

THE UTTAR PRADESH WATER SUPPLY AND SEWERAGE ACT, 1975¹

[U. P. Act No. 43 OF 1975]

Amended by

U. P. Act No. 10 of 1978
U. P. Act No. 28 of 1978
U. P. Act No. 05 of 1984
U. P. Act No. 16 of 1998
U. P. Act No. 16 of 1999
U. P. Act No. 02 of 2002
U. P. Act No. 05 of 2007
U. P. Act No. 15 of 2007
U. P. Act No. 46 of 2018
U. P. Act No. 14 of 2019

[Received the assent of the Governor on September, 1975, under Article 200 of the Constitution of India and was published in the *Uttar Pradesh Gazette Extraordinary*, dated September 8, 1975]

AN

ACT

An Act to provide for the establishment of a Corporation, authorities and organisations for the development and regulation of water supply and sewerage services and for matters connected therewith.

It is hereby enacted in the Twenty-sixth Year of the Republic of India as follows :—

CHAPTER-1

Preliminary

1. Short title, extent and commencement. - (1) This Act may be called the Uttar Pradesh Water Supply and Sewerage Act, 1975.

(2) It extends to the whole of Uttar Pradesh excluding cantonment areas.

²[(3) It shall be deemed to have come into force on June 18, 1975.]

2. Definitions. - In this Act, unless the context otherwise requires -

¹ For statement of Objects and Reasons, see Uttar Pradesh Gazette, Extraordinary, dated september 08,1975

² Subs.by sec 2 of U.P Act no 28 of 1978

- (1) "cess-pool" includes a settlement tank or other tank to receive or dispose of foul matters from any premises;
- (2) "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;
- (3) "connection pipe" means any water pipe from a ferrule to stop-cock connecting the main of the local body, Jal Sansthan or Nigam, as the case may be, with the service pipe;
- (4) "consumer" means any person getting the benefit of any water supply or sewerage service from the local body, Jal Sansthan or the Nigam, as the case may be;
- (5) "domestic sewage" means waste water from residences, boarding and lodging houses, hostels, hotels, public places, offices and all other 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;
- (6) "drain" includes a sewer, tunnel, pipe, ditch, gutter or channel or a cistern, flush-tank, septic tank, or other device for carrying off or treating sewage, offensive matter, polluted water, sullage waste-water or sub-oil water, and also 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 any place;
- (7) "ferrule" means a ferrule connecting the connection pipe with the main;
- (8) "General Manager" means General Manager of a Jal Sansthan appointed under clause (c) of sub-section (2) of Section 20;
- (9) "Jal Sansthan" means a local authority constituted by the State Government under Section 18 to perform its functions under this Act in one or more local areas;
- (10) "Local Self-Government Engineering Department" and "Community Development Department" means the departments with these names under the State Government;
- (11) "local area" means the area falling within the jurisdiction of a local body;

- (12) "local body" means a Nagar Mahapalika, Municipal Board, Town Area Committee, Notified Area Committee, Zila Parishad, Kshettra Samiti, or a Gaon Sabha;
- (13) "main" means a pipe laid by the local body, Jal Sansthan or Nigam, 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;
- (14) "Managing Director" means a Managing Director of Nigam, appointed under clause (a) of sub-section (2) of Section 4;
- (15) "Nigam" means the Uttar Pradesh Jal Nigam established under Section 3;
- (16) "occupier" in relation to any premises includes the following -
- (a)- any person for the time being paying or liable to pay rent or any portion thereof to the owner in respect of those premises;
 - (b)- an owner who is in occupation of those premises;
 - (c)- a tenant of those premises who is exempt from payment of rent;
 - (d)- a licensee who is in occupation of those premises; and
 - (e) -any person, who is liable to pay damages to the owner in respect of use and occupation of those premises;
- (17) "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 :-
- (a)- an agent or trustee who receives such rent on account of the owner;
 - (b)- an agent or trustee who receives the rent of, or is entrusted with the management of, any premises devoted to religious or charitable purposes;
 - (c)- 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; and
 - (d)- a mortgagee-in-possession;
- (18) "premises" means any land or building;
- (19) "prescribed" means prescribed by rules;
- (20) "prescribed authority" means any authority appointed by the State Government, by notification in the Gazette, to perform all or any of the functions of the prescribed authority;

- (21) "private street", "public street" and "street" in relation to any local area, have the same meanings as in law relating to the local body having jurisdiction over that local area;
- (22) "regulations" means regulations made under this Act;
- (23) "rules" means rules made under this Act;
- (24) "service pipe" means any pipe other than the connection pipe beyond the stop-cock by means of which the water is supplied to any premises;
- (25) "sewage" means night-soil and other contents of water closets, latrines, privies, urinals, cess-pools, or drains, and polluted water from sinks, bathrooms, stables, and other like places, and includes trade effluent;
- (26) "sewer" means a closed conduit for carrying sewage, offensive matter, polluted water, waste water or sub-soil water;
- (27) "sewerage" means a 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, its effluent, sludge, gas and other end products;
- (28) "stock-cock" means a stop-cock fitted at the end of connection pipe away from the main for the purpose of switching off and regulating the water supply to any premises
- (29) "trade effluent" means any liquid either with or without particles of matters 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;
- (30) "water connection" includes -
- (a)- any tank, cistern, hydrant, stand-pipe, meter or tap, situated on any private property and connected with a main or other pipe belonging to Jal Sansthan; and
 - (b)- the water pipe connecting such a tank, cistern, hydrants, stand-pipe, meter or tap, with such main or pipe;
- (31) "water supply" means a system of providing water to a community for meeting its requirement for drinking and other domestic uses, industry, recreation and various public uses;
- (32) "waterworks" includes water channel (including stream, lake, spring, river or canal, 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, Functions and Powers of the Nigam

3. Establishment of the Nigam. - (1)- The State Government shall, by notification in the Gazette and with effect from a date to be specified therein, constitute a corporation by the name of the Uttar Pradesh Jal Nigam.

(2)- The Uttar Pradesh Jal Nigam shall be a body corporate by the said name, having perpetual succession and a common seal, and shall sue and be sued by the said name and have the power to acquire, hold or dispose of property.

¹[(3)- The Nigam, shall for all purposes be deemed to be a local authority and not a company or a corporation owned by the State Government having shares and shareholders.]

(4)- The Nigam shall have its head office at Lucknow and may have offices at such other places as it may consider necessary.

4. Constitution of the Nigam. - (1) -The Nigam shall consist of a Chairman appointed by the State Government besides the members specified in sub-section (2).

(2)- The members other than the Chairman shall be as follows, namely :

²[(a) a Managing Director who shall be a qualified Engineer having administrative experience and also the experience of water supply and sewerage work; or an officer of Indian Administrative Service in the rank of Secretary to the State Government, to be appointed by the State Government;

(aa) Three Joint Managing Directors : of Indian Administrative Service in the rank of Special Secretary of the State Government or three Engineers of Chief Engineer level with experience in drinking water and sewerage work to be appointed by the State Government,"]

¹ ins by sec 2 of U.P.Act no 05 of 2007

² Subs by sec 2 of U.P.Act no 14 of 2019

- (b)- a Finance Director (to be appointed by the State Government), who shall have experience of matters relating to finance and accounts;
- (c)- the Secretary to the State Government in the Finance Department, ex officio;

¹ [(d)- the Secretary to the State Government in-charge of the Water Supply Department, ex officio;

(dd)- the Secretary to the State Government in the Planning Department, ex officio;]

(e)- the Director of Local Bodies, Uttar Pradesh, ex officio;

(f)- the Director of Medical and Health Services, Uttar Pradesh, ex officio;

(g)- [five]² elected heads of local bodies in the State, to be nominated by the State Government.

³ [(2A)- Notwithstanding anything contained in the Uttar Pradesh State Control Over Public Corporations Act, 1975 or in any direction issued thereunder, the member referred to in clause (a) of sub-section (2) shall be appointed from amongst the person+s possessing such qualifications and experience and in accordance with such manner as may be prescribed.]

(3)- The appointment of the Chairman and members other than ex officio members shall be notified in the Gazette.

⁴ [(4)- Instead of attending a meeting of the Nigam himself, a member referred to ⁵[in clause (c), (d) or clause (dd)] of sub-section (2) may depute an officer not below the rank of Deputy Secretary in his department, a member referred to in clause (e) of that sub-section may depute an officer not below the rank of Deputy Director in his department and a member referred to in clause (f) of that sub-section may depute an officer not below the rank of Joint Director in his department, to attend the meeting. The officer so deputed shall have the right to take part in the proceedings of the meeting and shall also have the right to vote].

5. Disqualification for being Chairman or other member. - A person shall be disqualified for being chosen as and for being the Chairman or other member of Nigam if he -

(a) has been convicted of an offence involving moral turpitude;

¹ subs by sec 2(i) of U..P Act no. 05 of 1984

² subs by sec 3(i) of U..P Act no. 28 of 1978

³ ins by sec 2(ii+) of U.P.Act no 02 of 2002

⁴ subs by sec 3(ii) of U..P Act no. 28 of 1978

⁵ subs by sec 2(ii) of U..P Act no. 05 of 1984

- (b) is an undischarged insolvent;
- (c) is of unsound mind and stands so declared by a competent court;
- (d) holds, except as provided in Sections 6 and 7, any office of profit under the Nigam :
- (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 Nigam; or
- (f) is a director or 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 Nigam :

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 a 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 Nigam is published;
- (iv)- the occasional sale to the Nigam up to a value not exceeding ten thousand rupees in any one year, of any article in which he or the company regularly trades.

6. Terms of office of Chairman and other members. - (1)- The Chairman of the Nigam, unless appointed ex officio, shall hold office for three years unless his term is determined earlier by the State Government by notification in the Gazette, and shall be eligible for reappointment.

(2)- A person nominated under clause (g) of sub-section (2) of Section 4 shall, unless his term is determined earlier by the State Government hold office for a period of three years or until the expiry of his term of office as elected head of the local body concerned, whichever is earlier, but shall be eligible for reappointment.

¹[(2A)- A person nominated under clause (aa) of sub-section (2) of Section 4 shall, unless his term is determined earlier by the State Government by notification in the Gazette, hold office for a period of three years, and shall be eligible for re-nomination.]

¹ ins by sec 3 of U.P.Act no 15 of 2007

(3)- The members appointed under clause (a) and clause (b) of sub-section (2) of Section 4 shall hold office on such terms and conditions as the State Government may, by order, specify.

(4)- The Chairman or any other member as aforesaid may at any time by writing under his hand addressed to the State Government resign his office, and on such resignation being accepted, he shall be deemed to have vacated his office.

7. Other provisions regarding office of the Chairman and other members. -

(1)- The Chairman and the members appointed ¹[under clauses (a), (aa) and (b)] of sub-section (2) of Section 4, shall be paid from the Nigam's fund such remuneration, if any, as may be fixed by the State Government.

(2)- If the Chairman or any other member as aforesaid is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave otherwise in circumstances not involving the vacation of his appointment, the State Government may appoint another person to officiate for him and to carry out his functions under this Act.

3- ²[[*]]**

³[**7A. -** Notwithstanding anything to the contrary contained in any other provision of this Act, all or any of the powers, duties and functions of the Chairman shall be, exercised, discharged or performed by such Vice-Chairman as may be subject to the control and supervision of the Nigam, by general or special order authorised by the Chairman, either unconditionally or subject to such conditions, including the conditions of review by himself, as may be specified in the order. The Vice-Chairman so authorised shall, however, in relation to the affairs of the Nigam, subject to the ultimate control and direction of the Nigam, hold his office under immediate control of the Chairman.]

8- Appointment of employees. - (1)- Subject to the provision of sub-section (2), the Nigam may appoint such employees as it considers necessary on such terms and conditions as it thinks fit for the efficient performance of its functions:

Provided that the appointment of such employees as the State Government may, by general or special order specify, shall be made in their terms and conditions shall be determined with the approval of the State Government.

(2)- The Nigam 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 Nigam on such terms and conditions as it thinks fit.

¹ ins by sec 4 of U.P.Act no 15 of 2007

² Del. by sec 2 of U.P.Act no 46 of 2018

³ ins by sec 3 of U.P.Act no 15 of 2007

9- Supervision and control over employees. - Subject to the superintendence of the Nigam, the Chairman shall have the general control and direction over, and subject thereto, the Managing Director shall have control over, all other employees of the Nigam.

10. Authentication of orders and other instruments of the Nigam. –

(1)- All proceedings of the Nigam shall be authenticated by the signature of the Chairman and all orders and other instruments of the Nigam shall be authenticated by the signature of the Managing Director or such other officer of the Nigam as may be authorised in this behalf by regulations.

(2)- The Nigam may invite any person to attend a meeting of the Nigam for the purpose of assisting or advising it on any matter, and the person so invited may take part in any proceedings of the Nigam but shall have no right to vote.

11. Delegation of powers. - Subject to the provisions of this Act, the Nigam may by general or special order, delegate, either unconditionally 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 Managing Director or any other officer of the Nigam such of its powers and duties under this Act as it deems fit, not being its powers and duties under Sections 46, 49 and 50.

12. Disqualification for participation in proceedings of the Nigam on account of interest. - (1)- The Chairman or any other member of the Nigam or of a committee appointed by the Nigam 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,

shall not notwithstanding anything contained in the proviso to Section-5, vote or take part in any proceeding (including any discussion on any resolution or question) of the Nigam or any committee thereof relating to such matter.

(2)- If any member of the Nigam or of a Committee appointed by the Nigam 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 Nigam or any committee thereof in which any matter relating to such land is considered.

(3) - Nothing in sub-section (1) or sub-section (2) shall prevent any member of the Nigam or any 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 those sub-sections.

13. Acts not to be invalidated by informality, vacancy etc. - No Act done or proceeding taken under this Act by the Nigam or a committee appointed by the Nigam shall be invalidated merely on the ground of -

- (a)- any vacancy or defect in the constitution of the Nigam or any committee thereof; or
- (b)- any defect or irregularity in the appointment of a person acting as a member thereof; or
- (c)- any defect or irregularity in such act or proceeding, not affecting the substance.

14. Functions of the Jal Nigam. - The functions of the Nigam shall be the following, namely:

- (i)- the preparation, execution, promotion and financing the schemes for the supply of water and for sewerage and sewage disposal;
- (ii)- to render all necessary services in regard to water supply and sewerage to the State Government and local bodies, on request to private institutions or individuals;
- (iii)- to prepare State plans for water supply, sewerage and drainage on the directions of the State Government;
- (iv)- to review and advise on the tariff, taxes and charges of water supply in the areas of Jal Sansthans and local bodies which have entered into an agreement with the Nigam under Section 46;
- (v)- to assess the requirement for materials and arrange for their procurement and utilisation;
- (vi)- to establish State standards for water supply and sewerage services;
- (vii)- to perform all functions, not stated herein which were being performed by the Local Self-Government Engineering Department before the commencement of this Act;
- (viii)- to review annually the technical, financial, economic and other aspects of water supply and sewerage system of every Jal Sansthan or local bodies which have entered into an agreement with the Nigam under Section 46;
- (ix)- to establish and maintain a facility to review and appraise the technical, financial, economic and other pertinent aspect of every water supply and sewerage scheme in the State;

- (x)- to operate, run and maintain any waterworks and sewerage system, if and when directed by the State Government, on such terms and conditions and for such period as may be specified by the State Government;
- (xi)- to assess the requirements for manpower and training in relation to water supply and sewerage services in the State;
- (xii)- to carry out applied research for efficient discharge of the functions of the Nigam or a Jal Sansthan;
- (xiii)- any other functions entrusted to the Nigam by or under this Act; and
- (xiv)-such other functions as may be entrusted to the Nigam by the State Government by notification in the Gazette.

15. Powers of the Jal Nigam. - (1)- The Nigam shall, subject to the provisions of this Act have power to do anything which may be necessary or expedient for carrying out its functions under this Act.

(2) - Without prejudice to the generality of the foregoing provision, such power shall include the power -

- (i)- to inspect all water supply and sewerage facilities in the State by whomsoever they are operated;
- (ii) to obtain such periodic or specific information from any local body and operating agency as it may deem necessary;
- (iii) to provide training for its own personnel as well as employees of the local bodies;
- (iv) to prepare and carry out schemes for water supply and sewerage;
- (v) to lay down the schedule of fees for all services rendered by the Nigam to the State Government, local bodies, institutions or individuals;
- (vi) to enter into contract or agreement with any person, firm or institution, as the Nigam may deem necessary, for performing its functions under this Act;
- (vii) to adopt its own budget annually;
- (viii) to approve tariffs for water supply and sewerage services applicable to respective local areas comprised within the jurisdiction of Jal Sansthans and such local bodies as have entered into an agreement with the Nigam under Section 46;
- (ix) to borrow money, issue debentures to obtain subventions and grants and manage its own funds;

(x) to disburse loans to local bodies for their water supply and sewerage schemes;

(xi) to incur expenditure and to grant loans and advances to such persons or authorities as the Nigam may deem necessary for performing the functions under this Act.

16. Power to call for reports and information. - (1)- The Nigam may call for such reports and information from a Jal Sansthan or local body as the Nigam may consider necessary and after considering them, issue such directions to such Jal Sansthan or local body as may be considered necessary.

(2) (a) - The directions so issued shall be complied with by the Jal Sansthan or local body concerned as speedily as possible.

(b)- In case such Jal Sansthan or local body disagrees with such direction or experiences any difficulty in complying with the same, it shall refer the matter to the State Government whose direction thereon shall be final.

17. Supervision, and centage charges. - The Nigam may include in the cost of any scheme or work the execution or further execution whereof is undertaken under clause (i) of Section 14, supervision and centage charge at such rate not exceeding such limit as may be prescribed, as it may determine under clause (v) of sub-section (2) of Section 15.

CHAPTER-III

Establishment, Conduct of Business, Functions and Powers of the

18. Establishment of Jal Sansthans. - (1)- If in the opinion of the State Government, local conditions so require and it is considered necessary or expedient for the improvement of water supply and sewerage services in any area, it may constitute a body to be known as Jal Sansthan for that area.

(2)- A Jal Sansthan shall be constituted by notification in the Gazette and with effect from the date specified therein.

(3)- A Jal Sansthan ¹[not being a Jal Sansthan referred to in sub-section (1) or sub-section (2) of Section 20] may be constituted under sub-section (1) to have jurisdiction over the local area or any part thereof, of one or more local bodies as the State Government may specify in the said notification.

(4)- A Jal Sansthan shall be a body corporate having perpetual succession and a common seal and shall sue and be sued by the name of "(short name of the area

¹ Ins by sec.4 of U.P.Act no 28 of 1978

specified in the said notification) Jal Sansthan" and have the power to acquire, hold, or dispose of property.

(5)- Jal Sansthan shall for all purposes be deemed to be a local authority.

(6)- A Jal Sansthan shall have its head office at the place specified in the notification under sub-section (1).

(7)- A Jal Sansthan may also have sub-offices at such place within its jurisdiction as it may consider necessary.

(8)- The State Government may, where it considers necessary or expedient in the public interest so to do, by notification in the Gazette, and with effect from the date specified in the notification -

- (a) include any area in or exclude any area from, the area of a Jal Sansthan specified in the notification under sub-section (1);
- (b) divide the area of a Jal Sansthan specified in the notification under sub-section (1) into area of two or more separate Jal Sansthans;
- (c) amalgamate the areas of two or more Jal Sansthans specified in the notification under sub-section (1) into the area of one Jal Sansthan; or
- (d) declare that any part in the area of a Jal Sansthan specified in the notification under sub-section (1) shall cease to be such area.

¹**[19. Jal Nigam as Jal Sansthan.** - The State Government may, by notification, direct that in such rural areas as are specified in the notification, for which no Jal Sansthan has been established under Section 18, all or any of the powers, duties and functions of a Jal Sansthan under any provisions of this Act shall be exercised, discharged or performed by the Jal Nigam; and thereupon for the purposes of exercising, discharging or performing such powers, duties or functions the Jal Nigam shall be deemed to be the Jal Sansthan and the date of such notification shall be deemed to be the date of constitution of the Jal Sansthan]

²**[20. Constitution of Jal Sansthan - (1)-** Jal Sansthan constituted to have jurisdiction over the local area of a Nagar Mahapalika shall consist of a Chairman who shall be the Nagar Pramukh of the Nagar Mahapalika (ex officio), and the following other members, namely -

- (a) a General Manager, to be appointed by the Nigam with the approval of the State Government who shall be a qualified engineer having administrative experience and experience of water supply and sewerage works;
- (b) a Joint Director of Medical and Health Services to be nominated by the Director of Medical and Health Services, Uttar Pradesh;

¹ Subs. by sec 5 of U.P Act no 28 of 1978

² Ins by sec 6 of U.P Act no 28 of 1978

- (c) three Sabhasads of the Nagar Mahapalika nominated by the State Government;
- (d) two representatives of the Nigam;
- (e) the Director of Local Bodies, Uttar Pradesh;
- (f) the Mukhy'a Nagar Adhikari of the Nagar Mahapalika.

(2)- A Jal Sansthan constituted to have jurisdiction over the local area of a Municipal Board shall consist of a Chairman who shall be the President of the Municipal Board (ex officio), and the following other members namely :

- (a) a General Manager, to be appointed by the Nigam with the approval of the State Government who shall be a qualified engineer having administrative experience and experience of water supply and sewerage works;
- (b) an officer subordinate to the District Magistrate nominated by the latter;
- (c) two representatives of the Nigam;
- (d) Deputy Medical Officer (Health) of the District in which the head office of the Municipal Board is situate;
- (e) an officer nominated by the Director of Local Bodies, Uttar Pradesh;
- (f) two elected members of the Municipal Board, to be nominated by the State Government.

(3)- Any other Jal Sansthan shall consist of a Chairman appointed by the State Government, and the following other members, namely -

- (a) the Collector of the District in which the head office of the Jal Sansthan is situate, ex officio;
- (b) the senior most officer of the Community Development Department having his headquarter within the area of the Jal Sansthan;
- (c) a General Manager, ¹[to be appointed by the State Government], who shall be a qualified engineer having administrative experience and experience of water supply and sewerage works;
- (d) two representatives of the Nigam;
- (e) one nominee of the State Government from amongst the elected heads of members of the local bodies or each district within the jurisdiction of the Jal Sansthan :

¹ Subs by sec 3 of U.P Act no 05 of 1984

Provided that where the number of districts within the jurisdiction of the Jal Sansthan is less than five, the number of such nominees shall be five out of which at least one shall be from each district;

(f) the Chief Medical officer of the district in which the head office Jal Sansthan is situate.]

21. Disqualifications. - The provisions of Section 5 relating to the disqualifications for being Chairman or other member of the Nigam shall *mutatis mutandis* apply in relation to the offices of Chairman and other members of the Jal Sansthan also.

22. Term of office. - (1)- The Chairman of a Jal Sansthan, unless appointed ex officio, shall hold office for three years unless his term is determined earlier by the State Government, by notification in the Gazette, and shall be eligible for reappointment.

(2)- A member nominated under clause (e) of Section 20 shall, unless his term is determined earlier by the State Government, by notification in the Gazette, hold office for a period of three years or until the expiry of his term of office as elected member of the local body concerned, whichever is earlier.

(3)- The member appointed under clause (c) of sub-section (2) of Section 20 shall hold office on such terms and conditions as the State Government by order specify.

(4)- The Chairman or any other member of a Jal Sansthan may at any time by writing under his hand addressed to the State Government resign his office, and on such resignation being accepted he shall be deemed to have vacated his office.

23. Remuneration. - (1)- The Chairman and such other members of a Jal Sansthan, if they work whole-time for the Jal Sansthan shall be paid from the funds of the Jal Sansthan such remuneration, if any, as may be fixed by the State Government.

(2)- If the Chairman or any other member of a Jal Sansthan is by infirmity or otherwise rendered incapable of carrying out his duties-or is absent on leave otherwise in circumstances not involving the vacation of his appointment, the State Government may appoint any other person to officiate for him and to carry out his functions under this Act.

24. Functions of a Jal Sansthan. - The functions of a Jal Sansthan shall be as follows :

- (i) to plan, promote and execute schemes of and operate an efficient system of water supply;
- (ii) where feasible, to plan, promote and execute schemes of, and operate, sewerage, sewage treatment and disposal and treatment of trade effluents;
- (iii) to manage all its affairs so as to provide the people of the area within its jurisdiction with wholesome water and where feasible, efficient sewerage service;

- (iv) to take such other measures, as may be necessary, to ensure water supply in times of any emergency;
- (v) such other functions as may be entrusted to it by the State Government by notification in the Gazette.

25. Powers of a Jal Sansthan. - (1) Every Jal Sansthan shall, subject to the provisions of this Act, have power to do anything which may be necessary or expedient for carrying out its functions under this Act.

(2)- Without prejudice to the generality of the foregoing provision such powers shall include the power -

- (i) to exercise all powers and perform all the functions relating to water supply, sewerage and sewage disposal of the area which lies within its jurisdiction;
- (ii) to acquire, possess and hold lands and other property and to carry any water or sewerage works through, across, over or under any highway, road, street or place and, after reasonable notice, in writing to the owner or occupier, into, through, over or under any building or land;
- (iii) to abstract, water from any natural source and dispose of waste water;
- (iv) to enter into contract or agreement with any person or body as the Jal Sansthan may deem necessary;
- (v) to adopt its own budget annually;
- (vi) to introduce or amend tariff for water supply and sewerage services, subject to approval of the Nigam and collect all taxes and charges for these services as may be prescribed:

¹[Provided that no decision to introduce or amend such tariff shall be taken except by a special resolution in that behalf brought after giving such notice as may be prescribed, and passed by the majority of two-thirds of the members of the Jal Sansthan;]

- (vii) to incur expenditure and manage its own funds;
- (viii) to obtain loans, advances, subventions and grants from the Nigam.

26. Delegation of powers. - Subject to the provisions of this Act, a Jal Sansthan may by general or special order, delegate, either unconditionally or subject to such conditions as may be specified in the order, including the power of review by itself, to any committee appointed by it or to the General Manager or any other officer of the Jal

¹ Ins by sec 7 of U.P Act no 28 of 1978

Sansthan such of its powers and duties under this Act as it may deem fit, not being its powers and duties under Sections 44 and 50.

¹**[27. Creation of posts and appointment of employees. -** (1)- The Jal Sansthan may, with the previous approval of the State Government, create such posts of officers and other employees and with such designations as it considers necessary for the efficient performance of its functions.

(2)- The appointments to the posts, referred to in sub-section (1), shall be made by the Jal Sansthan on such terms and conditions as it thinks fit:

Provided that the appointment on such posts as the State Government may, by rules framed under Section 27-A or by general or special order, specify shall be made and the terms and conditions of appointment on such posts shall be determined with the approval of the Government.

(3)- Subject to general control and directions of the Chairman, the supervision and control over all employees of the Jal Sansthan shall be vested in the General Manager.]

²**[27A. Centralisation of services. -** (1) Notwithstanding anything contained in Section 27 or in any other provision of the Act, the State Government may at any time, by rules, provide for the creation of one or more services of such officers and servants as the State Government may deem fit common to Jal Sansthans or to the Jal Sansthans, Nagar Mahapalikas and Nagarpalikas, in the State and prescribe the method of recruitment and conditions of service of persons appointed to any such service.

(2)- Where any such service is created, employees serving on the posts included in the service as well as officers and servants performing duties and functions of those posts may, if found suitable, be absorbed in the service, provisionally or finally, and the service of others shall be determined in the prescribed manner.

(3)- On the creation of such service it shall be lawful for the Director or Local Bodies or any other officer authorised by the Government in this behalf to transfer an employee serving on any post in any Jal Sansthan or Waterworks to any other Jal Sansthan or Waterworks.

(4)- Without prejudice to the generality of the provisions of sub-sections (1) and (2), such rules may also provide for consultation with the State Public Service Commission in respect of any of the matters referred to in the said sub-sections.]

28. Authentication of orders and other instruments of the Jal Sansthan. –

¹ Subs by sec 4 of U.P Act no 05 of 1984

² Ins by sec 5 of U.P Act no 05 of 1984

(1)- All proceedings of the Jal Sansthan shall be authenticated by the signature of the Chairman and all orders and other instruments of the Jal Sansthan shall be authenticated by the signature of the General Manager or such other officer of the Jal Sansthan as may be authorised in this behalf by regulations.

(2)- The Jal Sansthan may invite any person to attend a meeting of the Jal Sansthan for the purpose of assisting or advising it on any matter, and the person so invited may take part in any proceedings of the Jal Sansthan but shall have no right to vote.

29. Act not to be invalidated by informality, vacancy, etc. - No act done or proceeding taken under this Act by the Jal Sansthan or a committee appointed by the Jal Sansthan shall be invalidated merely on the ground of -

- (a) any vacancy or defect in the constitution of the Jal Sansthan or any committee thereof; or
- (b) any defect or irregularity in the appointment of a person acting as a member thereof; or
- (c) any defect or irregularity to such act or proceeding, not affecting the substance.

30. Disputes with consumers. - Subject to the provisions of this Act, any dispute arising between the Jal Sansthan and the consumer shall be referred to the Nigam whose decision shall be final.

CHAPTER- IV

Vesting of Properties, Assets, Liabilities and Obligations and Transfers of Employees

31. Vesting and transfer of property to Nigam. - (1) As from June 18, 1975, the date of establishment of the Nigam hereinafter in this Chapter referred to as "the appointed date", -

- (a) all properties and assets (including waterworks, buildings, laboratories, stores, vehicles, furnitures and other furnishing) which immediately before the appointed date were vested in the State Government for the purposes of the Local Self-Government Engineering Department shall vest in and stand transferred to the Nigam; and
- (b) all the rights, liabilities and obligations of the State Government whether arising out of any contract or otherwise pertaining to the said departments shall be the rights, liabilities and obligations of the Nigam.

(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 instituted or defended or which might but for vesting and transfers under sub-section (1) have been instituted or defended by or against the State Government, may be continued or instituted or defended by or against the Nigam.

32. Decision of the State Government on the vesting of property to be final. - Where any doubt or dispute arises as to whether any property or asset has vested in the Nigam under Section 31 or any rights, liabilities or obligations have become the rights, liabilities and obligations of the Nigam under that section, such doubt or dispute shall be referred to the State Government whose decision shall be final.

33. Vesting of existing water supply and sewerage services in Jal Sansthan. - (1) Wherever a Jal Sansthan is constituted by the State Government under Section 18 -

- (a)- all the existing water supply services, and where the Jal Sansthan undertakes the functions specified in clause (ii) of Section 24 all the existing sewerage services, sewage works and sewage farms, including, as the case may be, all plants, machineries, waterworks, pumping stations, filter beds, water mains and public sewers in, along, over or under any public street, and all buildings, lands and other works, materials, stores and things appertaining thereto, belonging to or vested in every local body within the area of the Jal Sansthan;
- (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 sewers or any pipes and other appliances and fittings connected with such water supply and services, sewerage and sewage works and 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 relating to water supply and sewerage services and also including liabilities arising from any loans advanced by the Government or any other person 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 with effect from the date of the constitution of the Jal Sansthan (hereinafter in this Chapter referred to as "the said date"), vest in and stand transferred to the Jal Sansthan 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 asset has vested in the Jal Sansthan under sub-section (1) or any rights, liabilities or obligations have become the rights, liabilities or obligations of the Jal Sansthan under this section, such doubt or dispute shall be referred to the State Government whose decision shall be final and binding on the Jal Sansthan and the local body concerned.

34. Jal Sansthan to assume obligations of local authority in respect of matters to which this Act applies. - All debts and obligations incurred, all contracts entered into all matters and things engaged to be done by, with or for any local body before the said date in respect of any of the functions specified in Section 24 shall be deemed to have been incurred, entered into or engaged to be done, by, with or for the Jal Sansthan, and all suits or other legal proceedings instituted or which might but for vesting and transfer under sub-section (1) of Section 33, have been instituted or defended by or against the local body, may be continued or instituted or defended by or against the Jal Sansthan.

35. Co-ordination of activities of Jal Sansthan and other local bodies. - If the State Government is of opinion that it is in the public interest that a Jal Sansthan and other local body having jurisdiction over contiguous areas should co-ordinate their activities in relation to water supply services, or sewerage services, or both, it may issue such directions to such Jal Sansthan and other local body concerned as it may think fit, and it shall be the duty of that Jal Sansthan and other local body to comply with such direction.

36. Special powers of Nigam in relation to its re-lending operations. - Where an agreement entered into between a Jal Sansthan or local body and the Nigam under Section 46 so provides, the Nigam shall, without prejudice to its rights under Section 49, have further power to recover directly any arrears of water tax, sewerage tax and of any cost or fee relating to water supply and sewerage services due to the Jal Sansthan or local body in order to enable the Nigam to recover its dues.

37. Transfer of employees to Nigam. - (1)- Save as otherwise provided in this section every person, who was employed in the Local Self Government Engineering Department of the State Government shall on and from the appointed date become employee of the Nigam and shall hold his office or service therein by the same tenure, at the same remuneration and upon same other terms and conditions, and with the same rights and privileges as to pension, gratuity and other matters as he would have held the same on the appointed date if this Act has not come into force, and shall continue to do so until his employment in the Nigam is terminated or until his remuneration or other terms and conditions of services are revised or altered by the Nigam under or in pursuance of any law or in accordance with any provision which for the time being governs his service:

Provided that nothing contained in this sub-section shall apply to any such employee, who by notice in writing given to the State Government within such time as the State Government may, by general or special order, specify, intimates his intention of not becoming an employee of the Nigam :

Provided further that the services of any employee referred to in the preceding proviso under the State Government shall stand terminated on account of abolition of the post held by him and he shall be entitled from the State Government to compensation equivalent -

(i)- in the case of a permanent employee, to three month's remuneration

(ii)- in the case of a temporary employee, to one month's remuneration.

(2)- The sums standing to the credit of the employees referred to in sub-section (1) in any pension, provident fund, gratuity or other like funds constituted for them shall be transferred by the State Government to the Nigam along with any accumulated interest due till the appointed date and with the accounts relating to such funds and the Nigam shall, to the exclusion of the State Government, be liable for payment of pension, provident fund, gratuity or other like sums as may be payable to such employees at the appropriate time in accordance with the conditions of their service.

(3)- Notwithstanding anything contained in the U.P. Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of services of any employee to the Nigam under sub-section (1) shall not entitle any such employee to any compensation under that Act or such other law and no such claim shall be entertained by any court, tribunal or authority.

(4)- Every permanent or temporary employee of the Local Self-Government Engineering Department of the State Government under sub-section (1) shall on and from the appointed date, be a permanent or temporary employee of the Nigam, as the case may be, against a permanent or temporary post which shall stand created in the establishment of the Nigam with effect from the appointed date.

(5)- An employee referred to in the first proviso to sub-section (1) shall be deemed to have continued to be in the service of the State Government between the appointed date and the date of abolition of posts under the second proviso to that sub-section, but the State Government shall be entitled to reimbursement from the Nigam of the remuneration paid by it to such employee for that period and also of the compensation referred to in the second proviso to that sub-section.

(6)- Nothing in para 426 or para 436 of the Civil Service Regulations as applicable to Government servants under the rule making control of the State Government in relation to retrenchment or abolition of posts shall, except to the extent provided in this section, apply to any employee referred to in sub-section (1).

(7)- Notwithstanding anything contained in the foregoing sub-sections -

- (a)- the services of no person who was employed in the Local Self-Government Engineering Department of the State Government immediately before the appointed date against whom any disciplinary proceeding was pending or to whom any notice or order of, termination of his services or compulsory retirement had been issued before the appointed date shall stand transferred to the Nigam on or from the appointed date and such persons may be dealt with after the appointed date in such manner and by such authority as the State Government may by general or special order specify in this behalf;
- (b)- if the services of any employee of the State Government stand transferred under sub-section (1) to the Nigam, the Nigam shall be competent after such transfer to take such disciplinary or other action as it thinks fit against or in respect of such employee having regard to any act or omission or conduct or record of such employee while he was in service of the State Government.

38. Transfer of employees to Jal Sansthan. - (1)- Save as otherwise provided in this section, every person (excluding a member of a service created under ¹[Section 27-A of this Act], Section 69-B of the U.P. Municipalities Act, 1916, and Section 112-A of the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959) who was employed exclusively in connection with water supply or sewerage services or sewage works or sewage farms under a local body for the local areas of which a Jal Sansthan has been constituted shall, on and from the said date, become an employee of the Jal Sansthan and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same other terms and conditions and with the same rights and privileges as to pension, gratuity and other matters as he would have held the same on the said date if the aforesaid water supply and sewerage services, sewage works and sewage farms had not been transferred to and vested in the Jal Sansthan, and shall continue to do so until his employment in the Jal Sanstha" is terminated or until his remuneration or other terms and conditions of service are revised or altered by the Jal Sansthan under or in pursuance of any law or in accordance with any provision which for the time being governs his service :

Provided that nothing contained in this sub-section shall apply to any such employee who, by notice in writing given to the State Government within such time as the State Government may, by general or special order, specify, intimates his intention of not becoming an employee of the Jal Sansthan :

Provided further that the services of any employee referred to in the preceding proviso under the local body, shall stand terminated on account of abolition of

¹ Ins by sec 6(a) of U.P. Act no 05 of 1984

the post held by him and he shall be entitled from that local body to compensation equivalent -

(a) in the case of a permanent employee, to three months' remuneration;

(b) in the case of a temporary employee, to one months' remuneration.

(2)- Notwithstanding anything in sub-section (1) but subject to any express agreement to the contrary, any person referred to therein, other than a workman as defined in the U.P. Industrial Disputes Act, 1947, who becomes an employee of the Jal Sansthan shall be liable to be transferred from any establishment or undertaking in which he was employed immediately before the said date to any other establishment or undertaking belonging to the Jal Sansthan at the same remuneration and on the same other terms and conditions as govern him immediately before such transfer.

(3)- If any question arises as to whether any person was exclusively employed in connection with the aforesaid water supply and sewerage services, sewage works and sewage farms under the local body immediately before the said date, it shall be decided by the State Government.

(4)- The sums standing to the credit of the employees referred to in sub-section (1) in any pension, provident fund, gratuity or other like funds constituted for them shall be transferred by the local body concerned by the Jal Sansthan along with any accumulated interest due till the said date and with the accounts relating to such fund and the Jal Sansthan shall, to the exclusion of the local body, be liable for payment of pension, provident fund, gratuity or other like dues as may be payable to such employees at the appropriate time In accordance with the conditions of their service.

(5)- Notwithstanding anything contained in the U.P. Industrial Disputes Act, 1947, or, in any other law for the time being in force, the transfer of services of any employee to the Jal Sansthan under sub-section (1) shall not entitle any such employee to any compensation under that Act or such other law, and no such claim shall be entertained by any court, tribunal or authority.

(6)- Every permanent or temporary employee of a local body becoming an employee of a Jal Sansthan under sub-section (1) shall, on and from the said date be a permanent or temporary employee of the Jal Sansthan, as the case may be, against a permanent or temporary post which shall stand created in the establishment of the Jal Sansthan with effect from the said date.

(7)- An employee referred to in the first proviso to sub-section (f) shall be deemed to have continued to be in the service of the local body concerned between the said date and the date of abolition of posts under the second proviso to that sub-section, but the local body shall be entitled to reimbursement from the Jal Sansthan of the remuneration paid by it to such employee for that period and also of the compensation referred to in the second proviso to that sub-section.

(8)- Nothing in para 426 or para 436 of the Civil Service Regulations as applicable to Government servants or in any other rules relating to employees of the local bodies in relation to retrenchment or abolition of posts shall except to the extent provided in this section, apply to any employee referred to in sub-section (1).

(9)- Notwithstanding anything contained in ¹[Section 27-A of this Act], Section 69-B of the U.R Municipalities Act, 1916, and Section 112-A of the Uttar Pradesh Nagar Mahapalika. Adhiniyam, 1959, or in the rules relating to centralised services made under the said sections, every person belonging to a centralised service referred to in the said sections and rules shall be bound ²[to serve with such Jal Sansthan or the Nigam to which his services are for the time being lent or transferred] by an order of the Director of Local Bodies, Uttar Pradesh, and no such employee shall be entitled to any deputation or other allowances merely on the ground of such deputation, and subject thereto, they shall continue to remain the members of the centralised service on the same terms and conditions as before being placed on such deputation.

(10)- Notwithstanding anything contained in the foregoing sub-sections -

- (a)- the services of no person who was employed under any local body immediately before the appointed date against whom any disciplinary proceeding was pending or to whom any notice or order of termination of his services or compulsory retirement had been issued before the appointed date shall stand transferred to the Jal Sansthan on or from the appointed date, and such persons may be dealt with after the appointed date, in such manner and by such authority as the State Government may by general or special order specify in this behalf;
- (b)- if the services of an employee of a local body stand transferred under sub-section (1) to the Jal Sansthan, the Jal Sansthan shall be competent' after such transfer to take such disciplinary or other action as it thinks fit against or in respect of such employee having regard to any act or omission or conduct or record of such employee while he was in the service of the local body.

CHAPTER-V

Property, Contract, Finance, Accounts and Audits

¹ Ins by sec 6b(i) of U.P.Act no 05 of 1984

² Ins by sec 6b(ii) of U.P.Act no 05 of 1984

39. Execution and registration of contracts, etc. - Every contract or assurance of property on behalf of the Nigam or a Jal Sansthan shall be in writing and executed by such authority and in such manner as may be provided by regulations.

40. Nigam's funds. - (1)- The Nigam shall have its own fund to be called the Nigam Fund, which shall be deemed to be a local fund and to which shall be credited all moneys received otherwise than by way of loans by or on behalf of the Nigam.

(2)- The Nigam shall also have another fund to be called the Local 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 Nigam by way of loans.

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

41. Jal Sansthan's Fund. - Every Jal Sansthan shall have its own fund which shall be deemed to be a local fund and to which shall be credited all moneys received by or on behalf of the Jal Sansthan.

42. General principles for Jal Nigam's Finance. - The Nigam shall not, as far as practicable and after taking credit for any grant or sub-vention from the State Government under Section 43 carry on its operation under this Act at a loss.

43. Grants and subventions to the Nigam and Jal Sansthan. - (1)- The State Government may, after due appropriation by law of the State Legislature, from time to time make grants and subventions to the Nigam for the purposes of this Act on such terms and conditions as the State Government may determine.

(2)- The State Government shall not make any subventions and grants to any local body or Jal Sansthan for purposes of water supply and sewerage services except through the Nigam.

44. General principles for Jal Sansthan's Finance. - A Jal Sansthan shall from time to time so fix and adjust its rates of taxes and charges under this Act as to enable it to meet, as soon as feasible, the cost of its operations, maintenance and debt service and where practicable to achieve an economic return on its fixed assets.

45. Loans to the Nigam. - The State Government may from time to time advance loans to the Nigam on such terms and conditions, not inconsistent with provisions of this Act as the State Government and the Nigam may agree upon.

46. Power of the Jal Nigam to borrow and re-lend. - (1)- Notwithstanding anything contained in any law for the time being in force under which any local body is constituted and except as otherwise provided in sub-section (5), the Nigam shall, with effect from the date of its establishment, be the only local authority authorised to borrow any sum of money for water supply and sewerage services :

Provided that a local body having jurisdiction over a local area not included within the jurisdiction of a Jal Sansthan may with the approval of the State Government, which shall consult the Nigam before giving such approval, borrow any sum of money for such services.

(2)- Without prejudice to the provisions of sub-section (1) the Nigam 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 determine, borrow any sum required for the purposes of this Act, whether by the issues of bonds or stock or otherwise or making arrangements with bankers or other bodies or institutions approved by the State Government for this purpose.

(3)- Stock issued by the Nigam under this section shall be issued, transferred, dealt With and redeemed in such manner as the State Government may, by general or special order, direct.

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

(5)- Where the Nigam has borrowed any sum for advancing loans to a Jal Sansthan or a local body for water supply and sewerage services, the Nigam shall transfer such loans to such Jal Sansthan or local body at such terms and rates of interest, in such amount and subject to such conditions of repayment as the Nigam and Jal Sansthan or the local body may by agreement provide, for the efficient promotion, execution, operation and maintenance of water supply and sewerage services in its area.

47. Depreciation reserve. - The Nigam and every Jal Sansthan shall create a depreciation reserve and make annual provision therefor in accordance with such principles as may be prescribed.

48. Government Guarantor. - The State Government may guarantee the repayment of any loan and payment of interests on all loans made or transferred to the Nigam for the purposes of this Act.

49. Direct management by Nigam. - (1)- Where any Jal Sansthan or local body which is under a liability to the Nigam under any agreement makes any default in repayment of any loan or advance or any instalment thereof or otherwise to comply with the terms of the agreement with the Nigam, the Nigam may request the State Government for action under this section.

(2)- The State Government on receiving a request from the Nigam under sub-section (1) may, after giving an opportunity of explanation to the Jal Sansthan or local body concerned, direct that the Nigam shall take over the management of the water supply or sewerage services or both, as the case may be, of the Jal Sansthan or local body and realise its dues through such management, and such order shall have effect for such period not exceeding three years as may be specified by the State Government:

Provided that the State Government may by order extend the period of operation of its original order from time to time so however that such extension shall not exceed two years in the aggregate.

¹[(2A) If at any time the State Government is satisfied that a Jal Sansthan or local body has mismanaged the water supply or sewerage services or both, as the case may be, or has occasioned loss to its property, it may, after giving an opportunity of explanation to the Jal Sansthan or local body, by order, transfer the management of water supply or sewerage services of that Jal Sansthan or local body direct to the Nigam, and such order shall have effect for such period not exceeding three years as may be specified by the State Government:

Provided that the State Government may, by order, extend the period of operation of its original order from time to time, so however that such extension shall not exceed two years in the aggregate.]

(3)- Where the management of water supply or sewerage services of any Jal Sansthan or local body is taken over by the Nigam or any dues are realised by it under the ²[provisions of sub-section (2) or sub-section (2-A)] all costs, charges and expenses properly incurred by it as incidental to such management and realisation shall be recoverable from the Jal Sansthan or local body and the money which is received by it from such management and realisation shall, in absence of any contract to the contrary, be held by it in trust to be applied, firstly, in payment of such costs, charges and expenses and secondly, in discharge of the debt due to the Nigam and residue of the money so secured shall be paid to the Jal Sansthan or local body entitled thereto.

(4)- Where an order is passed ³[under sub-section (2), or (2-A)] the Jal Sansthan or local body concerned and its employees engaged in the water supply or sewerage services or both, as the case may be, shall forthwith comply with such order, and at the request of the Nigam the Collector of the district may take all necessary steps for securing to the Nigam the possession of any property or asset, book of account, register or document relating to such services and, in particular, may use or cause to be used such force as may be necessary.

50. Accounts and audit. - (1)- The Nigam and a Jal Sansthan 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 programme of its activities during that year as well as financial estimate in respect thereof and the same shall be submitted in the case of Nigam to the State Government and in the case of Jal Sansthan to the Nigam in such manner, 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 or the Nigam, as the case may be :

¹ Ins by sec 8(i) of U.P.Act no 28 of 1978

² Ins by sec 8(ii) of U.P.Act no 28 of 1978

³ Ins by sec 8(iii) of U.P.Act no 28 of 1978

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 Nigam or the Jal Sansthan, as the case may be, 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 and subventions during the said period.

(2)- The Nigam and a Jal Sansthan shall cause 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 the regulations may require.

(3)- The accounts of the Nigam and Jal Sansthan shall be audited by such Auditor, in such manner and at such times as the State Government may, by general or special order, direct, and 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 Nigam and a Jal Sansthan, as certified by the Auditor together with the audit report thereon shall be forwarded annually to the State Government and the Nigam respectively, who may issue such directions to the Nigam or the Jal Sansthan, as the case may be, as it may deem fit, and the Nigam or the Jal Sansthan shall comply with such directions.

(5)- The State Government shall -

(a)- cause the accounts of the Nigam together with the audit report thereon, received by it under sub-section (4) to be laid annually before each House of the State Legislature, and

(b)- cause the accounts of the Nigam to be published in such manner as it thinks fit.

51. Surcharge. - (1)- The Chairman and other members, officers and employees of the Nigam or, as the case may be, of the Jal Sansthan, shall be liable to surcharge for the loss, waste or misapplication of any money or property of the Nigam or the Jal Sansthan if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while acting as such Chairman, or other member or officer or employee.

(2)- The procedure of surcharge shall be such as may be prescribed.

(3)- Any amount found to be involved in such loss, waste or misapplication as a result of proceedings for surcharge shall be recoverable as arrears of land revenue.

(4)- Nothing in sub-section (3) shall prevent the Nigam or the Jal Sansthan from deducting any amount referred to therein from any sum payable by the Nigam or the Jal Sansthan on account of remuneration or otherwise to such Chairman or other member or officer or employee.

CHAPTER- VI

Taxes, Fees and Charges

52. - Taxes leviable. - (1)- For the purposes of this Act, a Jal Sansthan shall levy, on premises situated within its area :

(a)- where the area is covered by the water supply services of Jal Sansthan, a water tax; and

(b)- where the area is covered by the sewerage services of Jal Sansthan, a sewerage tax.

(2)- The taxes mentioned in sub-section (1) ¹[shall, in a local area other than a city, be levied] at such rate which in the case of water tax shall be not less than 6 per cent and not more than 14 per cent and in the case of sewerage tax shall be not less than 2 per cent and not more than 4 per cent of the assessed annual value of the premises as the Government may, from time to time after considering the recommendation of the Nigam, by notification in the Gazette, declare.

²[(3) The taxes mentioned in sub-section (1), shall, in a city, be levied at such rate which in the case of water tax shall not be less than 7.5 per cent and not more than 12.5 per cent and in the case of sewerage tax shall not be less than 2.5 per cent and not more than 5 per cent of the annual value of the premises determined under the Uttar Pradesh Municipal Corporations Act, 1959, as the State Government may, from time to time, after considering the recommendation of the Nigam, by notification in the Gazette, declare.]

³[**Explanation** - For the purposes of this section -

(i)- the expression "city" shall have the meaning assigned to it in the Uttar Pradesh Municipal Corporations Act, 1959; and

(ii)- the expression "sewerage tax" shall have the same meaning as the "drainage tax" has been assigned in the Uttar Pradesh Municipal Corporations Act, 1959.]

53. Assessment of annual value. - (1)- For the purposes of ⁴[sub-section (2) of Section 52,] annual value means -

(a)- in the case of railway stations, educational institutions (including their hostels and halls) factories (as defined in the Factories Act, 1948), and commercial establishments (as defined in the Uttar Pradesh Dookan Aur Vanijya Adhistan Adhiniyam, 1956), five per cent of the market value of the premises;

¹ ins by sec 2(a) of U.P.Act no 16 of 1999

² ins by sec 2(b) of U.P.Act no 16 of 1999

³ ins by sec 2(c) of U.P.Act no 16 of 1999

⁴ ins by sec 3 (a) of U.P.Act no 16 of 1999

(b)- in the case of any other premises, the gross annual rent for which such premises are actually let or where the premises are not let, the gross annual rent for which the premises might reasonably be expected to be let :

Provided that the annual value in the case of premises occupied by the owner himself shall be deemed to be twenty-five per cent less than the annual value otherwise determined under this section.

(2)- The annual value of premises for the purposes of the levy of taxes ¹[under sub-section (2) of Section 52] shall be assessed by such authority as the State Government may, by general or special order direct, and such authority may be either the Jal Sansthan itself or any other agency as may be specified in the order.

(3)- Where the assessment is made by the Jal Sansthan or by any other agency the Jal Sansthan or such other agency shall follow the prescribed procedure.

(4)- Until an assessment of the annual value of premises in any local area is made by the Jal Sansthan or any other agency specified under sub-section (2) the annual value of all premises in that local area, as assessed by the local body concerned for the purposes of house tax shall be deemed to be the annual value of the premises for the purposes of this Act as well.

(5)- Where the annual value of premises in any local area is assessed by the Jal Sansthan or, other agency specified under sub-section (2), it shall, subject to any variation therein on appeal under Section 54, be deemed to be the annual value of the premises for the purposes also of house tax levied by the local body concerned, anything contained in the law constituting such local body notwithstanding.

54. Appeal against assessment. - (1)- Any person aggrieved by an order of assessment made by a Jal Sansthan or any other agency under sub-section (2) of Section 53 may, within thirty days from the date of such order, prefer an appeal to the prescribed authority.

(2)- Where an appeal is preferred from an order of the Jal Sansthan or any other agency under sub-section (1), the prescribed authority may stay the enforcement of that order for such period and on such terms as it deems fit.

(3)- The prescribed authority may, after giving to the parties an opportunity of being heard, confirm, set aside or modify the order under appeal.

(4)- A decision of the prescribed authority under sub-section (3) shall be final and binding on the parties.

¹ ins by sec 3(b) of U.P.Act no 16 of 1999

55 . Restriction on levy of taxes. - The levy of taxes mentioned in Section 52 shall be subject to the following restrictions, namely -

(a)- they shall not be levied on any land exclusively used for agricultural purposes unless water is supplied by the Jal Sansthan for such purposes to that land;

(b)- the water tax shall not be levied on any premises -

¹[(i) of which no part is situate within the radius prescribed from the nearest stand-post or other waterworks at which water is made available to the public by the Jal Sansthan; or

(ii) the annual value of which does not exceed rupees three hundred and sixty, and to which no water is supplied by the Jal Sansthan.]

(c)- the sewerage tax shall not be levied on any premises -

(i) of which no part is within a radius of one hundred metres from the nearest sewer of the Jal Sansthan, or

(ii) the annual value of which does not exceed one hundred fifty rupees.

56. Liability for payment of taxes. - (1) The taxes mentioned in Section 52 shall be recoverable -

(a)- in the case of premises connected with water supply or, as the case may be, with the sewer of a Jal Sansthan, from the occupier of the premises;

(b)- in the case of premises not so connected, from the owner of the premises.

² [Provided that, in the case covered by clause (a), where such premises is let to more occupiers than one or for any other sufficient reason recovery of tax from the occupier is found to be inexpedient, the Jal Sansthan may, at its option, levy the tax from the owner instead of from the occupier.

(2)- An owner from whom tax is levied under the proviso to sub-section (1) may in the absence of contract to the contrary, recover it from the occupier.]

57. Consolidation of taxes. - For the purposes of levying, assessing or collecting the two taxes, mentioned in Section 52, a Jal Sansthan may consolidate both taxes.

58. Application of certain provisions of U.P. Act 2 of 1959. - [(1)] The provisions of Sections 178, 214, 215, 222, 223 and 226, of the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959, shall *mutatis mutandis*, apply in relation to the taxes

¹ Subs. by sec 10 of U.P Act no. 10 of 1978

² Ins by sec 7 of U.P.Act no 05 of 1984

mentioned in Section 52, as they apply to the property taxes described in Section 173 of that Adhiniyam, and references in the said provisions to the Mahapalika and the Mukhya Nagar Adhikari shall be construed respectively as references to the Jal Sansthan and such officer of the Jal Sansthan as may be authorised by it in that behalf :

59. Cost of Water. - (1)- A Jal Sansthan shall, by notification in the Gazette, fix the cost of water to be supplied by it according to its volume, and also the minimum cost to be charged in respect of each connection.

(2)- A Jal Sansthan may, in lieu of charging the cost of water according to volume, accept a fixed sum for a specified period on the basis of expected consumption of water during that period.

60. Cost of disposal of waste water. - (1)- A Jal Sansthan shall, by notification in the Gazette, fix the cost of disposal of water according to its volume (which shall be 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)- A Jal Sansthan may in lieu of charging the cost of disposal of waste matter according to the basis stated in sub-section (1) accept a fixed sum for a specified period on the basis of expected disposal of waste water during that period.

61. Meter Rent. - A Jal Sansthan may provide water meters and charge such rent for the meter as may be provided in the bye-laws.

62. Security. - A Jal Sansthan may demand such sum as security from the consumer in connection with the supply of meter or for sewer connection as provided by bye-laws provided that the Jal Sansthan shall pay interest at such rate as the Nigam may, from time to time, determine, on any sum so deposited with it.

63. Fees. - A Jal Sansthan may charge such fees, for connection, disconnection, re-connection of any water supply or sewer or testing or supervision or for any other service rendered or work executed or supervised as may be provided by bye-laws.

64. Recovery of taxes and other sums due. - (1)- Any sum due to a Jal Sansthan on account of tax, fee, cost of water, cost of disposal of waste water, the meter-rent, penalty, damage or surcharge under this Act, shall be recoverable as arrears of land revenue.

(2)- Nothing in sub-section (1) shall affect the power of a Jal Sansthan to cut off in accordance with its bye-laws, the connection of water supply in the event of non-payment by the consumer of any dues referred to in that sub-section.

CHAPTER VII

Water Supply

65. Definition of supply of water for domestic purposes. - The supply of water for domestic purposes under this Act means supply for any purpose except the following, namely :

- (a) for any trade, manufacture or business;
- (b) for gardens or for purposes of irrigation;
- (c) for building purposes 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 hotel, boarding house or residential club;
- (g) for the consumption and use by the persons resorting to theatres and cinemas;
- (h) for watering streets; or
- (i) for washing vehicles where they are kept for sale or hire.

66. Supply of water by Jal Sansthan. - (1)- A Jal Sansthan shall, on an application made in that behalf by the owner or occupier of any premises, grant supply of water for domestic purposes for -

- (a)- any premises situated within a distance of thirty metres from an existing main; or
- (b)- where the applicant undertakes to bear the cost any extension which may be necessary beyond a distance of thirty metres for connecting the premises with the nearest existing main, any premises situated beyond such distance.

Explanation. - The Jal Sansthan shall bear the cost of extension only in respect of so much distance, not exceeding thirty metres, as is sufficient to connect the nearest existing main with the outer limit of the premises.

(2)- Notwithstanding that the cost of any extension has been borne under clause (b) of sub-section (1) by the person to whom water is supplied, the property therein shall vest in the Jal Sansthan.

(3)- The Jal Sansthan may on an application made in that behalf, grant supply of water for any purposes other than domestic purposes.

(4)- The supply of water for domestic or other purposes shall be subject to such terms and conditions as may be provided by bye-laws.

(5)- Notwithstanding anything in the bye-laws referred to in sub-section (4) the Jal Sansthan may supply water to the Government or any local authority or other statutory corporation or to any educational institution on such terms as to payment and as to the period and the conditions of supply as may be agreed upon.

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

68. Provision of fire hydrants. - (1)- The Jal Sansthan may, at the request and expense of the owner or occupier of any factory (as defined in the Factories Act, 1948) or any shop or commercial establishment (as defined in the Uttar Pradesh Dookan Aur Vanijya Adhishthan Adhiniyam, 1962) provide and maintain fire hydrants together with all incidental work, for the supply of water in case of fire in such factory, shop or commercial establishment and in any such case charge from such owner or occupier the cost of water supplied in connection therewith.

(2)- The Jal Sansthan shall provide and maintain fire hydrants together with all incidental works for the supply of water in case of fire, at all such other places as it may consider necessary, and supply water in connection therewith.

69. Power to provide water meters. - (1)- The Jal Sansthan may provide a water meter and attach the same to the service pipe in premises connected with waterworks of the Jal Sansthan.

(2)- The expenses of installation and the rent to be payable for the use of a meter shall be paid by the consumer.

(3)- The provision of meters or the transfer of connection thereof and their use, maintenance and testing and the expense of installation and their rents and the furnishing of security, if any, in connection therewith shall be regulated by bye-laws made in that behalf.

70. Licensed plumbers. - (1)- No person other than a plumber licensed by the Jal Sansthan (hereinafter referred to as a licensed plumber) shall execute any work in respect of a water connection not being a work of a 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 sub-section (1), such work shall be liable to be dismantled at the discretion of the Jal Sansthan.

71. Prohibition of wastage of water. - (1)- No owner or occupier of any premises to which Water is supplied by the Jal Sansthan shall 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 Jal Sansthan has reason to believe that as a result of defect in a service pipe or tap or other fitting or work connected therewith water is being wasted, the Jal Sansthan may by written notice require the consumer to repair and make good the defect within such time as may be specified.

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

72. Power to cut off water supply. – (1)- The Jal Sansthan may cut off the water supply from any premises -

(a) if any tax, fee, rental, cost of water or any charge or other sum due under this Act, is not paid within a period of fifteen days after service of a bill for the same; or

(b) if after the receipt of a written notice from the Jal Sansthan 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 rule or regulations or bye-laws made thereunder;

(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 a Jal Sansthan duly authorised in this behalf into the premises which he proposes to enter for the purpose of executing any work or placing or removing any apparatus or of making any examination or enquiry 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 Jal Sansthan 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 on 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 regulation or bye-laws made thereunder; or

(g) if by reason 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;

¹[(h) if the consumer does not allow the Jal Sansthan to install meter on his water connection or refuses to deposit security for the supply of meter.]

¹ Ins by sec 8 of U.P.Act no 05 of 1984

(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.

(3)- The Jal Sansthan may reconnect the supply of water disconnected under sub-section (1) on payment of such charges and on such terms and conditions as may be provided by bye-laws.

73. Prohibition of certain acts. - (1)- No person shall -

(a) wilfully obstruct any person acting under the authority of the Nigam or a Jal Sansthan 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, valve, pipe, meter or other work or apparatus belonging to the Nigam or a Jal Sansthan; or

(c) unlawfully obstruct the flow of or flush, draw off, or divert, or take water from any waterworks belonging to the Nigam or a Jal Sansthan or any water course by which any such water is supplied; or

(d) obstruct any officer or other employee of the Nigam or a Jal Sansthan in the discharge of his duties under this Chapter or refuse or wilfully neglect to furnish him with means necessary for the making of any entry, inspection, examination or enquiry thereunder in relation to any waterworks; or

(e) bathe in, at or upon any waterworks, or wash or throw or cause to enter therein any animal or throw any rubbish, dirt or filth into any waterworks, 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 waterworks, or do any other act whereby the water in any waterworks, is fouled or likely to be fouled.

(2)- Nothing in clause (b) or 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 obtained the consent of any other consumer whose supply be affected thereby.

CHAPTER VIII

Sewerage

74. Right of owner or occupier to obtain sewer connection. - The owner or occupier of any premises shall be entitled to empty sewage of the premises into a sewer of a Jal Sansthan provided that, before doing so, he, -

(a)- obtains written permission of the Jal Sansthan and pays connection fee in accordance with the bye-laws; and

(b)- complies with such other conditions as may be provided by bye-laws.

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

76. Prohibition of connection with sewer. - No person shall without the permission of the Jal Sansthan make or cause to be made any connection or communication with any sewer of the Jal Sansthan.

77. Prohibition of construction of building over sewer. - (1)- No person shall without the permission of the Jal Sansthan construct any private street, building or other structure on any sewer of the Jal Sansthan.

(2)- The provisions of Sections 327 and 333 of the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959, shall *mutatis mutandis* apply in relation to any construction in contravention of sub-section (1) with the substitution of references to the Mukhya Nagar Adhikari by references to such officer of the Jal Sansthan as it may, by general or special order, specify in that behalf.

78. Power to affix shaft etc., for ventilation of sewer cesspool. - A Jal Sansthan may, for the purposes of ventilating any sewer or cesspool, whether vested in the Jal Sansthan 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.

79. Power to examine and test sewer etc., believed to be defective. –

(1)- Where it appears to the Jal Sansthan that there are reasonable grounds for believing that a private sewer or cesspool is in such condition as to be prejudicial to health or to be a nuisance or that a private sewer communicating directly or indirectly with a sewer of the Jal Sansthan is so defective as to admit sub-soil water or grit or other material it 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)(a)- If on examination the sewer or cesspool is found to be in proper condition, the Jal Sansthan shall as soon as possible, reinstate any ground which has been opened by it and determine any pay compensation for the damage caused by it.

(b)- If on the other hand, the sewer or cesspool so examined is found to be defective, the Jal Sansthan may forthwith stop its functioning or disconnect it from the sewer of the Jal Sansthan, or require the owner or occupier to take remedial action as directed and within a time specified, by the Jal Sansthan and in any such event the Jal Sansthan may recover the cost incurred by it from the owner or occupier, as the case may be.

(3)- In case of dispute as to the sufficiency of the amount so determined, the Jal Sansthan shall refer the dispute to the Nigam whose decision thereon shall be final.

80. Prohibition of certain acts. - (1)- No person shall -

(a)- wilfully obstruct any person acting under the authority of the Jal Nigam or a Jal Sansthan under this Chapter in setting out the lines of any works or pull up or remove any pillar, post or stay fixed in the ground for the purpose of setting out the lines of such work 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, valve, pipe or other works or apparatus belonging to the Nigam or a Jal Sansthan and pertaining to its functions under this Chapter; or

(c)- unlawfully obstruct the flow of, or flush, draw off or divert or take sewage from any work belonging to the Nigam or a Jal Sansthan; or

(d)- obstruct any officer or other employee of the Nigam or Jal Sansthan in discharge of his duties under this Chapter or refuse or wilfully neglect to furnish him with means necessary for the making of any entry, inspection or enquiry thereunder in relation to any sewage works.

81. Power of entry, survey etc. - (1)- Any officer of the Nigam or a Jal Sansthan authorised by it in that behalf may, with or without assistants, or workmen, enter into or upon any premises in order -

(a) to make any inspection, survey, measurement, valuation or inquiry;

(b) to take level;

(c) to dig or bore into the sub-soil;

(d) to set out boundaries and intended lines of work;

(e) to mark such levels, boundaries and lines by placing marks and cuttings trenches; or

(f) to do any other thing necessary for the purposes of this Act or any rule or regulation or bye-law :

Provided that -

(i) no such entry into a building shall be made between sunset and sunrise;

- (ii) no dwelling house or place shall be so entered, except with the consent of the occupier thereof, without giving the occupier at least twenty-four hours notice of the intention to make such entry;
- (iii) reasonable opportunity and facility shall be allowed to the women occupying any part of a dwelling house to withdraw; and
- (iv) due regard shall, so far as feasible, be had to the social and religious usages of the occupants of the premises, entered into.

(2)- Whenever any officer of the Nigam or a Jal Sansthan authorised under sub-section (1) enters into or upon any premises in pursuance of that sub-section he shall, at the time of such entry pay or tender payment for the damage, if any, to be caused by any act as aforesaid and in case of dispute as to the sufficiency of the amount of compensation, such dispute shall in the case of Nigam be referred to the Chairman of the Nigam and in the case of a Jal Sansthan be referred to the Chairman of the Jal Sansthan.

(3)- 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 the purpose of depositing therein, any soil, grindstone or other materials or for obtaining access to such work or for any other purposes connected with the execution of the same.

(4)- It shall be lawful for any officer authorised in this behalf by the Nigam or a Jal Sansthan to make any 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 refuses to open such door, gate or barrier.

(5)- The officer so authorised shall, in exercise of any power conferred by sub-section (4) do as little damage as may be possible and compensation for such damage shall be payable by the Nigam or a Jal Sansthan, as the case may be, to the owner or occupier of such premises or to both, and in case of any dispute as to the sufficiency of the amount of compensation, the dispute shall in the case of the Nigam be referred to the Chairman of the Nigam and in the case of a Jal Sansthan be referred to the Chairman of the Jal Sansthan.

82. Power to disinfect tanks, pools and wells. - (1)- Any officer authorised by the Nigam or a Jal Sansthan in that behalf may have any tank, pool, or well, cleaned or disinfected after notices to the owner or occupier, if any, when it appears that such cleaning or disinfection will prevent or check the spread of any dangerous disease.

(2)- The cost of cleaning or disinfection referred to in sub-section (1) shall be recoverable from the owner or occupier of such tank, pool or well.

CHAPTER IX

Penalties And Procedure

83. Cognizance of offences. - No court shall take cognizance of any offence under this Act except on the complaint of the Nigam or a Jal Sansthan, as the case may be, made within six months next after the commission of the offence.

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

85. Offences by companies. - (1)- If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence 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 that the commission of the offence 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 any body corporate and includes a firm or other association of individuals, and

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

86. Power to arrest person refusing to give his name and address. -

(1)- Where any person in the presence of any officer of the Nigam or Jal Sansthan authorised by it by general or special order in that behalf has committed or has been accused of committing or who is reasonably suspected by such officer of committing any offence punishable under this Act refuses or fails on demand of such officer to give his name and address or gives a name or address which such officer has reason to

believe to be false, he may be arrested by such officer without a warrant in order that his name or address or both may be ascertained.

(2)- The provisions of sub-sections (2) and (3) of Section 42 and of Sections 43, 48, 56, 57, 58 and 59 of the Code of Criminal Procedure, 1973, shall *mutatis mutandis* apply in relation to any arrest made under sub-section (1) as they apply to an arrest made under sub-section (1) of Section 42 thereof.

87. Composition of offences. - (1)- The Managing Director or the General Manager as the case may be, or any other officer of the Nigam or a Jal Sansthan authorised by it by general or special order in that behalf may, either before or after institution of the proceedings compound any offence punishable under this Act on such terms, including payment of composition fee, as he may think fit.

(2)- Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

88. Duties of police officers and employees of the local bodies. - It shall be the duty of all police officers and of employees of the local body within whose local area any offence punishable under this Act, is committed or attempted to be committed to give immediate information to the Jal Sansthan or to officers of the Jal Sansthan authorised in this behalf, of the commission of or, as the case may be, of the attempt to commit such offence and to assist all such officers in the exercise of their authority under this Act.

CHAPTER X

External Control

89. Directions to the Nigam on questions of policy. - (1)- In the discharge of its functions, the Nigam shall be guided by such directions on questions of policy as may be given to it by the State Government.

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

90. Annual report, statistics, returns and other information by the Nigam. -

(1)- The Nigam 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, and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Nigam 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.

(2)- The Nigam shall furnish to the State Government at such times and in such form 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 Nigam or any other matter under the control of the Nigam as the State Government may, from time to time, require.

91. Direction to a Jal Sansthan on questions of policy. - (1)- In the discharge of its functions, a Jal Sansthan shall be guided by such directions on questions of policy as may be given to it by the Nigam.

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

92. Annual reports, statistics, returns and other information by a Jal Sansthan. –

(1)- A Jal Sansthan shall, as soon as may be after the end of each financial year, prepare and submit to the Nigam before such date and in such form as the Nigam may direct, a report giving an account of its activities during the previous financial year and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Jal Sansthan in the next financial year.

(2)- A Jal Sansthan shall furnish to the Nigam at such times and in such form and manner as the Nigam may direct such statistics and returns and such particulars in regard to any proposed or existing activities of the Jal Sansthan or any other matter under the control of the Jal Sansthan as the Nigam may, from time to time, require.

CHAPTER XI Miscellaneous

93. Duty of local bodies to assist. - (1)- All local bodies shall render such help and assistance and furnish such information to the Nigam or a Jal Sansthan 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 it may require to discharge its function under this Act.

(2) - Without prejudice to the provisions of sub-section (1), every local body shall on demand make available at cost 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 direction as in its opinion may be necessary or expedient for enabling the Nigam or a Jal Sansthan to perform its functions, under this Act, and thereupon it shall be the duty of the local body to comply with such directions.

94. General power to pay compensation. - In any case not otherwise expressly provided for in this Act the Nigam or a Jal Sansthan may pay reasonable compensation to any person who sustains damage by reason of the exercise of any power vested by or under this Act in the Nigam or a Jal Sansthan.

95. Protection for acts done in good faith. - No suit, prosecution or other legal proceedings shall lie against the State Government, the Nigam or a Jal Sansthan or a Chairman or other member of the Nigam or a Jal Sansthan or any officer or servant of the State Government or of the Nigam or a Jal Sansthan for anything which is in good faith done or purported or intended to be done in pursuance of this Act or any rule, regulation or bye-laws made thereunder.

CHAPTER XII

Rules, Regulations And Bye-Laws

96. Power to make rules. - (1)- The State Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

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

- (a)- the powers of the auditor under sub-section (3) of Section 50;
- (b)- the procedure in respect of surcharge under Section 51 including the provision of appeal, if any, in respect thereof;
- (c)- the procedure that may be followed by a Jal Sansthan or any other agency for assessment of the annual value under sub-section (3) of Section 53 including the authentication and custody of assessment lists, the revision and duration of such lists, the amendment and alteration of such lists, and appeals in case of dispute in respect of assessment;
- (d)- any other matter which is to be or may be prescribed.

(3)- All rules made under this Act shall, as soon as may be after they are made, be laid before each house of the State Legislature, while it is in session for a total period of not less than thirty days, comprised in its one session or more than one successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the Gazette subject to such modifications or annulments as the two Houses of the Legislature may, during the said period, agree to make, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

97. Regulations. - (1)- The Nigam and a Jal Sansthan may, with the previous approval of the State Government, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Nigam or a Jal Sansthan.

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

(a)- the summoning and holding of meetings of the Nigam or a Jal Sansthan, 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 quorum thereat;

(b)- the powers and duties of the employees of the Nigam or a Jal Sansthan;

(c)- the salaries and allowances and other conditions of service of employees of the Nigam, or a Jal Sansthan other than employees employed on contract basis;

(d)- the management of the property of the Nigam or Jal Sansthan;

(e)- the execution of contracts and assurances of property on behalf of the Nigam or Jal Sansthan;

(f)- the limits up to which the Managing Director or the General Manager shall be competent to incur recurring or non-recurring expenditure in any financial year, without such expenditure being included in the statement under sub-section (1) of Section 50;

(g)- the maintenance of accounts and the preparation of balance-sheet by the Nigam or Jal Sansthan;

(h)- the procedure for carrying out the functions of the Nigam or a Jal Sansthan under this Act;

(i)- any other matter for which provision is to be or may be made in regulations.

(3)- Until any regulations are made by the Nigam or a Jal Sansthan, as the case may be, under sub-section (1), any regulations which may be so made by it may be made by the State Government, and any regulations so made may be altered or rescinded by the Nigam or a Jal Sansthan in exercise of its power under sub-section (1).

98. Bye-laws. - The Nigam or a Jal Sansthan may with the previous approval of the State Government, make bye-laws consistent with this Act and the rules made thereunder, for carrying out the purposes of this Act in respect of any matter affecting the general public, and without prejudice to the generality of this power, such bye-laws may provide for -

(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, the rent and other charges in respect thereof including the furnishing of security by the consumer and matters connected therewith;
- (c) the fee to be paid for connection with a sewer of the Nigam or a Jal Sansthan and other terms and conditions for such connections;
- (d) any other matter for which provision is to be or may be made in bye-laws.

CHAPTER XIII

Transitory Provision And Repeal

99. Transitory Provision. - (1)- Any water tax or sewerage tax, by whatever name called, imposed by the local body concerned in respect of any local area for which a Jal Sansthan has been constituted under Section 18 before the date of such constitution, hereinafter called the said date and any notification, notice, order, direction, rule, bye-law or form in relation to such tax or to the provision of water supply or sewerage services immediately before the said date including any assessment or order, or order for exemption or connection, disconnection or reconnection made or granted, or penalty imposed in respect of the owner or occupier of any premises, or any licence issued to a plumber, or any order made in connection therewith, under any provision of law applicable to the local body having jurisdiction over such area, and in force immediately before the said date shall continue in force until other provision or order is made or other proceedings or action taken under this Act by the Jal Sansthan concerned for imposition or assessment of such tax or for grant of such licence or connection or provision of such services, and any reference in such notification, notice, order, direction, rule, bye-laws or licence to the local body concerned shall be construed as a reference to the Jal Sansthan concerned and in particular the proceeds of such taxes and fees shall go into the fund of the Jal Sansthan concerned instead of the fund of the local body concerned.

(2)- During the period between the commencement of this Act and ¹[September 30, 1978] any rule, regulation or bye-law may be made under Section 96, Section 97 or Section 98, as the case may be, with retrospective effect to a date not earlier than May 20, 1975.

(3)- ²[* * *]

100. Repeal and amendment. - Except as provided in Section 99, on and from the day on which a Jal Sansthan is constituted comprising -

¹ Subs by sec 9(a) of U.P Act No 28 of 1978

² Del. by sec 9(b) of U.P Act No 28 of 1978

- (a)- any city as defined in the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959 (U.P. Act 2 of 1959) - Sections 114 and 115 and Chapters X, XI, XIX, XXIII and XXV of that Adhiniyam;
- (b)- any Municipality as defined in the United Provinces Municipalities Act, 1916 (U.P. Act 2 of 1916) - Sections 7 and 8 and Chapters V, VII and IX of that Act;
- (c)- any Town Areas defined in the United Provinces Town Areas Act, 1914 (U.P. Act 2 of 1914)-Sections 3, 14 and 25 and Chapters V and VI of that Act;
- (d)- any Notified Area as defined in the United Provinces Municipalities Act, 1916 (U.P. Act 2 of 1916) - the provisions of that Act referred to in clause (b) as modified and extended in respect of that Notified Area;
- (e)- any Khand as defined in the Uttar Pradesh Kshettra Samities and Zila Parishads Adhiniyam, 1961 (U.P. Act 23 of 1961) - or to the rural area of any district, as the case may be-Chapters III, VII, IX and XIV of that Adhiniyam;
- (f)- any area comprised in the jurisdiction of a Gaon Sabha as defined in the U.P. Panchayat Raj Act, 1947 (U.P. Act 26 of 1947) - the provisions of Chapters IV and V of that Act;

shall have effect as if the powers, duties and functions assigned by this Act to a Jal Sansthan including the power to hold any property for purposes of the said duties and functions, were excluded from the powers, duties and functions of the' Mahapalika, the Municipal Board, the Town Area Committee, the Notified Area Committee, the Kshettra Samiti, the Zila Parishads or the Gaon Sabha, as the case may be.

¹[100A. Dissolution of Jal Sansthan and the consequences thereof. –

- (1)- Notwithstanding anything contained in this Act or in any other law for the time being in force, where the State Government is satisfied that it is expedient in the public interest so to do, it may, by notification dissolve a Jal Sansthan constituted under this Act with effect from such date as may be specified in the notification.
- (2)- On and from the date a Jal Sansthan is dissolved under sub-section (1), -
 - (a)- all properties and assets vested in and all dues recoverable by the Jal Sansthan shall vest in, and may be realised by such local body as exercised jurisdiction in the local area immediately before the constitution of such Jal Sansthan hereinafter referred to as the local body;
 - (b)- all rights, liabilities and obligations of the Jal Sansthan, whether arising out' of any contract or otherwise pertaining to Jal Sansthan shall be the rights, liabilities and obligations of the local body;

¹ Ins by sec 2 of U.P.Act no 16 of 1998

(c)- all suits and legal proceedings instituted or which might, but for such vesting and transfer, have been instituted by or against a Jal Sansthan may be continued or instituted, as the case may be, by or against the local body;

(d)- all existing water and sewerage services rights, liabilities and obligations thereto, mentioned in Section 33 of the Act, vested in or belonging to a Jal Sansthan, shall vest in and stand transferred to the local body and the provisions of Section 33 shall, mutatis mutandis, apply to such transfer to or vesting in the local body as they applied on transfer to or vesting in the Jal Sansthan;

(e)- Save as otherwise provided, every employee appointed under Section 27 of this Act or absorbed in the service of Jal Sansthan under sub-section (1) of Section 38 of the Act shall become employee of the local body and the provisions of Section 38 shall, mutatis mutandis, apply in respect of his transfer to the service of the local body as they applied in respect of transfer from local body to the Jal Sansthan;

(f)- employees governed by the Uttar Pradesh Palika Jal Kal and Jal Sansthan Abhiyantran (Kendriayit) Sewa Niyamawali, 1986 or working on deputation in Jal Sansthan shall continue to be members of their parent service and shall revert to the said service;

(g)- the enactments referred to in Section 100 shall continue to have effect in the same manner as they applied before the constitution of the Jal Sansthan.]

101. Water Supply and Sewerage Fund. – (1)- Notwithstanding anything contained in the provisions of the enactments referred to in Section 100, every local body having water supply or sewerage services or both shall have a separate fund to be called the "Water Supply and Sewerage Fund" which shall be deemed to be a local fund and to which shall be credited all moneys received by such local body for development, operation, maintenance and management of such services and also all revenues received in connection with the rendering of the aforesaid services.

(2)- The moneys credited to the aforesaid fund shall be applied exclusively for the purpose of water supply or sewerage services or both, as the case may be.

102. Removal of difficulties. - (1)- The State Government may for the purpose of removing any difficulty, particularly in relation to the transition from the provisions of the enactments referred to in Section 100 to the provisions of this Act by order, direct that the said enactments shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, not affecting the substance, as it may deem, to be necessary or expedient :

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2)- Every order made under sub-section (1) shall be laid before both Houses of the State Legislature.

103. Repeal and saving. - (1)- The Uttar Pradesh Water Supply and Sewerage (Second) Ordinance, 1975, is hereby repealed.

(2)- Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had come into force on May 20, 1975 .