surface water" includes water occurring on the land of ponds as defined above;
- (k) "Rules" means the rules made under section – 57 of this Act;
- (2) Words and expressions used in this Act, but not defined herein, shall have the meanings assigned to them in the other Haryana State Acts or Government of India Acts where not defined in other Haryana State Acts.

CHAPTER – II

HARYANA POND DEVELOPMENT, PROTECTION & CONSERVATION, POND WATER AND STP TREATED AFFLUENT UTILISATION AUTHORITY ACT, 2017

3. Constitution of the Authority-

- (1) As soon as may be after the date of commencement of this Act, the Government shall constitute an Authority to be called the Haryana Pond Development, Protection & Conservation, Pond Water and STP Treated Effluent Utilization Authority.
- (2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act to hold property and shall by the said name sue or be sued.
- (3) The Haryana Pond Development, Protection and Conservation, Pond Water & STP Treated Effluent Utilization Authority shall consist of the following members, namely:-

(a)	The Chief Minister/ Minister for Irrigation and Water Resources to Government of Haryana.	Chairperson
(b)	Chief Secretary to Government of Haryana	Vice Chairperson
(c)	The Additional Chief Secretary/Principal Secretary/Secretary to Government of Haryana, Finance Department	Member
(d)	The Additional Chief Secretary/Principal Secretary/Secretary to Government of Haryana, Irrigation and Water Resources Department	Member
(e)	The Additional Chief Secretary/Principal Secretary/Secretary to Government of Haryana, Panchayati Raj Department	Member
(f)	The Additional Chief Secretary/Principal Secretary/Secretary to Government of Haryana, Rural Development Department	Member
(g)	The Additional Chief Secretary/Principal Secretary/Secretary to Government of Haryana, Urban Development Department	Member
(h)	The Additional Chief Secretary/Principal Secretary/Secretary to Government of Haryana, Fisheries Department..	Member
(i)	Engineer-in-Chief, Irrigation and Water Resources Department, Government of Haryana.	Member
(j)	Engineer –in- Chief, Public Health Engineering Department, Government of Haryana	Member

(k)	Director General, Agriculture Department, Government of Haryana	Member
(l)	Principal Chief Conservator of Forests, Government of Haryana	Member
(m)	Four non-official members from amongst experts/Social workers in the field of environment and ecology or pond development and conservation, of whom at least one shall be women and one shall be a person belonging to the Scheduled Castes/ Scheduled Tribes.	Non Official Member
(n)	Chief Executive Officer,	Member Secretary (Ex. Officio, Chief Executive Officer of the Authority)

- (4) The District Consultation and Monitoring Committee shall monitor functions of the Authority at district level from time to time. The District Consultation and Monitoring Committee in each District shall consist of the following members, namely:-

(a)	The District Magistrate/Deputy Commissioner of the concerned District	Chairman
(b)	Additional Deputy Commissioner cum CEO (DRDA).	Member
(c)	Superintending Engineer/Executive Engineer, Irrigation Department, in charge of the concerned District.	Member
(d)	Superintending Engineer, Public Health Engineering Department	Member
(e)	The District Development and Panchayat Officer	Member
(f)	The Deputy Director, Department of Agriculture / Soil Conservation	Member
(g)	The District Horticulture Officer	Member
(h)	The District Forest Officer	Member
(i)	The District Fisheries Officer	Member
(j)	Two non official members nominated by the District Magistrate in which one person will be member from amongst experts/ social workers in the field of environment and ecology or ponds Development and Conservation.	Member
(k)	District Pond Management Officer as defined in section 10 of Haryana Pond Development, Protection & Conservation, Pond Water and STP Treated Effluent Utilization Authority.	Convener

- (5) Government may decide terms of engagement of non – official members of State. They shall not be eligible for re-appointment beyond two terms.
- (6) The non official members of State shall be entitled to receive such allowances as may be prescribed.

4. Meetings of the Authority-

- (1) The Authority shall meet at least once in six months.
- (2) The Chairperson shall preside over the meeting of the Authority or if for any reason, he is unable to attend any meeting, Vice Chairperson shall preside over.
- (3) Quorum for a meeting of the Authority shall be one third of the total number of members.
- (4) Save as otherwise expressly provided by or under this Act, the procedure for conduct of business at the meeting of the Authority shall be such as may be specified in the rules.
- (5) District Consultation and Monitoring Committee shall meet at once in six months.

5. Functions of the Authority –

Functions of the Authority will be as prescribed in the rules under this Act which may include survey and study, regulations, control, protection, conservation, reclamation, regeneration, restoration, construction, environmental impact assessment and planning, integrated plan for development of ponds, removal of encroachment of ponds, use of pond water for cattle, fire fighting, education or tourism and utilization of pond water & treatment thereof wherever required and utilization of affluent of sewage treatment plants for the purpose of irrigation, by developing infrastructure such as pumping machinery, channels and pipe system. Certain functions relating to notified Wet Land may be carried out by the Authority. Any other use can be prescribed under the rules.

6. Powers of the Authority-

Powers of the Authority will be as prescribed in the rules which may include powers, to enter, to receive grants, donations, contributions and rents, to levy fees or charges, to grant approval of projects, to direct, to execute, to regulate any of the functions of authority.

7. Powers of Chairperson –

The Chairperson shall be the head of the Authority and shall:-

- (a) Convene, preside at and conduct meetings of the Authority. In absence of Chairperson, the Vice Chairperson will preside over and conduct the meeting.
- (b) Discharge all duties and exercise all powers conferred upon him under this Act or the rules framed under this Act.

8. The Chief Executive Officer-

- (1) Any officer in service or retired from the rank and pay scale of Head of Department of Irrigation and Water Resources or Public Health Engineering with qualifications of Civil Engineering shall be the Chief Executive Officer of the Authority.
- (2) Subject to the general powers of the Authority and the Chairperson, overall powers to carry out, the provisions of this Act or to carry out the duties imposed or powers conferred upon the Authority under any other law for the time being in force shall vest in the Chief Executive Officer and who shall also:-
 - (a) perform all the duties and exercise all the powers imposed or conferred upon him by or under this Act or rules there to or under any other law for the time being in force;
 - (b) carry into effect the resolutions of the Authority;
 - (c) conduct all affairs of the Authority;

- (d) Monitor execution of all schemes and works of the Authority or entrusted by the Government or any other Authority;
- (e) draw and disburse monies out of the fund of the Authority as delegated by the Authority;
- (f) exercise control over the officers and officials of the Authority as prescribed under the rules
- (g) authenticate by his signature all permissions, orders, decisions, notices and other documents of the Authority;
- (h) exercise such other powers and discharge such other functions and perform such other duties as may be prescribed by the Government.

9. Organizational structure of the Authority –

- (1) Headed by the Chief Executive Officer, the Authority will have establishment, Engineering, Accounts and Legal Sections for accomplishment of function of the Authority.
- (2) The posts which are necessary for discharge of functions of the Authority will be sanctioned with the approval of the Government. Conditions for various category of services will be prescribed in the rules under this Act.
- (3) The method of recruitment, the salaries and allowances payable to and other terms and conditions of service of the officers and other employees appointed for the purpose of the Authority may be prescribed by the Authority with approval of the Government.
- (4) The Authority may recruit or engage officers and employees on deputation or through contractual engagements or any other mode as may be necessary for the discharge of the functions of the Authority.
- (5) The Authority may get its works executed as deposit works from other departments or any other organisations of the Government.

10. District Pond Management Officer–

- (1) District Pond Management Officer will be officer of Authority or any other officer of Group 'A' service posted by the Authority at the District level as may be prescribed under the rules who shall exercise powers under this Act and such other powers as may be specified by the Government from time to time.
- (2) Subject to the general powers of the Authority and the Chairperson, overall powers to carry out, the provisions of this Act or to carry out the duties imposed or powers conferred upon the Authority at the district level under any other law for the time being in force and who shall also:-
 - (a) perform all the duties and exercise all the powers imposed or conferred upon him by or under this Act or rules there to or under any other law for the time being in force;
 - (b) carry into effect the resolutions of the Authority;
 - (c) conduct all affairs of the Authority at the district level;
 - (d) Monitor execution of all schemes and works of the Authority or entrusted by the Government or any other Authority at the district level;
 - (e) exercise control over the officers and officials of the Authority at the district level as prescribed under the rules;
 - (f) exercise such other powers and discharge such other functions and perform such other duties as may be prescribed by the Government.

HAPTER - III

PROTECTION OF PONDS

11. Acts prohibited in Ponds–

Notwithstanding anything to the contrary contained in any law for the time being in force, no person or institution or organization (registered or unregistered) or company or firm or association, Government departments, corporation or any local or other authority and their agents or employees or anybody on their behalf shall :-

- (1) use the pond for any purpose other than mentioned in section 5;
- (2) construct any structure on pond land, occupy any pond land or part there of or cause any obstruction in the natural or normal course of inflow or outflow of water

into, or from, the Ponds on the upstream and or downstream without permission of the Authority.

- (3) dump debris, municipal or industrial solid wastes, mud or earth soil into and around pond by using vehicle or otherwise;
- (4) discharge industrial effluent into the pond directly or indirectly;
- (5) construct roads, bridges and likewise other structures within the pond area including the pond bund without permission of the Authority.
- (6) breach bund, waste weir including lowering or raising the height of the waste weir from its original height or remove fence, boundary stones or any hoarding or any sign board erected by the authority; and
- (7) do any other Act which is detrimental directly or indirectly to the Ponds.

Provided that nothing in this Act shall prohibit the Authority to redefine water uses of ponds or STP treated effluent from time to time.

Provided further that the Authority may grant permission for any of the above prohibited uses, in public interest.

12. Ownership of land of Ponds.

Notwithstanding anything contained in any law, instrument or order for the time being in force, ownership of land of Ponds of various departments of the State Government shall vest in the Authority.

Provided that where land of the Pond is in the name of the Gram Panchayat, it will continue to be in the name of the Gram Panchayat.

13. Construction and Development of Ponds to vest in the Authority.

- (1) Notwithstanding anything contained in any law, instrument or order, construction and development of all ponds within the State, except private properties situated in such ponds, shall, with effect from the commencement of this Act, vest in the Authority. No person shall undertake any activity, whatsoever, within the boundaries of a pond or use or draw any produce or water from a pond otherwise than in accordance with the permission granted by the Authority as prescribed in the rules under this Act.

Further, the Authority shall not grant any permission unless it is satisfied that such permission will not have adverse impact on construction and development of the pond.

Notwithstanding anything contained in the fore going provisions of this section, the State Government may, by order in writing, allow withdrawal and use of the water of a pond for the purposes for which it was withdrawn and used immediately before the commencement of this Act to the extent such withdrawal does not affect adversely the conservation and development of the pond.

- (2) In case any Central law relating to forest or environment, and policies or guidelines including any guidelines for National Plan on Conservation of Aquatic Ecosystem are issued by the Central Government from time to time, the Authority shall carry out the functions prescribed by the Central Law by making provisions in the rules under this Act.
- (3) Notwithstanding anything contained in any other Act, the Authority may direct the Gram Panchayat, in the interest of construction or development of a pond, to remove any building, structure or any other object of obstruction within the protected area or the flow area of a pond:

Provided that no building, structure or any other object of obstruction which is a private property shall be removed unless-

- (i) the owner and occupier, if any, of the property has been given a reasonable opportunity of hearing;
 - (ii) the owner of the property has been paid compensation for the damages to be sustained by him due to such removal, if the property is legal.
- (4) While determining the amount of compensation under this section, the District Pond Management Officer, with the prior approval of the Authority, shall determine amount of compensation as per provisions laid down by any law for the time being in force providing for compulsory acquisition of similar property or as prescribed in the rules under this Act.

- (5) If any person entitled to compensation under this section disputes sufficiency of the amount of compensation, he may file an appeal to the court having territorial jurisdiction over the area in which the property is situated, within ninety days from the date of order of the District Pond Management Officer.

14. Declaration of pond boundaries and protected area :-

- (1) The State Government may, by notification in the Official Gazette, either *suo-moto* on the basis of information available with it or on the recommendation of the Authority, declare and specify-
- (i) the boundaries of a pond; and
 - (ii) a geographical area around a pond to be the protected area.
- (2) Any person aggrieved by the notification under subsection(1) may, within two months from the date of publication of such notification in the Official Gazette, file his objections or suggestions in the prescribed manner before the State Government.
- (3) On the expiry of the period specified in sub-section (2),the State Government may, after considering the objections and suggestions received by it under sub-section (2), either withdraw or modify the notification issued under sub-section (1) or reject the objections or suggestions, as the case may be, and the decision of the State Government shall be final.
- (4) The notification issued under this section shall prevail notwithstanding any other Haryana Government law for the time being in force.

15. Regulation of activities in the protected area :-

- (1) Every town planning authority shall consult the Authority before preparing spatial or development plan of any area comprising a pond and no spatial or development plan in respect of an area comprising a pond shall be approved or enforced without the prior approval of the Authority.
- (2) No construction shall be undertaken in the protected area without obtaining prior permission of the Authority in the prescribed manner.
- (3) Subject to the provisions of sub-sections (1) and (2), the State Government may, by notification in the Official Gazette, either *suo-moto* on the basis of information available with it or on the recommendation of the Authority, specify such other activities in the protected area as it considers expedient for the construction and development of the pond, which shall be prohibited or be undertaken only after obtaining prior approval of the Authority, in the prescribed manner.
- (4) The Authority shall not grant any permission under subsections (2) or (3) if it is satisfied that such permission is likely to have adverse impact on construction and development of the pond.

16. Powers to Seize :-

- (1) When there is reason to believe that an offence punishable under section 11, 13, 14 and 15 has been committed, any instrument, implement, machinery, device, tool, boat, vehicle or any other material or object used in committing any such offence, may be seized by the Gram Panchayat. Gram Sachiv will assist the Gram Panchayat for this purpose also in consonance with the provisions of the Haryana Panchayati Raj Act, 1994.
- (2) The Gram Panchayat seizing any property, vehicle, material or object under sub-section (1) shall place on them a mark indicating that the same has been so seized and shall as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure is made. The procedure for seizures shall be as specified in the Code of Criminal Procedure, 1973. Provided that where the seized property, vehicle, material or

object is believed to belong to the Central or the Government or a local or other authority or if the offender is unknown, the Gram Panchayat shall report to the District Pond Management Officer.

17. Power to release property seized under section 16 :-

Where the seized property is such that it cannot conveniently be produced before the Magistrate or the Gram Panchayat, it may be released by the Gram Panchayat to the owner thereof on his executing a Bank guarantee and a bond undertaking to produce the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

18. Confiscation by the Gram Panchayat :-

- (1) The Gram Panchayat seizing the property under section 16 shall, without any unreasonable delay produce the property, before the District Pond Management Officer;
- (2) When any seized property is produced before the District Pond Management Officer and he is satisfied that an offence prohibited under section 11, 13, 14 and 15 has been committed using such property, the District Pond Management Officer may, whether or not a prosecution is instituted for the commission of such offence, order confiscation of the property so seized.
- (3) Where the District Pond Management officer, passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may order confiscated property or any part thereof to be sold in public auction;

- (4) where any confiscated property is sold, as aforesaid, the proceeds thereof, after deduction of expenses of any such auction or other incidental expenses relating thereto, shall, where the order of confiscation made under sub-section (2), is set aside or annulled by an order under Section 19 or 20 be paid to the owner thereof or to the person from whom it was seized, as may be specified in such order.

19. Issue of show cause notice before confiscation –

- (1) No order confiscating any instrument, implement, machinery, device, tool, boat, vehicle or any other property shall be made under section 18 except after giving notice in writing to the person from whom it is seized and considering his objection, if any:

Provided that no order confiscating a motor vehicle shall be made except after giving a notice in writing to the registered owner thereof, if in the opinion of the District Pond Management Officer, it is practicable to do so, and considering his objections, if any.

- (2) Without prejudice to the provisions of sub-section (1), no order confiscating any instrument, implement, machinery, device, tool, boat, vehicle or any other property shall be made if the owner of the instrument, implement, machinery, device, tool, boat, vehicle or any other property proves to the satisfaction of the District Pond Management Officer that it was used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the instrument, implement, machinery, device, tool, boat, vehicle or any other property and that each of them has taken all reasonable and necessary precautions against such use.

20. Revision –

The Chief Executive Officer may before the expiry of thirty days from the date of the order of the District Pond Management Officer under section 18, suo-moto call for and examine the records of that order and may make such inquiry or cause such inquiry to be made and may pass orders as he deems fit.

21. Appeal-

- (1) Any person aggrieved by an order passed under Section 18 or Section 20 may within thirty days from the date of communication to him of such order, appeal to the Court having jurisdiction over the area in which the property in respect to which the order relates has been seized and the Court shall, after giving an opportunity to the appellant and the District Pond Management Officer, to be heard, pass such order as he may think fit confirming, modifying or annulling the order appealed against.
- (2) An order of the Court under this section shall be final.

22. Order of confiscation not to interfere with other punishments –

The order of any confiscation under section 17 or 18 or 19 or 20 shall not prevent the infliction of any punishment to which the person prosecuted thereby is liable, under this Act.

23. Property confiscated when to vest in the Government–

When an order for confiscation of any property has been passed under Section 17 or 18 or 19 or 20 and such order has become final in respect of the whole or any portion of such property, such property or portion thereof (or if it has been sold under subsection (3) of section 18 the sale proceeds thereof) as the case may be; shall vest in the Government free from all encumbrances.

24. Power to remove encroachment –

- (1) Notwithstanding anything contained in any other Act, any person who is found to be unauthorizedly occupying any pond land or part thereof may, without prejudice to any other action that may be taken against him under any other provisions of the Act, or any other law for the time being in force, be summarily evicted by the Gram Panchayat. Provided that no person shall be evicted under this sub-section without giving a reasonable opportunity of being heard.
- (2) Every order for eviction passed under sub-section (1) shall be in writing and shall be served on the person unauthorizedly occupying pond land by tendering or delivering

a copy thereof to such person or by sending a copy thereof by registered post or if he refuses to receive it or evades service, by pasting it on a prominent part of the property in occupation by him or by publication in a news paper having wide circulation in the area.

- (3) Any crop including trees raised in the pond land and any buildings or other construction erected thereon by the unauthorized occupant shall also, if not removed by him within thirty days of the order of eviction passed in sub section (1), be liable to forfeiture or to summary removal.
- (4) Any property forfeited under sub-section (3) shall vest in the Authority and which may dispose of it, in such manner as deemed fit and the cost of removal of any crop, trees, building or other construction and the expenditure incurred for restoring the pond to its original condition shall be recoverable from the person evicted as if it were an arrears of land revenue or in any other manner as may be prescribed.
- (5) Any person aggrieved by order of the Gram Panchayat under sub-section (1), may, within thirty days from the date of the order, appeal against such order to the District and Sessions Judge and in such manner as may be prescribed and the order passed under sub-section (1) shall, subject to the decision in such appeal be final.

25. Constitution of village level Pond Protection, pond water and treated effluent utilization Committee

- (1) For village pond and/or sewage treatment plant as prescribed, a pond protection and Pond water and STP treated effluent utilization committee under the Chairmanship of Sarpanch of the Gram Panchayat may be constituted to forward objective of the Act. This Committee may include village level workers i.e. members from Village Water and Sanitation Committee (VWSC), Asha worker, member of self-help group, Swachhta Doot, representative of farmers to be benefitted and other volunteer social worker from village as deemed fit.
- (2) District Monitoring Committee will review the achievements of village level Pond Protection, pond water and treated effluent utilization Committees. In case some funds are required to be released on the recommendation of aforesaid Committee,

the recommendation may be sent to the Authority for sanction explaining the anticipated benefits.

- (3) Village level Pond Protection, pond water and treated effluent utilization Committee functionaries will carry out Information Education and Communication (IEC) activities relating to causes of this Act for which suitable remuneration can be decided by authority in the rules under this Act.

CHAPTER – IV

PENALTIES AND PROCEDURES

26. Penalty for contravention of section 11,15 and 24

Notwithstanding anything contained in any other Act, whoever contravenes the provisions of section 11, 15 and 24 shall be liable on conviction to a fine not exceeding the amount prescribed in the rules or to imprisonment not exceeding six month or to both.

27. Penalty for causing obstruction to an officer –

Whoever, (1) obstructs any the Gram Panchayat, the District Pond Management Officer, or any person acting under the orders or directions of the Authority or the Gram Panchayat or the District Pond Management Officer from exercising his powers, discharging his function or performing his duties under this Act or the rules, or regulations made there under; or (2) damages any works or property of the Authority; or (3) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or any notice or other matter put up, inscribed or placed, by or under the directions of the Authority or the Gram Panchayat or the District Pond Management Officer; Shall be liable on conviction to

a fine not exceeding the amount prescribed in the rules or to imprisonment not exceeding three months or to both.

28. Penalty for failure to report unlawful occupation of pond–

Being an officer or servant of the Authority or the Government or any local or other authority entrusted with the responsibility of report of unlawful occupation or use of tank or maintenance and protection of pond, fails to report or to take action to remove such unlawful occupation or to maintain or protect pond shall be punished with such disciplinary penalty after departmental enquiry or with a fine as prescribed in the rules.

29. Punishment for wrongful seizure –

Any officer, who on vexation or unnecessarily seizes any property on the pretence of seizing property liable to forfeiture under this Act shall be punished with such penalty as prescribed in the relevant disciplinary rules and with fine as prescribed in the rules.

30. Penalty for contravention of certain provisions of the Act –

Whoever contravenes any other provisions of this Act or any rules or regulations made there under or fails to comply with any order or direction given under this Act, for which no penalty has been specifically provided, shall be liable on conviction to a fine not exceeding the amount prescribed in the rules.

31. Enhanced penalty after previous conviction under section 26 –

If any person, who has been convicted of any offence under section 26 is again found guilty of an offence involving a contravention of the same provision, shall on the second and on every subsequent conviction be liable to a fine not exceeding

the amount prescribed in the rules or to imprisonment not exceeding six months or to both.

32. Abetment of offence –

Whoever abets any offence punishable by or under this Act or attempts to commit any such offence shall be punished with a penalty provided by or under this Act for committing such offence.

33. Offences by Companies / residents association -

(1) Where an offence under this Act has been committed by a company / residents association, every person who, at the time the offence was committed was in charge of, and was responsible to, the conduct of the business of the Company / residents association 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 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. Explanation: For the purposes of this section:-

- a) “Company” means anybody corporate and includes a firm or other association of individuals,
- b) “Director “ in relation to a firm means a partner in the firm, in relation to the association, the Secretary or the President of the association as the case may be.

34. Offences by Government department –

Where an offence under this Act has been committed by any department of the Government or any local or other authority, immediate Officer In-charge and officials of the installation causing the offence at the site, 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 section render such Officer-in-Charge as the case may be, to be liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

35. Arrest without warrant –

(1) Any police officer or designated officer or empowered officer may without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been committed in any offence under this Act punishable with imprisonment upto six months if such person refuses to give his name and residence address or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Any person arrested under this section shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate having jurisdiction in the case within a period of twenty four hours of such arrest excluding the time necessary for journey from the place of arrest to the Court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

36. Power to release on bond a person arrested –

Any Police Officer or designated officer who has arrested any person under section 36 may release such person on his executing a bond with proper surety to appear,

if and when so required, before the Magistrate having jurisdiction in the case or before the officer in charge of the nearest Police Station.

37. Cognizance of offences –

The offence under this Act shall be cognizable.

CHAPTER - V
FUND, ACCOUNTS AND AUDIT OF THE AUTHORITY

38. Fund of the Authority-

- (1) The Authority shall have its own fund and the amount which may from time to time, be paid to it by the Government and all other receipts (by way of gifts, grant, penalties, fees, user charges or otherwise) shall be carried to the fund of the Authority and all the payments for the Authority made there from.
Pond water and treated affluent of sewage treatment plant shall be charged as per water rates charged by Irrigation Department vide notification issued from time to time for purposes of Irrigation from all canals and drains. However, the Authority may levy user charges with its own tariff structure for pond water and treated affluent of sewage treatment plant with a different tariff after approval of Government.
- (2) The Authority may spend such sum as it deems fit for performing its duties and discharging its functions under this Act. Such sum shall be treated as expenditure payable out of the fund of the Authority.
- (3) The Authority may release funds to any other Department or any other organization of Government for implementation of the scheme or program as a deposit work in such a manner as may be prescribed.
- (4) The Authority may keep in saving or deposit account with any Scheduled Bank or any Co-operative or other Bank approved by the State Government in this behalf, such sum of money out of its Fund as may be determined by the Authority and any money in excess of the said sum shall be invested in such manner as may be prescribed by rules under this Act.
- (5) Such accounts shall be operated by such officer of the Authority as may be authorized by it by regulations or rules made under this Act.

39. Accounts and Audit-

- (1) The Authority shall maintain proper accounts and other records and prepare an annual statement of accounts in such form and in such manner as may be prescribed.
- (2) The accounts of the Authority shall be audited by the State Accounts Department or such auditor appointed by the Government.
- (3) The said auditor shall have the right to demand production of books, accounts, connected vouchers and other documents and papers and to inspect any offices of the Authority.
- (4) The Authority shall send a copy of the report of the auditor together with an audited copy to the Government within nine months from the end of each financial year.
- (5) The Government shall, as soon as may be after the receipt of the audit report under sub-section (4) cause the same to be laid before the House of the State Legislature.

40. Annual report-

The Authority shall during each financial year prepare annual report in such form as may be prescribed report giving full accounts of its activities under this Act during the previous financial year and copies thereof shall be sent to the Government within four months from the last date of the previous financial year and the Government shall cause such report to be laid before the House of the State Legislature within a period of nine months from the last date of previous financial year.

41. Budget-

The Authority shall during each financial year prepare in such form and at such time as may be prescribed, a budget in respect of financial year next ensuing showing the estimated receipt and expenditure, and copy thereof shall be forwarded to the Government.

42. Borrowing power of Authority-

The Authority may, with the consent of the Government, or in accordance with the terms of any general or special authority given to it by the Government, borrow money from any source, by way of loans or issue of bonds, debentures or such other instruments as it may deem fit for the discharge of all or any of its function under this Act.

43. Mode of making contract-

District Pond Management Officer shall execute contracts and agreements on behalf of the Authority in respect of matters which he is empowered to carry out under the provisions of this Act and rules thereunder. He may execute such contracts or agreements on behalf of the Authority up to such amount as may be specified by the Government from time to time.

CHAPTER – VI

MISCELLANEOUS

44. Officers/officials of Government, Local authorities, etc, to assist-

All officers/officials of the Government, any local or other authority or water user society or Association shall render such help and assistance and furnish such information to the Authority as it may require for the discharge of its functions, and shall make available to the Authority or any other officer authorized in this behalf for inspection and examination such records, maps, plans and other documents as may be necessary for the discharge of its functions.

45. Bar of jurisdiction -

Whenever any instrument, implement, machinery, device, tool, boat, vehicle or any other-property is seized under section 16, the District Pond Management Officer under section 18 or the Chief Executive Officer under section 20 or the Court hearing appeal under section 21 shall have powers to exercise in accordance with the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or in any other law for the time being in force, any other officer, Court, Tribunal or Authority shall not have jurisdiction to make any order with regard to the custody, possession, delivery, disposal or distribution of such property.

46. Officers to be public servants-

The Chairperson, members, officers and other employees of the Authority and every other officer exercising any of the powers conferred by this Act or the rules made there under shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

47. Protection of action taken in good faith-

No suit, prosecution or any other legal proceedings shall lie against the Authority or the Chairperson or the member of the Authority or any officer or employee of the Authority or any person appointed or authorized by the Authority under this Act, in respect of anything done or omitted to be done in good faith under this Act or the rules or regulations made thereunder.

48. Suits or prosecution in respect of acts done under colour of duty-

- (1) In any case of alleged offence by the District Pond Management Officer or any other officer or employee of the Authority or of a wrong alleged to have been done by such District Pond Management Officer or any other officer or employee of the Authority by any act done under colour of duty or in excess of such duty or authority under this Act, or wherein it shall appear to the Court that the offence, if committed or done was of the aforesaid character, the prosecution or suit shall not be entertained against them except with the previous sanction of the Government.
- (2) In the case of an intended suit on account of such wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrongdoer at least three months' notice of the intended suit with sufficient description of the wrong complained of which such suit shall not be maintainable.
- (3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service and shall state whether any, and if so what tender of amends has been made by the defendant. A copy of the said notice, shall be annexed to the plaint endorsed with a declaration by the plaintiff of the time and manner of service thereof.

49. Delegation of powers-

The Authority may, by notification delegate to any officer or authority subordinate to it, any of the powers conferred on it or any officer subordinate to it under this Act to be exercised by such officer of authority subject to such restrictions and conditions, if any, as may be specified in the said notification.

50. Effect of other laws-

- (1) Subject to the provisions of sub-section (2), the provisions of this Act and the rules and regulations made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.
- (2) Nothing in this Act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act of omission, which also constitutes an offence under this Act, or from being liable under such other law to any higher punishment or penalty other than that provided in this Act or the rules made thereunder provided that no person shall be punished twice for the same offence.

51. Removal of difficulty-

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order not inconsistent with the provisions of this Act, remove difficulties.

52. Notice of suit against the Authority etc. -

- (1) No suit or other proceedings shall be commenced against the Authority, Chairperson or any member of the Authority for anything done or purporting to have been done in pursuance of this Act or the rules or regulation made there under without giving three months' notice in writing of the intended suit or other proceedings and of the cause thereof but not after six months from the accrual of the cause of such suit or other proceedings or not after tender of sufficient amends.
- (2) A suit to obtain an urgent or immediate relief against the Authority Chairperson or any member of the Authority in respect of any act done or purporting to be done by the Authority, Chairperson or such member in its or as the case may be, his official capacity may be instituted with the leave of the Court, without serving any notice as required by sub-section(1) but the Court shall not grant relief in the suit whether interim or otherwise except after giving to the Authority, Chairperson, member, as

the case may be, a reasonable opportunity of showing cause in respect of relief prayed for in the suit.

53. Transitory provisions–

- (1) Until the Authority is constituted under this Act the powers and functions conferred and assigned to the Authority under this Act may be exercised by the State Government or any other authority or officer authorized by the State Government in this behalf.
- (2) Until the rules or regulations are framed under the provisions of this Act the State Government may provide for the matters, required by this Act to be provided by rules or regulations, by issuing orders and guidelines.

54. Dissolution of the Authority–

- (1) Where the State Government is satisfied that the purpose for which the Authority was established under this Act have been substantially achieved so as to render the continued existence of the Authority in the opinion of the State Government unnecessary, it may, by notification in the Official Gazette, declare that the Authority shall be dissolved with effect from such date as may be specified in the notification; and the Authority shall be deemed to be dissolved accordingly.
- (2) From the said date -
 - (a) all assets, properties, funds and dues which are vested in, or realizable by the Authority shall vest in, or be realizable by, the State Government;
 - (b) all liabilities which are enforceable against the Authority shall be enforceable against the State Government; and
 - (c) any function which has not been fully carried out by the Authority shall be carried out by the State Government.

55. Application of other laws–

- (1) The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith in any other Haryana law for the time being in force or any judgment or decision of a court or authority to the contrary.
- (2) Any lease, license or any instrument having effect by virtue of any law or any title to land forming part of the protected area shall stand *pro-tanto* modified and shall have no effect: Provided that nothing in this Act shall deprive any tenant of contractual rights and except to that extent that such rights are not inconsistent with the provisions of this Act.

56. Saving of religious rights–

Nothing in this Act shall restrict or be construed as restricting any religious rights of any section of the society in respect of a lake having religious importance.

57. Power to make rules-

- (1) The Government may, by notification after previous publication, make rules to carry out any or all the purposes of this Act.
- (2) Rules made under this Act shall be laid down, as soon as may be, before Council of Ministers for approval.

The rules shall thereafter have effect in such modified form or of no effect after the approval.