

ThirdDraft

**THE UTTAR PRADESH POND DEVELOPMENT, PROTECTION AND CONSERVATION
AUTHORITY BILL, 2017**

(To be introduced in the Uttar Pradesh Legislative Assembly)

ABill to provide for establishment of a Pond Development, Protection and Conservation 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 rapid urbanization, industrialization and population explosion, water bodies like ponds and tanks are being converted into urban, industrial and agricultural land use.

Whereas, in the State there are large number of ponds/tanks which are traditional source of surface water storage, ground water augmentation, irrigation, domestic and drinking water and rural industries. These ponds/tanks are managed, protected, conserved and rejuvenated by various Government Departments like Minor Irrigation, Irrigation, Rural Development and Panchayat Raj, Forest etc.,

Whereas, after independence, large number of ponds/tanks have vanished due to encroachment and destruction.

Whereas, such encroachment, destruction of ponds/tanks/water bodies leads to acute shortage of water and rapid depletion of ground water and thereby affecting local availability of water for irrigation, drinking and consumption by live stock, besides affecting aquatic flora and fauna and accordingly there is an urgent need for protection, conservation, development, redevelopment and rejuvenation of water bodies by a Single Authority.

Whereas, these ponds/tanks 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 and Conservation Authority having necessary powers and functions to achieve the object of protection, conservation, development, redevelopment and rejuvenation of water bodies, and for other matters connected therewith or incidental thereto.

Be it enacted by the Uttar Pradesh 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 Uttar Pradesh Pond Development, Protection and Conservation Authority Act, 2017.

(2) 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.

(3) It applies to all the ponds, tanks, lakes, water bodies as defined in para - "g" of section-2 in the Uttar Pradesh State located outside the limits of all Municipal Corporations and Development Authorities, notified forest areas or any other water bodies as may be notified by the Government. It does not apply to ponds, tanks, water bodies having area as less than 0.5 hectare.

2. Definitions –

(1) In this Act, unless the context otherwise requires,-

(a) "Authorized officer" means any officer appointed by the Government under section 11;

(b) "Authority" means the Uttar Pradesh Pond Development, Protection and Conservation Authority and District Executive Authority constituted under section 3;

(c) "Chief Executive Officer" means the Chief Executive Officer of the Authority appointed under section - 8 ;

(d) "Designated Officer" means any officer who may belong to any of the departments of Minor Irrigation or Rural Development or Panchayat Raj and appointed or designated as such by the Authority under section 10;

(e) "Government" means the Government of Uttar Pradesh;

(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" or "Tank" or "Lake" or "Water Body" means an inland water-body having area as 0.5 hect. or more; irrespective of whether it contains water or not, but mentioned in revenue records as talab, tank or by any other name and includes the peripheral catchments areas main feeder inlet and other inlets, bunds, weirs, sluices etc but does not include,- Medium Irrigation and Major Irrigation tank which have command area 2000 hectares and above.

(h) Pond Protection Voluntary Force means a force constituted under section-26

(i) "Landscape" includes all forms of trees, shrubs, grasses whether naturally growing or planted in water bodies to enhance aesthetic value and scenic beauty;

(j) "Surface water" includes water occurring on the land of ponds as defined above;

(k) "Rules" means the rules made under section - 58 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 U.P. Acts.

CHAPTER - II

UTTAR PRADESH POND DEVELOPMENT, PROTECTION AND CONSERVATION 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 Uttar Pradesh Pond Development, Protection and Conservation 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 Uttar Pradesh Pond Development, Protection and Conservation Authority shall consist of the following members, namely:-

(a)	The Minister for Minor Irrigation and Ground Water to Government.	Chairman
(b)	The Additional Chief Secretary/Principal Secretary/Secretary to Government, Finance Department.	Member
(c)	The Additional Chief Secretary/Principal Secretary/Secretary to Government, Department of Law or his nominee not less than the rank of Special Secretary	Member
(d)	The Additional Chief Secretary/Principal Secretary/Secretary to Government, Forest Department.	Member
(e)	The Additional Chief Secretary/Principal Secretary/Secretary to Government, Rural Development Department.	Member
(f)	The Additional Chief Secretary/Principal Secretary/Secretary to Government, Revenue Department.	Member
(g)	The Additional Chief Secretary/Principal Secretary/Secretary to Government, Urban Development Department.	Member
(h)	The Additional Chief Secretary/Principal Secretary/Secretary to Government, Agriculture Department.	Member
(i)	The Additional Chief Secretary/Principal Secretary/Secretary to Government, Fisheries Department.	Member
(j)	Additional Chief Secretary/Principal Secretary/Secretary to Government Panchayat Raj Department.	Member
(k)	Additional Chief Secretary/Principal Secretary/Secretary Minor Irrigation and Ground Water Department.	Member
(l)	Engineer in Chief, Irrigation Department, Government of Uttar Pradesh	Member
(m)	Director, Ground Water Department, Government of Uttar Pradesh	Member

(n)	Four non-official members nominated by the Government from amongst experts/Social workers in the field of environment and ecology or ponddevelopment and conservation, of whom at least two shall be women and one shall be a person belonging to the Scheduled Castes/ Scheduled Tribes.	Non Official Member
(o)	Chief Engineer, Minor Irrigation Department, Government of Uttar Pradesh	Member Secretary and Ex-Officio, Chief Executive Officer of the Authority

(4) The District Executive Authority shall implement the decision of the state Authority from time to time. The District Executive Authority in each District shall consist of the following members, namely:-

(a)	The District Magistrate of the concerned District	Chairman
(b)	The Chief Development Officer of the Concerned District	Vice Chairman
(c)	The Superintendent of Police,in charge of the concerned District	Member
(d)	The Deputy Director, Department of Agriculture / Soil Conservation	Member
(e)	The District Horticulture Officer of the concerned District	Member
(f)	The District Forest Officer of Forest Department	Member
(g)	Senior Hydro geologistof the Ground Water Department,in charge of concerned District.	Member
(h)	The Assistant Director of Fisheries,in chargeof the concerned District.	Member
(i)	Superintending Engineer, Irrigation Department, in charge of the concerned District	Member
(j)	Two non official members nominated by the District Magistratein 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)	The Executive Engineer of Minor Irrigation in charge of concerned District.	Convener

(5) Subject to the pleasure of the Government terms of office of non – official members of State as well as District level Authority shall be as prescribed by the Government, they shall not be eligible for re-appointment.

(6) The non official members of State as well as District level Authority 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 three months.

(2) The Chairperson shall preside over the meeting of the Authority or if for any reason, he is unable to attend any meeting, any other member chosen by the members present at the meeting shall preside.

(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. Functions of the Authority –

Functions of the Authority will be as prescribed in the rules 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, to utilize or allow to utilize the pond for the purpose of fisheries or water crops, drinking water, irrigation, education or tourism or any other function as prescribed in 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 regulate etc.

7. Powers of Chair person –

The Chair person shall be the head of the Authority and shall;-

(a) convene, preside at and conduct meetings of the Authority;

(b) discharge all duties conferred and exercise all powers conferred on him by or under this Act or the rules framed there under

8. The Chief Executive Officer-

(1) The Chief Engineer Minor Irrigation Department Government of Uttar Pradesh shall be the Ex-officio Chief Executive Officer of the Authority.

(2) Subject to the general powers of the Authority and the Chair person, overall powers to carrying out, the provisions of this Act or to carryout 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) supervise and control 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.

9. Officers and other employees of the State Authority and District Executive Authority –

- (1) The Government shall provide the Authority with such officers and employees as may be necessary for the efficient discharge of the functions of the Authority.
- (2) 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 shall be such, as may be prescribed.

10. Designated officer–

- (1) The Authority may designate or appoint any officer of the Government as designated officer to be in charge of one or more ponds of district to ensure their protection, conservation, development and for any other purpose.
- (2) The designated officers shall exercise powers under the Act and such other powers as the Authority may by a special or general order confer upon them.
- (3) The designated officer shall also be competent to receive complaints from any person regarding the contraventions of the provisions of this Act.

11. **Authorized Officer**–

The Government may appoint an officer of the Government not below the rank of a Group 'A' officer or any Executive Engineer of the concerned district of Minor Irrigation Department of the State Civil Services as Authorised officer, who shall exercise powers under this Act and such other powers as may be specified by the Government from time to time.

CHAPTER - III

PROTECTION OF PONDS

12. **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 storage or impounding of water or for the purpose mentioned in section 5;
- (2) construct any structure on pond land, occupy any pond land or part there of or cause any obstruction at 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 Government;
- (3) make any irregular and unauthorized construction, any commercial, recreational or industrial complexes or houses or carry on any industrial activity within thirty meters from the outer boundary of the pond;
- (4) dump debris, municipal solid wastes, mud or earth soil or liquid wastes or any pollutants, into the pond by using vehicle or otherwise;
- (5) discharge untreated sewage into the pond directly or indirectly;
- (6) construct roads, bridges and likewise other structures within the pond area including the pond bund without permission of the Government;
- (7) breach bund, waste weir including lowering 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
- (8) do any other act which is detrimental directly or indirectly to the Ponds.

Provided that nothing in this Act shall prohibit withdrawal of water for drinking or irrigation or any other purpose, for human consumption from any pond be specified by the Authority from time to time.

Provided further that nothing in this Act shall prohibit stocking of fish seeds and development of fisheries (except the fish which are dangerous or harmful to the aquatic ecosystem of the tank) and water crops by the Government and its licensee, lessees or contractor in any pond specified by the Authority from time to time.

13. Protection and Development of Ponds –

(1) Subject to any Central law relating to forest or environment, and policies or guidelines including any guidelines for National Plan on Conservation of Aquatic Ecosystem issued in this regard by the Central Government from time to time, the Authority shall undertake protection and development of the ponds and for this purpose, the Authority shall carry out the functions as prescribed in the rules.

(2) The Authority may, if it considers expedient in the interest of protection or development of a pond so to do, 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.
- (iii) prior approval of the State Government has been obtained;

(3) While determining the amount of compensation under this section, the Designated Officer shall follow the principles of determination of compensation laid down by any law for the time being in force providing for compulsory acquisition of similar property or as prescribed in the rules.

(4) If any person entitled to compensation under this section disputes sufficiency of the amount of compensation, he may file an appeal to the Authority having territorial jurisdiction over the area in which the property is situated, within ninety days from the date of order of the Designated Officer and the decision of the Authority shall be final.

14. Ponds to vest in the State Government.-

(1) Notwithstanding anything contained in any law, instrument or order, protection 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 State Government and 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 in the prescribed manner.

- (2) The Authority shall not grant any permission under subsection(1) unless it is satisfied that such permission will not have adverse impact on protection and development of the pond.
- (3) Notwithstanding anything contained in the foregoing 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 protection and development of the pond.

15. Declaration of pond boundaries and protected area.-

- (1) The State Government may, by notification in the Official Gazette, either *suo-motu* 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 Uttar Pradesh law for the time being in force.

16. 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-motu* 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 protection 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 protection and development of the pond.

17. Powers to Seize–

- (1) When there is reason to believe that an offence punishable under section 12, 13, 14, 15 and 16 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 Designated officer or any other officer empowered by the Authority in this behalf (hereinafter referred to as empowered officer)
- (2) The Designated officer or empowered officer 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 Designated officer or empowered officer shall report to the Authorised officer.

18. Power to release property seized under section 17 –

Where the seized property is such that it cannot be conveniently be produced before the Magistrate or the Authorized Officer as the case may be, it may be released by the Authorised officer 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 or before the Authorised officer.

19. Confiscation by the Authorized officer-

- (1) The designated officer or empowered officer seizing the property under section 17 shall, without any unreasonable delay produce the property, before the Authorized Officer;
- (2) When any seized property is produced before the Authorised Officer and he is satisfied that an offence prohibited under section 12, 13, 14, 15 and 16 has been committed using such property, the Authorised 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 authorised 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 20 or 21 be paid to the owner thereof or to the person from whom it was seized, as may be specified in such order.

20. 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 17 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 Authorised 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 Authorized 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.

21. Revision –

the Chief Executive Officer may before the expiry of thirty days from the date of the order of the Authorised Officer under section 19, suomotu 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.

22. Appeal-

(1) Any person aggrieved by an order passed under Section 19 or Section 21 may within thirty days from the date of communication to him of such order, appeal to the Authority having jurisdiction over the area in which the property in respect to which the order relates has been seized and the Authority shall, after giving an opportunity to the appellant and the Authorised 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 Authority under this section shall be final.

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

The order of any confiscation under section 18 or 19 or 20 or 21 shall not prevent the infliction of any punishment to which the person prosecuted thereby is liable, under this Act.

24. Property confiscated when to vest in the Government-

when an order for confiscation of any property has been passed under Section 18 or 19 or 20 or 21 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 19 the sale proceeds thereof) as the case may be; shall vest in the Government free from all encumbrances. Provided that no such order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

25. Power to remove encroachment –

(1) Notwithstanding anything contained in any other Act, any person who is found to be unauthorizedly occupying any tank 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 Designated Officer or any other officer authorised by the authority in this behalf: 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 tank 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 designated officer or other officer authorized by the Authority 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.

26. Constitution of Pond Protection VoluntaryForce –

(1) For each pond or a group of pond as prescribed, a pond protection voluntary force will be created as per prescribed procedures and rules.

- (2) After development of pond or construction of new pond it will be handed over to pond protection voluntary force for its further management.
- (3) Pond protection voluntary force will elect its president, secretary and treasures in the manner as prescribed.
- (4) Some of the funds and responsibility as prescribed will be handed over/ transferred to the pond protection voluntary force.
- (5) Pond protection voluntary force will have an account in any of public sector commercial banks and operate it in a manner as prescribed.
- (6) Pond protection voluntary force will carry out conservation and plantation work around the pond as per the directions of the authority.
- (7) Some of the earnings of the ponds as prescribed will be directly deposited in the account of the Pond Protection Voluntary Force.
- (8) Pond Protection Voluntary Force will report any illegal activity in or around the pond or in protected area to Authority.
- (9) In case of any complaints, District Executive Authority may remove its one or all office bearers and ask it to elect new one, dissolve the Pond Protection Voluntary Force and Constitute new one in a manner as prescribed.

CHAPTER – IV

PENALTIES AND PROCEDURES

27. Penalty for contravention of section 12 and 16–

Whoever contravenes the provisions of section 12 and 16 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with a fine of not less than ten thousand rupees but which may extend to rupees fifty thousand.

28. Penalty for causing obstruction to an officer –

Whoever, (1) obstructs any Designated officer, Authorized officer, empowered officer or any person acting under the orders or directions of the Authority or the authorized or designated officer from exercising his powers, discharging his function or performing his duties under this Act or the rules, or regulation 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 any authorized officer or designated officer; Shall be punishable with imprisonment for a term which may extend to three year and with fine as prescribed in the rules.

29. 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.

30. Punishment for wrongful seizure –

Any officer, who vexatiously and 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.

31. 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 punishable with imprisonment which may extent to two year and with fine as prescribed in the rules.

32. Enhanced penalty after previous conviction under section 27 –

If any person, who has been convicted of any offence under section 27 is again found guilty of an offence involving a contravention of the same provision, shall on the second and on every subsequent conviction be punishable with imprisonment for a term which shall not be less than six months and with a fine as prescribed in the rules.

33. 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.

34. 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.

35. 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, the head of the department of the Government, or as the case may be, the Chief Executive Officer (by whatever name called) who is in charge of such local or other authority 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 head of the department or as the case may be, the Chief Executive Officer 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.

36. 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 for one year or more 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.

37. Power to release on bond a person arrested –

Any Police Officer or designated officer who has arrested any person under section 34 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.

38. Cognizance of offences –

The offence under this Act shall be cognizable.

CHAPTER - V

FUND, ACCOUNTS AND AUDIT OF THE AUTHORITY

39. 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, charges or otherwise) shall be carried to the fund of the Authority and all the payments for the Authority made there from.

(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 the District Executive Authority for implementation of the scheme or program in such 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 determined by regulations.

(5) Such accounts shall be operated by such officer of the Authority as may be authorized by it by regulations.

40. 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 both the Houses of the State Legislature.

41. Annual report-

The Authority shall during each financial year prepare in such form as may be prescribed the annual 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 both the Houses of the State Legislature within a period of nine months from the last date of previous financial year.

42. 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.

43. 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.

44. Mode of making contract-

The Chief Executive 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. 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. In all other cases he shall execute a contract or agreement only with the sanction of the Authority.

CHAPTER - VI

MISCELLANEOUS

45. Officers of Government, Local authorities, etc, to assist-

All officers 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.

46. Bar of jurisdiction -

Whenever any instrument, implement, machinery, device, tool, boat, vehicle or any other-property is seized under section 17, the Authorized officer under section 18 and 19 or the Chief Executive Officer under section 21 or the Sessions Judge hearing appeal under section 22 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.

47. 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 thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

48. Protection of action taken in good faith-

No suit, prosecution or any other legal proceedings shall lie against the Authority or the Chair person 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.

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

(1) In any case of alleged offence by designated officer, empowered officer or any other officer or employee of the Authority or of a wrong alleged to have been done by such designated officer empowered officer or their officer or employee of 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 month's notice of the intended suit with sufficient description of the wrong complained of failing 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.

50. 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.

51. 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.

52. 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.

53. 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

month's 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, Chair Person 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, Chair Person, member, as the case may be, a reasonable opportunity of showing cause in respect of relief prayed for in the suit.

54. 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.

55. 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.

56. Application of other laws–

(1) The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith in any other Uttar Pradesh 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.

57. 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.

58. 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) Every rule made under this Act shall be laid down as soon as may be before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session, in which it is so laid or the session immediately following both the Houses agree in making any modification in the rule or both the Houses agree that the rule shall not be made, the rule shall thereafter have effect in such modified form or of no effect as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

59. Power to make regulations-

The Authority may, subject to the provisions of this Act and the rules made there under and with the previous sanctions of the Government by notification after previous publication may make regulations to carry out the purposes of this Act in so far as it relates to its functions, powers and duties.

