



The Orissa Water-Supply and Sewerage Board Act, 1991

Act 12 of 1991

Keyword(s):

Cess-Pool, Communication Pipe, Connection Pipe, Consumer, Domestic Sewage, Drain, Ferrul, Orissa Public Health Engineering Organisation, Service Pipe, Sewage, Sewer, Sewerage, Stop-Cock, Trade Effluent, Water Connection, Water Supply, Water Works

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ORISSA ACT 12 OF 1991

[THE ORISSA WATER SUPPLY AND SEWERAGE BOARD
ACT, 1991]

(Secs. 1-2)

[Received the assent of the Governor on the 29th May 1991, first published in an extraordinary issue of the Orissa Gazette, dated the 4th June 1991]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A WATER SUPPLY AND SEWERAGE BOARD FOR RAPID DEVELOPMENT AND PROPER REGULATION OF WATER SUPPLY AND SEWERAGE SERVICE IN THE STATE OF ORISSA AND FOR MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH

Be it enacted by the legislature of the State of Orissa in the Forty-second Year of the Republic of India as follows :—

CHAPTER-I

1. (1) This Act may be called the Orissa Water Supply and Sewerage Board Act, 1991.

(2) It shall extend to the whole of the State of Orissa.

(3) It shall come into force on such date as the State Government may by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as reference to the coming into force of that provision.

Definitions

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

- (a) "Board" means the Orissa Water Supply and Sewerage Board established under section 3;
- (b) "bye-laws" means byelaws made under that Act;
- (c) "cess-pool" includes a settlement tank or other tank to receive or dispose of foul matters from any premises;
- (d) "Chairman" means the Chairman of the Board;
- (e) "communication pipe" means any pipe or system of pipes, along with all fittings thereto, by means of which water is supplied to any premises from the main and includes a connection pipe, service pipe, meter or other fittings;
- (f) "connection pipe" means any water pipe from a ferrule to stop-cock connecting the main of the local body or the Board, as the case may be, with the service pipe;
- (g) "consumer" means any person getting the benefit of any water supply or sewerage service from the local body or Board, as the case may be;
- (h) "domestic sewage" means waste water from residential premises, boarding and lodging houses, hostels, public places, offices and all such establishments as are not a part of any trade or industry, and arising out of personal and normal human activities such as drinking, bathing, ablution, washing and cooking;

1. For Statement of objects and reasons see Orissa Gazette Extraordinary, dated the 26th March, 1991 (No. 331).

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(Sec. 2—Contd.)

- (i) "drain" means a sewer, tunnel, pipe, ditch, gutter or channel or any cistern, flush-tank, septic tank or other device for carrying off or treating sewage, offensive matter, polluted water, sullage, waste water or sub-soil water and includes any culvert, ventilation shaft or pipe or other appliances or fittings connected with such drain and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from a place ;
- (j) "ferrul" means a ferrule connecting the connection pipe with the main ;
- (k) "local area" means the area falling within the jurisdiction of a local body ;
- (l) "local body" means a Municipality or Notified Area constituted under the Orissa Municipal Act, 1950 ;
- (m) "main" means a pipe laid by the local body or the Board, as the case may be, for the purpose of giving a general supply of water as distinct from a supply to individual consumers and includes any apparatus used in connection with such a pipe ;
- (n) "Member" means a Member of the Board and includes the Chairman and the Vice-Chairman of the Board ;
- (o) "Member Secretary" means the Member Secretary of the Board ;
- (p) "non-official Member" means a Member not being an *ex-officio* Member ;
- (q) "occupier" in relation to any premises means the following, namely:—
- (i) any person for the time being paying or liable to pay rent or any portion thereof to the owner in respect of those premises ; or
 - (ii) an owner who is in occupation of those premises ; or
 - (iii) a tenant of those premises who is exempt from payment of rent ; or
 - (iv) a licensee who is in occupation of those premises ; or
 - (v) any person, who is liable to pay damages to the owner in respect of use and occupation of those premises ;
- (r) "Orissa Public Health Engineering Organisation" means the Organisation functioning under the Housing & Urban Development Department of Orissa ;
- (s) "owner" in relation to any premises, means the person who receives the rent of the said premises or who would be entitled to receive the rent thereof if the premises were let and includes—
- (i) an agent or trustee who receives such rent on account of the owner ; or
 - (ii) an agent or trustee who receives the rent of, or is entrusted with the management of any premises devoted to religious or charitable purposes ; or
 - (iii) a receiver or manager appointed by any Court of competent Jurisdiction to have the charge of or to exercise the rights of an owner of the said premises ; or
 - (iv) a mortgagee-in-possession ;
- (t) "Premises" means any land or building or any part of building ;
- (u) "prescribed" means prescribed by rules made under this Act ;
- (v) "Private street", "public street" and "street" in relation to any local area, shall have the meanings assigned to them in the law relating to the local body having jurisdiction over that local area ;

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 (Sections 2-3)

- (w) "regulations" means regulations made under this Act ;
- (x) "rules" means rules made under this Act ;
- (y) "service pipe" means any pipe other than the connection pipe beyond the stop-cock by means of which water is supplied to any premises ;
- (z) "sewage" means night-soil and other contents of water closets, latrines, privies, urinals, cess-pools or drains and polluted water from sinks, bath rooms, stables and other like places and includes trade effluents ;
- (z-1) "sewer" means a closed conduit for carrying sewage, offensive matter, polluted water, waste water or sub-soil water ;
- (z-2) "sewerage" means system of collection of waste water from a community from its houses, institutions, industry and public places, the pumping, treatment and disposal of such waste water, effluent, sludge, gas and other end products ;
- (z-3) "stop-cock" means a stop-cock fitted at the end of the connection pipe away from the main for the purpose of switching off and regulating the water supply to any premises ;
- (z-4) "trade effluent" means any liquid either with or without particles of matter in suspension therein which is wholly or in part produced or discharged in the course of any trade or industry, including agriculture and horticulture, but it does not include domestic sewage ;
- (z-5) "water connection" includes,—
- (i) any tank, cistern, hydrant, stand-pipe, meter or tap situated on any private property and connected with a main or other pipe belonging to the local body or the board, as the case may be ; and
 - (ii) the water pipe connecting such a tank, cistern, hydrant, stand-pipe, meter or tap with such main or pipe ;
- (z-6) "water supply" means a system of providing water to a community for meeting its requirement for drinking and other domestic uses, industrial use, recreation and various public uses ;
- (z-7) "water works" includes water channel (including stream, lake, spring, river, canal, well, other underground water source, pump, galleries, reservoir, cistern, tank), duct whether covered or open, treatment units, sluice, supply main, culvert, engine, water truck, hydrants, stand-pipe, conduit and machinery, land, building or other things for supplying or used for supplying water or for protecting sources of water supply or for treatment of water.

CHAPTER II

ESTABLISHMENT, CONDUCT OF BUSINESS, DUTIES AND POWERS OF THE BOARD

Establishment of the Board.

3. (1) As soon as may be after the commencement of this Act, the State Government shall, by notification in the Official Gazette, with effect from a date to be specified therein, establish for the purposes of this Act, a Board to be called "the Orissa Water Supply and Sewerage Board".

(2) The Board shall be a body corporate having perpetual succession and a common seal, and may sue or be sued in its corporate name and shall subject to the provisions of this Act, be competent to acquire, hold and dispose of property, both movable and immovable, and to contract and do all things necessary for the purposes of this Act.

(3) The Board shall be deemed to be a Local Authority.

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(Secs. 4-5)

Constitution
of the Board.

4. (1) The Board shall consist of the Chairman, the Vice-Chairman and the following members, namely:—

- (a) Minister, Housing & Urban Development shall be the Chairman;
- (b) The Vice-Chairman of the Board to be appointed by Government;
- (c) Additional Secretary, Finance-cum-Director, Institutional Finance, *ex officio* member;
- (d) Director of Municipal Administration, *ex officio* member;
- (e) Three Chairmen of the Municipalities of three Revenue Divisions in the State to be nominated by the State Government as *ex-officio* members;
- (f) Two non-official members to be nominated by the State Government;
- (g) Two technical members to be nominated by the State Government, who in the opinion of the State Government have special knowledge or practical experience in the field of water supply or sewerage; and
- (h) A person in the rank of Chief Engineer of Public Health Engineering to be appointed by the State Government—Member Secretary.

(2) Notwithstanding anything contained in this Act, all the powers, duties and functions of the Board shall at any time be exercisable, performed and discharged by the members, who are for the time being holding offices specified in clauses (a), (b) and (h) of sub-section (1), even though all or any other members may or may not have been appointed for the time being.

(3) The names of persons appointed as Vice-Chairman and Members shall, from time to time, be published in the Official Gazette.

Disqualifi-
cation for
being non-
official
Member.

5. A person shall be disqualified for being nominated or continuing as a non-official members, if he—

- (a) has been convicted of an offence involving moral turpitude;
- (b) is an undischarged insolvent;
- (c) is of unsound mind and stands so declared by a competent Court;
- (d) holds, except as provided under sections 6 and 8, any office of profit under the Board;
- (e) has, directly or indirectly by himself or by any partner, employer or employee, any share or interest, whether pecuniary or of any other nature in any contract or employment with by or on behalf of the Board; or
- (f) is a Director, Secretary, Manager or other officer of any company, which has any share or interest in any contract or employment with by or on behalf of the Board.

Provided that, a person shall not be disqualified under clause (e) or clause (f) by reason only of his or the company of which he is a Director, Secretary, Manager or other Officer, having share or interest in—

- (i) any sale, purchase, lease or exchange of immovable property or any agreement for the same;
- (ii) any agreement for loan of money or any security for payment of money only;
- (iii) any newspaper in which any advertisement relating to the affairs of the Board is published;
- (iv) the occasional sale to the Board, up to a value not exceeding ten thousand rupees in any year of any article in which he or the company regularly trades.

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(Secs. 6—9).

Term of
office of
Members.

6. (1) A person appointed as Vice-Chairman under clause (b) or nominated as member under clauses (f) or (g) of sub-section (1) of section 4 shall hold office for three years from the date of his appointment, unless his term of office is determined earlier by the State Government.

(2) A person appointed as Member under clause (e) of sub-section (1) of section 4 shall hold office for three years from the date of his appointment:

Provided that he shall cease to be Member as soon as he ceases to be an elected Member of the local authority concerned or if his term of office is determined earlier by the State Government, by notification in the Official Gazette.

(3) The Member-Secretary shall hold office for such period as the State Government may by order specify.

(4) The Members shall be eligible for re-appointment.

(5) Any Member may at any time resign his office by writing under his hand addressed to the State Government and on such resignation being accepted, he shall be deemed to have vacated his office.

Temporary
absence of
Members.

7. (1) In the absence of the Chairman, the Vice-Chairman shall be competent to carry out the duties and functions of the Chairman.

(2) Any vacancy in the office of the Vice-Chairman or of a member due to death, resignation, removal or otherwise shall be filled up by the State Government, by appointment of a person thereto who shall hold office for the unexpired period of the term of the Member in whose place he is so appointed.

(3) If the Vice-Chairman or any other Member of the Board is by reason of illness or otherwise rendered temporarily incapable of carrying out his duties or is granted leave of absence by the State Government, or is otherwise unable to attend to his duties, in circumstances not involving the cessation of his membership, the State Government may appoint another person to act for him as the Vice-Chairman or other Member, as the case may be, to carry out his duties and functions by or under this Act:

Provided that such person shall vacate office on the date when the Vice-Chairman or other Member, as the case may be, resumes his duties.

Other
provisions
regarding
members.

8. (1) The Member-Secretary, if not in Government employment, shall be paid from the Board Fund such salary and allowances as may be fixed by the State Government.

(2) The other Members of the Board shall be paid such allowances as may be fixed by the State Government.

Officers and
servants of
the Board
and their
recruitment
and con-
ditions of
service.

9. (1) The Board may appoint such officers and employees as it considers necessary for the efficient performance of its duties and discharge of its functions against posts sanctioned by the State Government.

(2) The salary, recruitment and the conditions of service of the officers and servants of the Board shall be such as may be determined by regulations by the Board.

(3) The Board may with the previous approval of the State Government, appoint a servant of the Central Government or the State Government as an employee of the Board on such terms and conditions as it thinks fit.

(4) Subject to the superintendence of the Board, the Member-Secretary shall be the Chief Executive Officer of the Board and shall supervise and control all its officers and employees including any officers of Government appointed on deputation to the Board.

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[Secs. 10-15]

Authentica-
tion of
orders of
the Board.

10. All proceedings of the Board shall be authenticated by the signature of the Chairman or of the Vice-Chairman or of any Member authorised by the Chairman and all other orders and instruments of the Board shall be authenticated by the signature of the Member-Secretary or of any other officer of the Board as may be authorised in this behalf by regulations.

Assistance
of Govern-
ment officers
etc.

11. The Board may invite any officer of Government or local body or other person to attend its meeting for the purpose of assisting or advising it on any matter and the person so invited may take part in the proceedings of the Board, but shall have no right to vote, in such meeting.

Delegation
of powers.

12. Subject to the provisions of this Act, the Board may by general or special order, delegate either unconditional or subject to such conditions, including the condition of review by itself, as may be specified in the order, to any committee appointed by it or to the Chairman or the Member-Secretary or any other officer of the Board such of its powers, duties and functions under this Act as it deems fit, not being its powers, duties and functions under sections 35, 67 and 68:

Disqualifi-
cation for
participation
in proceed-
ings of the
Board or
Committee
on Account
of interest.

13. (1) Any Member of the Board or of a Committee appointed by the Board, who—

(a) has any share or interest of the nature, described in clause (e) or clause (f) of section 5 in respect of any matter, or

(b) has acted professionally, in relation to any matter on behalf of any person having therein any such share or interest as aforesaid, notwithstanding anything contained in the proviso to section 5, shall not vote or take part in any proceedings (including any discussion on any resolution or question) of the Board or Committee thereof relating to such matter.

(2) If any Member of the Board or of a Committee appointed by the Board has directly or indirectly any interest in any area in which it is proposed to acquire land for any of the purposes of this Act, he shall not take part in any meeting of the Board or Committee thereof in which any matter relating to such land is concerned.

(3) Nothing in sub-section (1) or (2) shall prevent any Member of the Board or a Committee thereof from voting on, or taking part in the discussion of any resolution or question relating to any subject other than a subject referred to in these sub-sections.

Actions not
to be invali-
dated.

14. No act or proceedings of the Board or a Committee appointed by the Board shall be invalidated merely on the ground of—

(a) any vacancy of a member or any defect in the constitution or reconsti-
tution of the Board or a Committee thereof; or

(b) any defect or irregularity in the appointment of a person as a Member of
the Board or of a Committee thereof; or

(c) any defect or irregularity in such act or proceedings, not affecting the
substance.

Duties and
functions of
the Board.

15. The duties and functions of the Board shall be as follows, namely:—

(a) to render all necessary services in regard to water-supply, sewerage and
sanitation to the State Government and Local Bodies, and on request to
private institutions or individuals;

(b) to prepare draft State Plans for water-supply, sewerage and drainage on
the directions of the State Government;

(c) to review and advise on the tariff, taxes, fees and charges of water-supply
and sewerage operating in the areas under the jurisdiction of the Board;

(d) to assess the requirements of materials and arrange for their procurement
and utilisation;

(e) to establish State standards for water-supply and sewerage services;

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- (f) to review annually the technical, financial, economic and other aspects of water-supply and sewerage ;
- (g) to establish and maintain a facility to review and appraise the technical, financial, economical and other pertinent aspects of every water-supply and sewerage scheme in the State ;
- (h) to execute, operate, run and maintain any water works and sewerage system when directed by Government as per the provisions contained in this Act ;
- (i) to assess the requirements for man power and training in relation to water supply, and sewerage services in the State ;
- (j) to carry out applied research in relation to water supply and sewerage services in the State ;
- (k) to perform such of the duties and functions, which are being performed by the Public Health Engineering Organisation as may be specified from time to time by the State Government ;
- (l) to perform and discharge such other duties and functions as are allotted to the Board under other provisions of this Act or as may be entrusted to it by the State Government.

Powers of
the Board.

16. (1) The Board shall, subject to the provisions of this Act, have power to do anything which may be necessary or expedient for performing its duties and discharging its functions under this Act.

(2) Without prejudice to the generality of the foregoing provisions, such power shall include the power —

- (a) to inspect all water-supply and sewerage facilities in the State by whomsoever they are operated ;
- (b) to obtain such periodic or specific information from any Local Body and operating agency as the Board may deem necessary ;
- (c) to provide training for its own personnel as well as for employees of the Local Bodies ;
- (d) to prepare schemes for water-supply and sewerage ;
- (e) to lay down the schedule of fees and other charges for all kinds of services rendered by the Board to the State Government, Local Bodies, institutions or individuals ;
- (f) to enter into contract or agreement with any person or persons as the Board may deem necessary, for performing its duties and discharging its functions under this Act ;
- (g) to prepare its own budget annually ;
- (h) to approve tariffs for water-supply and sewerage services applicable to respective local areas comprised within the jurisdiction of the Board and such other Local Bodies as have entered into an agreement with the Board for such purpose ;
- (i) to take such other measures as may be necessary, to ensure water-supply at the time of emergency ;
- (j) to abstract water from any natural source and dispose of waste water ;
- (k) to raise, borrow or secure money on such terms and conditions as may be authorised by the State Government from public institutions like the Life Insurance Corporation of India, HUDCO, National and International Financial Agencies, Banks and from the State and Central Government for drinking water-supply and sewerage schemes or any other schemes for improvement of sanitation ;

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- (l) to receive grants from the State Government, the Central Government and the Local Bodies for water-supply and sewerage or any other sanitation improvement schemes ;
- (m) to repay instalments of loans and pay interest on the principal thereof to the public institutions as per mutually agreed terms and conditions ;
- (n) to advance loans to the Local Bodies for their water-supply and sewerage schemes on such terms and conditions as may be specified by the Board ;
- (o) to incur such expenditure as the Board may deem necessary for performing its duties and functions under this Act ;
- (p) to exercise such other powers as are conferred on the Board under other provisions of this Act ;
- (q) to recover from the Local Bodies principal and interest thereon in respect of loans advanced to them by the Board.

Powers of the Board to give directions and call for returns and reports etc.

17. (1) Notwithstanding anything contained in any other law for the time being in force, the Board may give such directions to any Local Body, with regard to the implementation of any water-supply or sewerage scheme financed by it, as it thinks fit.

(2) In case any Local Body is aggrieved by any such directions or experiences any difficulty in complying with the same, it shall refer the matter to the State Government whose decision thereon shall be final.

(3) The Board shall have power to call for any return, statement of accounts, report statistics or other information from any local body or other body or individual, which is required by the board for the exercise of its powers and performance and discharge of its duties and functions under this Act, and such body or individual shall be bound to furnish such information.

Supervision and centage charges.

18. The Board may include in the cost of any scheme or work the execution, or further execution where is undertaken, supervision and centage charges as such rate, not exceeding such limit as may be prescribed, as it may determine.

CHAPTER III

VESTING OF PROPERTY, ASSETS, LIABILITIES AND OBLIGATIONS AND TRANSFER OF PROPERTY

Vesting and transfer of property to the Board.

19. (1) From such date as may be specified from time to time, by the State Government (hereinafter in this section referred to as "the appointed date")—

- (a) The properties and assets (including water works, buildings, laboratories stores, vehicles, furnitures and other furnishing), which immediately before the appointed date, were vested in the State Government for the purpose of the Orissa Public Health Engineering Service shall vest in and stand transferred to the Board ; and
- (b) the rights, liabilities and obligations of the State Government, whether arising out of any contract or otherwise pertaining to the said Service shall be the rights, liabilities and obligations of the Board from the appointed date.

(2) Such properties, assets, rights liabilities and obligations shall be valued in such manner as the State Government may determine.

(3) All suits and other legal proceedings with respect to the matters referred to above instituted or to be instituted or defended by or against the State Government before the appointed date may be continued, or instituted or defended by or against the Board.

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(Secs. 20—22)

Decision of the State Government on the vesting of property to be final.

20. Where any doubt or dispute arises as to whether any property or asset has vested in the Board under section 19 or any rights, liabilities or obligation have become the rights liabilities and obligations of the Board under this section such doubt or dispute shall be referred to the State Government, whose decision shall be final.

Vesting of existing water-supply and sewerage services in the Board.

21. (1) Notwithstanding anything contained in any law for the time being in force, the Board, may at any time with the previous approval of the State Government take over any water-supply and sewerage services for maintenance or augmentation or improvement from any local body and in such cases :—

- (a) all the existing water supply and sewerage services, sewerage works and sewage farm, including, all plants, machineries, water works, pumping stations, filter beds water mains and public sewer in along over or under any public street and all buildings lands and other work materials, store, and things appertaining thereto, belonging to or vested in that local body ;
- (b) so much of the sub-soil appertaining to the said water mains and sewers as may be necessary for the purpose of enlarging, deepening or otherwise repairing or maintaining, any such water mains and swers or any pipes and other appliances and fittings connected with such water-supply and sewerage services and sewage works and sewage farms; and
- (c) all rights, liabilities and obligations of such local body relating to the things mentioned in clauses (a) and (b) including the right to recover arrears of water tax and sewerage tax, by whatever name called, and of any cost or fees or charges relating to water supply and sewerage services and also including liabilities arising from any loans advanced by Government or any other persons to the said local body for the things aforesaid, other than loans diverted to or utilised for purposes other than those referred to in clauses (a) and (b)

shall, on such date as may be specified by the Board stand transferred to and vested in the Board and be subject to its control.

(2) Such properties, assets, rights, liabilities and obligations shall be valued in such manner as the State Government may determine.

(3) Where any doubt or dispute arises as to whether any property or assets has vested in the Board under sub-section (1) or any rights, liabilities or obligations have become the rights, liabilities or obligations of the Board under this section, such doubt and dispute shall be referred to the State Government, whose decision shall be final and binding on the Board and the local body concerned.

(4) For taking over any properties or assets of the local body, the Board shall pay to that body such amount as may be mutually agreed upon and in the absence of any such agreement, the State Government shall determine the amount to be paid to the local body on the basis of the valuation made under sub-section (2) and after taking into consideration the statutory duty of the local body to provide water-supply and sewerage services, the grants received by the local body from time to time, the outstanding loan liabilities of the local body and such other relevant factors. The decision of the State Government shall be final and binding on both parties.

Board to assume obligations in respect of matters to which this Act applies for water works taken over from local bodies.

22. In respect of water works taken over from a local body by the Board, all debts and obligations incurred, all contracts entered into, all matters and things engaged to be done by/with or for any local body prior to taking over the water works by the Board shall be deemed to have been incurred, entered into or engaged to be done by/with or for the Board; and all suits or other legal proceedings instituted or which might, but for transfer and vesting under sub-section (1) of section 21, have been instituted or defended by or against the local body, may be continued or instituted or defended by or against the Board.

THE ORISSA WATER SUPPLY AND SEWERAGE BOARD ACT, 1991

[ORISSA ACT 12 OF 1951]

(Secs. 23—32)

Coordination of activities of the Board and other local bodies. 23. (1) If the State Government is of opinion that it is in the public interest that the Board and other local bodies having jurisdiction over contiguous areas should co-ordinate their activities in relation to water supply services or a sewerage services or both it may issue such directions to the Board and local bodies concerned as it may think fit.

(2) It shall be the duty of the Board and other local bodies to comply with such direction.

Powers of State Government to depute certain Government employees to the Board. 24. (1) Where on account of conferment of any powers, duties and functions of the Board by or under this Act, in the opinion of the State Government, the services of any officers and servants of the Government are required by the Board for efficient exercise of its powers, performance of its duties or discharges of its functions, the State Government, the Head of the Department of the State Government may, from time to time having regard to the necessity therefor, by order depute such officers and servants to the Board, and the Board shall take them over and employ them on deputation, subject to the provisions of this section.

CHAPTER IV

CONTRACT, FINANCE, ACCOUNT AND AUDIT

Execution of contracts etc. 25. Every contract or assurance of property on behalf of the Board shall be in writing and executed by such authority or officer and in such manner as may be provided by regulations.

Board Fund. 26. The Board shall have its own fund to be called "the Board Fund", which shall be deemed to be a local fund and to which shall be credited all money received by or on behalf of the Board, otherwise than by way of loans.

Other Funds of the Board. 27. (1) The Board shall also have another fund to be called "the Loan Fund", which shall also be deemed to be a local fund and to which shall be credited all moneys received by or on behalf of the Board by way of loans from the financial institutions like HUDCO, L. I. C., National and International funding agencies including World Bank.

(2) Without prejudice to the provisions of section 26 or sub-section (1) of this section the Board may, with the previous approval of the State Government, constitute such other funds as may be necessary for the efficient performance of duties and to discharge its functions under this Act.

General Principles for the Board's Finance. 28. The Board shall not, as far as practicable and after taking credit for any grant or subvention from the State Government carry on its operation under this Act

Grants and subventions to the Board. 29. The State Government may, under appropriation duly made in this behalf, from time to time, make grants and subventions to the Board for the purposes of this Act, on such terms and conditions as the State Government may determine.

Loans to the Board. 30. The State Government may, from time to time, advance loans to the Board on such terms and conditions, not inconsistent with the provisions of this Act, as the State Government and the Board may mutually agree.

Initial contribution of Government to the Board Fund. 31. Under appropriation duly made in this behalf, the State Government may make an initial contribution to the Board Fund.

Power to borrow and re-lend. 32. (1) The Board may, from time to time, with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as the State Government may, by general or special order, impose, borrow any money required for the purposes of this Act by making arrangements with the Banks or other Bodies or Institutions of the State Government made for this purpose.

(2) The Board may advance any part of such borrowings to any local body for the performance of its duties and discharge of its functions relating to water-supply and sewerage services on such terms and conditions as the Board may determine.

THE ORISSA WATER SUPPLY AND SEWERAGE BOARD ACT, 1991

[ORISSA ACT 12 OF 1991]

(Secs. 33—38)

Depreciation reserve. 33. The Board shall create a depreciation reserve and make annual provision therefor in accordance with such principles as may be prescribed.

Government as Guarantor. 34. The State Government may guarantee the repayment of any loan and payment of interest on all or any of the loans given or transferred to the Board for the purposes of this Act.

Accounts and Audit. 35. (1) The Board shall, before the commencement of, and may at any time during a financial year, prepare a statement or a supplementary statement, as the case may be, of the programme of its activities during that year as well as a financial estimate in respect thereof and the same shall be submitted to the State Government in such form and by such dates as the State Government may, by general or special order direct, for the previous approval of the State Government:

Provided that in the event of such previous approval not being received before the commencement of the financial year for which such financial statement has been submitted, the Board shall be entitled to expend on all accounts up to an amount not exceeding the amount approved for the corresponding period of the previous financial year and such amount shall not include any sum spent out of the grants on subventions during the said period.

(2) The Board shall to be maintained such proper books of account and other books in relation to its accounts and prepare the balance sheet in such form and manner as to regulations may require.

(3) The accounts of the Board shall be audited by such Auditor, in such manner and at such times, as the State Government may by general or special order direct. The Auditor so appointed shall have such powers of requiring the production of documents and the furnishing of information respecting such matters, and shall have such powers in respect of disallowance and surcharge as may be prescribed.

(4) The accounts of the Board as certified by the Auditor together with the audit report thereon shall be forwarded annually to the State Government who may issue such directions to the Board as it may deem fit and the Board shall comply with such directions.

(5) The State Government shall cause the accounts of the Board to be published in such manner as it thinks fit.

CHAPTER V

FEES AND CHARGES

Cost of water. 36. (1) The Board shall, by notification in the Official Gazette, fix the cost of water to be supplied according to volume and also the minimum cost to be charged in respect of each connection in consultation with the State Government.

(2) The Board may, in lieu of charging the cost of water according to volume, accept from any consumer a fixed sum for a specified period on the basis of expected consumption of water during that period.

Cost of disposal of waste water. 37. (1) The Board shall, by notification in the Official Gazette, fix the cost of disposal of waste water according to its volume (which may be at such percentage of the volume of total water supplied to the consumer as may be prescribed) and also the minimum cost to be charged in respect of such disposal.

(2) The Board may, in lieu of charging the cost of disposal of waste water according to the basis stated in sub-section (1), accept from any consumer a fixed sum for a specified period on the basis of expected disposal of water during that period.

Meter rent and fees for services. 38. (1) The Board may provide water meters and charges such rent for the meter as may be provided in the bye-laws.

THE ORISSA WATER SUPPLY AND SEWERAGE BOARD ACT, 1991

[ORISSA ACT 12 OF 1991]

(Secs. 38—44)

(2) The Board may charge fees for connection, disconnection, reconnection of any water supply or sewer or testing or supervision or for any other service rendered or work executed or supervised at such rates as may be provided by the bye-laws.

Deposits. 39. The Board may by bye-laws provide for requiring any consumers or class of consumers to deposit such sums as may be specified therein as security for prompt payment of its dues and due performance of the conditions subject to which services are rendered to them. It shall be lawful for the Board to recover its lawful dues from the amount so deposited.

Recovery of sums due to the Board. 40. Any sum due to the Board on account of cost of water, cost of disposal of waste water, metre rent, fees, charges or otherwise under this Act, shall, without prejudice to any other mode of recovery, be recoverable as arrears of land revenue.

CHAPTER VI

WATER SUPPLY

Definition of supply of water for domestic purpose. 41. The supply of water for domestic purposes under this Act shall mean supply for any purposes, except the following, namely:—

- (a) for any trade, manufacture or business;
- (b) for gardens exclusively or for purposes of irrigation;
- (c) for construction of buildings including construction of streets;
- (d) for fountains, swimming baths, public baths or tanks or for any ornamental or mechanical purpose;
- (e) for animals, where they are kept for sale or hire or for the sale of their produce;
- (f) for the consumption and use at a restaurant or by inmates of a hotel, boarding house or residential club;
- (g) for consumption and use by persons resorting to theatres and cinemas;
- (h) for watering streets; or
- (i) for washing vehicles where they are kept for sale or hire.

Water supply for domestic purpose not to be used for non-domestic purposes. 42. No person shall, except in such circumstances or subject to such conditions as may be provided by the bye-laws, use or allow to be used water supplied by the Board for domestic purposes for any other purpose.

Licensed plumbers. 43. (1) No person, other than a plumber licensed by the Board, shall execute any work in respect of a water connection not being work of trivial nature and no person shall permit any such work to be executed by a person other than a licensed plumber.

(2) When any work is executed in contravention of the provisions of subsection (1) such work shall be liable to be dismantled at the discretions of the Board.

Prohibition of wastage of water. 44. (1) No owner or occupier of any premises to which water is supplied by the Board shall intentionally cause or suffer any water to be wasted, or cause or suffer the service pipe or any tap or other fitting or work connected therewith to remain out of repair so as to cause wastage of water.

(2) Whenever, the Board has reason to believe that as a result of defect in a service pipe or tap or other fittings or work connected therewith water is being wasted, the Board may by written notice require the consumer to repair and make good the defect within such time as may be specified.

THE ORISSA WATER SUPPLY AND SEWERAGE BOARD ACT, 1991

[ORISSA ACT 12 OF 1991]

(Secs. 44—46)

(3) If such repair is not carried out within the period specified, the Board may, without prejudice to any action against the consumer under any other provision of this Act, cause such repair to be made. The cost of such repairs shall be realised from the consumer.

Power to cut
off water
supply.

45. (1) The Board may cut off the water supply under its control from any premises:—

- (a) if any fee, rental, cost of water or any charge or other sum due under this Act, is not paid within a period of fifteen days from the receipt of the bill for the same and after furnishing one month notice from expiry of the said period; or
- (b) if after the receipt of a written notice from the Board requiring him to refrain from so doing, the consumer continues to use the water or to permit the same to be used in contravention of the provisions of this Act or any rules or regulations or bye-laws; or
- (c) if the consumer damages or causes to be damaged the water meter or any connection pipe or ferrule; or
- (d) if the consumer refuses to admit any officer or servant of the Board duly authorised in this behalf into the premises which he proposes to enter during the day time for the purposes of executing any work or placing or removing any apparatus or of making any examination or inquiry in connection with the water supply or prevents any such officer or servant from executing any work or placing or removing any apparatus or making such examination or enquiry; or
- (e) if the service pipe or any tap or other fitting or work connected therewith is found on examination by an officer or servant of the Board duly authorised in this behalf to be out of repair to such an extent as to cause wastage or contamination of water and immediate prevention thereof is necessary; or
- (f) if the consumer causes or allows to be caused the service pipe or any tap or other fitting or work connected therewith to be placed, removed, repaired or otherwise interfered with, in contravention of the provisions of this Act or of the rules or regulations or the bye-laws; or
- (g) if by reasons of leakage in the service pipe or any tap or other fitting or work damage is caused to a public street and immediate prevention thereof is necessary.

(2) No action taken under or in pursuance of this section shall relieve a person from any penalty or liability which he may otherwise have incurred under this Act.

(3) The Board may reconnect the supply of water disconnected under sub-section (1) on payment of such charges.

Prohibition
of certain
other acts.

46. (1) No person shall—

- (a) wilfully obstruct any person acting under the authority of the Board in setting out the lines of any work or pull up or remove any pillar, post or stay fixed in the ground for the purpose of setting out the lines of such works, or deface or destroy any works made for the said purpose; or
- (b) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe, meter or other work or apparatus belonging to the Board; or
- (c) unlawfully obstruct the flow of or flush, draw off, or divert, or take water from any water works belonging to the Board or any water course by which any such water is supplied; or

THE ORISSA WATER SUPPLY AND SEWERAGE BOARD ACT, 1991

[ORISSA ACT 12 OF 1991]

(Secs. 46—53)

- (d) obstruct any officer or servant of the Board in the performance and discharge of his duties and functions under this Chapter or refuse or wilfully neglect to furnish him with means necessary for the making of any entry, inspection examination or inquiry thereunder in relation to any water works ; or
- (e) bathe in, at or upon any water works, or wash or throw or cause to enter therein any animal or throw any rubbish, dirt or filth into any water works, or wash or clean therein any cloth, wool or leather or the skin of any animal, or cause water of any sink or drain or any steam engine or boiler or any other polluted water to turn or be brought into any water works, or do any other act whereby the water in any water works belonging to the Board is fouled or likely to be fouled.
- (2) Nothing in clause (b) of sub-section (1) shall apply to a consumer closing the stop-cock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer whose supply be affected thereby.

CHAPTER VII

Sewerage

Right of owner or occupier to obtain sewer connection.

47. The owner or occupier of any premises shall be entitled to empty sewage of the premises into a sewer of the Board, provided that, before doing so, he :—

- (a) obtains written permission of the Board and pays connection fee and other charges in accordance with the bye-laws ; and
- (b) complies with such other conditions as may be provided in the bye-laws.

Power to require owner to have sewer connection.

48. Where any premises are in the opinion of Board, without sufficient means of effectual disposal of sewage and the sewer of the Board is situated at a distance of fifty metres from any part of the premises, the Board may, by written notice require the owner of the said premises to have sewer connection as provided in by-laws.

Prohibition of connection with sewer without permission.

49. No person shall, without the permission of the Board make or cause to be made any connection or communication with any sewer of the Board.

Prohibition of construction of private street or building without permission.

50. No person shall, without the permission of the Board, construct any private street, building or other structure on any sewer of the Board.

Power to affix shaft etc. for ventilation of sewer or cess-pool.

51. The Board may, for the purpose of ventilating any sewer or cess-pool, whether vested in the Board or not, erect upon any premises or affix to the outside of any building or to any tree any shaft or pipes as may appear to it to be necessary.

Power to examine and test sewer etc. believed to be defective.

52. (1) Where it appears to the Board that there are reasonable grounds for believing that a private sewer or cess-pool is in such condition as to be prejudicial to public health or to be a nuisance or that a private sewer communicating directly or indirectly with a sewer of the Board is so defective as to admit sub-soil water or grit or other materials the Board may examine its condition and for that purpose may apply any test, not being a test by water under pressure and if it deems it necessary, open the ground.

(2) If on examination the sewer or cess-pool is found to be in improper condition the Board shall, as soon as possible, reinstate any ground which has been opened by it pay compensation for the damage caused by it.

Prohibition of certain other Act.

53. No person shall—

- (a) willfully obstruct any person acting under the authority of the Board under this Chapter in setting out of the line of any works or pull up or remove any pillar, post or stay fixed in the ground for the purposes of setting out lines of such work or defence or destroy any works made for the said purposes; or

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[ORISSA ACT 12 OF 1991]

(Secs. 53—56)

- (b) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, valve, pipe or other works or apparatus belonging to the Board and pertaining to its duties and functions under this Chapter; or
- (c) unlawfully obstruct the flow of, or flush, draw off or divert or take sewage from any works belonging to the Board; or
- (d) obstruct any officer or servant of the Board in discharge of his duties under this Chapter or refuse or wilfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination thereunder in relation to any sewage work.

Powers of entry, survey, etc. 54. (1) Any officer or servant of the Board authorised by it in that behalf, may, with or without assistants or workmen, enter into any premises in order—

- (a) to make any inspection, survey, measurement, valuation or inquiry;
- (b) to take levels;
- (c) to dig or bore into the sub-soil;
- (d) to set out the boundaries and the intended lines of work;
- (e) to mark such levels, boundaries and lines by placing marks and cutting trenches; or
- (f) to do any other things necessary for the purposes of this Act or any rules or regulations or bye-laws:

Provided that in exercising the powers under this sub-section due regard shall be paid by such Officers or servants of the Board concerned to the social and religious customs of the occupants of the premises.

(2) When any person is entitled to enter into or upon any premises in exercise of the powers under sub-section (1), he may also enter in similar manner into or, upon any adjoining premises for any work authorised by or under this Act or for obtaining access to such work for any other purpose connected with the execution of the same.

(3) It shall be lawful for any authorised Officer or servant to make an entry into any place to open or cause to be opened any door, gate or other barrier:—

- (a) if he considers the opening thereof necessary for the purpose of such entry; and
- (b) if the owner or occupier is absent or being present refuse to open such door, gate or barrier.

Powers to disinfect tanks, pools and wells.

55. Any Officer or servant authorised by the Board in that behalf may have any tank, pool or well, or disinfected after notice to the owner or occupier, if any, when it appears that such cleaning or disinfection will prevent or check to spread of any dangerous disease. The cost of cleaning or disinfection shall be recoverable by the Board from the owner or occupier of such tank, pool or well.

CHAPTER VIII

Penalties and Procedure

General Penalty.

56. Whoever contravenes the provisions of this Act or of the rule or bye-law or fails to comply with any order issued under this Act or the rule or bye-law, shall on conviction, be punished with fine which may extend to one thousand rupees, and with further fine which may extend to fifty rupee for every day on which such contravention or failure continues after the first conviction.

THE ORISSA WATER SUPPLY AND SEWERAGE BOARD ACT, 1991

[ORISSA ACT 12 OF 1991]

(Secs. 57—62)

Cognizance
of offence.

57. No court shall take cognizance of any offence under this Act, except on the written complaint or the Board made within six months from the commission of the offence.

Offences by
Companies.

58. (1) Where an offence under this Act has been committed by a company every person who at the time the offence was committed was responsible to the company for the conduct of its business 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 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 neglect on the part of any Director, Manager, Secretary or other Officer of the Company, such Director, Manager, Secretary or other Officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section—

(a) 'company' means anybody corporate and includes a firm or other association of individuals; and

(b) 'Director' in relation to a firm means a partner in the firm.

Power to
arrest person
committing
an offence
and refusing
to give name
and address.

59. It shall be lawful for any officer of the Board authorised by it in this behalf to arrest and hand over to the officer incharge of the nearest Police Station any person who commits or is suspected to have committed an offence punishable under section 56 and who on demand refuses to give his true name and address or where there is reason to believe that the name and address given by him is not correct.

Compoundi-
ng of
offences.

60. (1) The Member-Secretary or any other officer of the Board authorised by it by general or special order in that behalf may, either before or after the institution of proceedings for any offence punishable under this Act, accept from any person charged with such offence by way of composition of the offence a sum of not exceeding two thousand rupees, as he thinks proper.

(2) On payment of such sum, no further proceedings shall be taken against the said persons in respect of the same offence and the persons if in custody, shall be released.

CHAPTER IX

External Control

Directions
to the Board
on questions
of policy.

61. (1) In the performance of its duties and discharge of its functions the Board shall be guided by such direction on questions of policy as may be given to it, from time to time, by the State Government.

(2) If any question arises whether any matter is or is not a matter as respect which the State Government may issue a direction under sub-section (1) the decision of the State Government shall be final.

Annual
report
statistics,
returns and
other infor-
mation by
the Board.

62. (1) The Board shall as soon as may be after the end of each financial year, prepare and submit to the State Government before such date and in such form as the State Government may direct, a report giving an account of its activities during the previous financial year including an account of the activities, if any, which are likely to be undertaken by the Board in the next financial year and the State Government shall cause every such report to be laid before the State Legislature as soon as may be after it is received by the State Government.

THE ORISSA WATER SUPPLY AND SEWERAGE BOARD ACT, 1991

[Orissa Act 12 of 1991]

(Secs. 62—67)

(2) The Board shall also furnish to the State Government at such times and in such forms and manner as the State Government may direct such statistics and returns and such particulars in regard to any proposed or existing activities of the Board or any other matter under the control of the Board as the State Government may, from time to time require.

CHAPTER X

Miscellaneous

Duty of local
bodies to
assist.

63. (1) All local bodies shall render such help and assistance and furnish such information to the Board and shall make available for the inspection and examination of (and if necessary, preparation of copies from) such records, maps, plans and other documents as the Board may require to perform and discharge its duties and functions under this Act.

(2) Without prejudice to the provisions of sub-section (1) every local body shall on demand make available to the Board on payment of reasonable fees certified copies or extracts from assessment lists and other relevant documents in connection with assessment of annual value of premises and levy of taxes, fees and charges.

(3) Without prejudice to other provisions of this Act and notwithstanding anything contained in any other law for the time being in force under which any local body is constituted, the State Government may give to any local body such directions as in its opinion may be necessary or expedient for enabling the Board to perform its duties and discharge its functions under this Act, and thereupon it shall be the duty of the local body to comply with such directions.

General
power to pay
compensation.

64. In any case not otherwise expressly provided for in this Act, the Board may pay reasonable amount as compensation to any person who sustains damage by reason of the exercise of any power vested by or under this Act in the Board.

Protection
for acts done
in good
faith.

65. No suit, prosecution or other legal proceedings shall lie against the State Government, the Board or the Members or any Officer or servant of the State Government or of the Board for anything which is in good faith done or purported or intended to be done in pursuance of this Act or any rules, regulations or bye-laws.

CHAPTER XI

Rules, Regulations and Bye-laws

Rules

66. (1) The State Government may by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act 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 fourteen days, which may be comprised in one or more sessions, and if, during the said period the State Legislature makes any modification in the rule or decides that the rule should not be made, the rule shall, 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 or omitted to be done under that rule.

Regulations

67. (1) The Board may, with the previous approval of the State Government, make regulation, consistent with this Act and the rules, for the administration of its affairs.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may be made for all or any of the following matters namely:—

- (a) the summoning and holding of meetings of the Board and of the committees appointed by it, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of persons necessary to form a quorum thereto;
- (b) the recruitment and the salaries and allowances and other conditions of service of employees of the Board;

THE ORISSA WATER SUPPLY AND SEWERAGE BOARD ACT, 1991

[Orissa Act 12 of 1991]

(Secs. 67-68)

- (c) the powers and duties of the employees of Board;
- (d) the management of the property of the Board ;
- (e) the execution of contracts and assurances of property on behalf of the Board and authentication of orders and instruments of the Board ;
- (f) the limits upto which the Member-Secretary shall be competent to incur recurring or non-recurring expenditure in any financial year ;
- (g) the maintenance of accounts and the preparation of balance sheet by the Board;
- (h) the procedure for carrying out the duties and functions of the Board under this Act ;
- (i) any other matter for which provision is to be or may be made by regulations.

(3) Until regulations are made by the Board under sub-section (1) the State Government may make regulations and any regulations so made may with the previous approval of the State Government, be altered or rescinded by the Board in exercise of its power under sub-section (1).

Bye-laws. 68. (1) The Board may, with the previous approval of the State Government, make bye-laws consistent with this Act and the rules, for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the following matters, namely :—

- (a) the terms and conditions for supply of water for domestic or other purposes ;
- (b) the installation of meters or the transfer of their connection and their use, maintenance, testing, disconnection and reconnection, the fees, rent and other charges in respect thereof, including the furnishing of security by the consumer and matters connected therewith;
- (c) the fees, rent and other charges to be paid for connection with the sewer of the Board and other terms and conditions for such connections;
- (d) any other fees and charges to be paid to the Board for service to the consumers; and
- (e) any other matter for which provision is to be or may be made by bye-laws.

ORISSA ACT 14 OF 1991

THE ORISSA NOTIFIED AREA COUNCILS (EXTENSION OF TERM OF OFFICE
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