

CHAPTER 6
FUNDS ACCOUNTS AND AUDIT
SECTIONS 34 TO 40

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FUNDS, ACCOUNT AND AUDIT:

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6.1. Scope and scheme.

Chapter 6 of the Water Pollution Act, comprising Sections 34 to 40, deals with funds, account and audit of the various Boards. The main topics dealt with are as under:-

- (a) Contributions from the Government (Sections 34, 35)
- (b) Funds of the Board (Sections 36, 37).
- (c) borrowing powers (Section 37A).
- (d) Budget, Annual Report, Accounts and Audit (Sections 38-40).

6.2. Sections 34 to 37: Funds of Boards

It may be mentioned at this stage that in the scheme of the Water Pollution Act, as provided in Sections 3(3) and 4(3), the Central Board and the State Boards are corporate bodies. Constitutionally, they are not part of the Union or State executive. Their funds are legally distinct from the Consolidated Fund of India and the Consolidated Funds of the State, respectively. It is for this reason that it was necessary to deal in the Water Pollution Act with their sources of finance. The main sources of finance of the Boards are -

- (i) contribution by the Government;
- (ii) gifts, grants and donations;
- (iii) fees; and
- (iv) all other sums that may be received by the Board.

The sums that form part of the fund of a Board are to be spent for the performance of the functions of the Board under the (i) Water Pollution Act, and (ii) any law relating to air pollution for the time being in force that authorised the Board to perform certain functions.

6.3. Section 37A: Borrowing by the Boards: Need to amend.

Section 37A authorised the Boards to borrow money from any source by way of loans or issue of bonds, debentures or such other instruments as the Board may deem fit. But the borrowing has to be with the consent of the Government, or in accordance with the terms of any general or special authority given by the Government.

One comment needs to be made as regards the drafting of Section 37A. The words "for the performance of all or any of its functions under this Act", which appear at the end of Section 37A, leave uncovered functions conferred by any law for the time being in force relating to air pollution, which law may confer certain functions on State Boards. Compare the wording of Section 37(2) of the Water pollution Act, as amended in 1988. These functions should be expressly mentioned in Section 37A, on the analogy of Section 37(2) as amended. Of course, it can be argued that Section 37(2) having been amended, that amendment itself brings the functions regarding air pollution within the pale of the Water Pollution Act automatically. Nevertheless, it appears to be preferable to have an express provision in Section 37A also, on this point.¹

6.4. Sections 38 to 40: Budget etc.

Sections 38 to 40 deal with budget etc.

1. Point for amendment.