

**MODEL BILL
TO
REGULATE AND CONTROL THE
DEVELOPMENT OF GROUNDWATER**

**Ministry of Water Resources
Government of India
New Delhi – 110 001.**

September, 1992

A
BILL
TO REGULATE AND CONTROL THE
DEVELOPMENT OF GROUNDWATER AND
THE MATTERS CONNECTED THEREWITH

BE enacted by the Legislature of the State of.....in the.....year of the Republic of India as follows :

1. SHORT TITLE, EXTENT AND COMMENCEMENT.

- (1) This Act may be called the Ground Water (Control and Regulation) Act, 1991.
- (2) It shall extend to the (whole or part) of the State/ Union Territory of.....
- (3) It shall come into force on such date as the State Government or Union Territory may, by notification in the official Gazette, appointed for different areas of the State/ Union Territory.

2. DEFINITIONS.

In this Act, unless the context otherwise requires :

- (a) “groundwater” means the water which exists below the surface of the ground at any particular location;
- (b) “prescribed” means prescribed by rules made under this Act;
- (c) “sink” with all its grammatical variations and cognate expression in relation to a well includes any digging, drilling or boring of new wells or deepening carried to the existing wells;
- (d) “Small farmer” means a person as prescribed;
- (e) “Marginal farmer” means a person as prescribed;
- (f) “user of groundwater” means the person or persons, an institution including a company or an establishment, whether Government or not who or which use ground water for any purpose including domestic use made either on a personal or community basis;
- (g) “well” means a well sunk for the search or extraction of ground water by person or persons except by the authorized officials of the State or the Central Governments for carrying out scientific investigations, exploration, development or management work for the survey and assessment of groundwater resources or for providing water to the small or marginal farmers and includes open well, dug well, bore well, dug-cum-bore well, tubewell, filter point, collector well and infiltration gallery.

3. ESTABLISHMENT OF A GROUND WATER AUTHORITY.

- (1) The State Government/Union Territory shall, by notification in the official Gazette, establish with effect from such date as may be specified in the notification, an Authority to be known as the Ground Water Authority.
- (2) The Ground Water Authority shall consist of :
 - (a) A Chairman to be appointed by the State Government/Union Territory;

- (b) .. (NUMBER ...representatives of the Departments as are concerned with SURVEY, exploration, development or protection of ground water to be appointed by the State/ Union Territory Government;
- (c) such number of other members who, in the opinion of the Government have special knowledge or practical experience in matters relating to ground water, to be appointed by that Government;
- (3) The term of office and the manner of filling vacancies and other conditions of service of the Chairman and other members shall be in such a manner as may be prescribed.

4. STAFF OF THE GROUND WATER AUTHORITY.

- (1) The State/Union Territory Government may for the purpose of enabling the Ground Water Authority efficiently to perform its functions or exercise its powers under the Act appoint such number of technical and other staff as it may consider necessary;
- (2) The functions and the terms and conditions of service of such employees shall be such as may be prescribed.

5. POWERS TO NOTIFY AREAS FOR CONTROL AND REGULATION OF GROUND WATER DEVELOPMENT.

- (1) If the State/Union Territory Government on a report received from the Groundwater Authority is of opinion that it is necessary or expedient in the public interest to control and/or regulate the extraction or the use or both of ground water in any form in any area, it may, by notification in the Official Gazette, declare any such area to be a notified area for the purposes of this Act with effect from such date as may be specified therein:
Provided that the date so specified in the notification shall not be earlier than three months from the date of publication of the said notification.
- (2) Every such notification shall, in addition to its publication in the Official Gazette, be published in not less than one daily regional language newspaper having wide circulation in the State/ Union Territory, and shall also be served in such manner as the State/Union Territory Government may think fit and all or any of the following modes may be followed in affecting such service, namely :-
 - (a) by affixing a copy of the notification to some conspicuous part of the offices of the village panchayats located in the said area;
 - (b) by proclaiming by beat of drum or by means of loudspeakers the contents of the notification in the said area;
 - (c) in such other manner as may be prescribed.

6. GRANT OF PERMIT TO EXTRACT AND USE GROUND WATER IN THE NOTIFIED AREA.

- (1) Any user of groundwater as defined under Section 2, sub-section (f) desiring to sink a well in the notified area for any purpose either on personal or community basis, shall apply to the Ground Water Authority for the grant of a permit for this purpose, and shall not proceed with any activity connected with such sinking unless a permit has been granted by the Ground Water Authority.
Provided that the small and marginal farmers will not have to obtain a permit if the well is proposed to be sunk for exclusively personal purposes

excluding commercial use. They will, however, have to notify the Groundwater Authority before taking up construction of a structure.

- (2) Every application under sub-section (1) shall be made in such form, shall contain such particulars and in such manner as may be prescribed.
- (3) On receipt of an application under sub-section (1), if the Ground Water Authority is satisfied that it shall not be against public interest to do so, it may grant, subject to such conditions and restrictions as may be specified, a permit authorising the extraction and use of the water.
Provided that no person shall be refused a permit unless he has been given an opportunity of being heard.
- (4) The decision regarding the grant or refusal of the permit shall be intimated by the Ground Water Authority to the applicant within a period of ninety days from the receipt of the application.
- (5) In granting or refusing a permit under sub-section (3), the Ground Water Authority shall have regard to :
 - (a) the purpose or purposes for which water is to be used.
 - (b) the existence of other competitive users;
 - (c) the availability of water;
 - (d) quality of groundwater with reference to use;
 - (e) any other factor relevant thereto.
- (6) The permit shall be in such form as may be prescribed.

7. REGISTRATION OF EXISTING USERS IN NOTIFIED AREAS.

- (1) Every existing user of ground water in the State or Union Territory shall within a period of ninety days from the date specified in the notification under sub-section (1) of section 5, apply to the Ground Water Authority for the grant of a certificate of Registration recognising its existing use in such form and in such manner as may be prescribed.
Provided that the Ground Water Authority may entertain any such application after the expiry of the said period of ninety days, if it is satisfied that the user was prevented by sufficient cause from filling the application in time.
- (2) the details to be furnished in an application under sub-section (1) shall include the following, namely :-
 - (i) the description of the source of water, such as type of well, its exact location;
 - (ii) the device used for lifting water;
 - (iii) the quantity of groundwater extracted;
 - (v) (*sic*) the purpose or purposes for which the water is being extracted;
 - (vi) the period of use in each year for the purpose or purposes;
 - (vii) in the case of irrigation, the location and extent of the area served;
 - (viii) in the case of State, Municipal or community run water supply schemes, the details of the services involved in addition to the quantities of water extracted, the diversion or pumping points and their locations.
- (3) On receipt of an application under sub-section (1), if the Ground Water Authority is satisfied, that it shall not be against the public interest to do so, it may grant, subject to such conditions and restrictions as may be specified, a certificate of registration authorising the continued use of the water.

Provided that no person shall be refused a certificate of registration unless he has been given an opportunity of being heard.

- (4) The decision regarding 'the grant or refusal of the certificate of registration shall be intimated by the Ground Water Authority to the applicant within a period of ninety days from the receipt of the application.
- (5) In granting or refusing a certificate of registration under sub-section (3) the Ground Water Authority shall have regard to :-
 - (a) the purpose or purposes for which water is being used;
 - (b) the existence of other competitive users;
 - (c) the availability of water
 - (d) any other fact relevant thereto.
- (6) The certificate of registration shall be in such form as may be prescribed.
- (7) Pending the communication by the Ground Water Authority of the decision on an application under sub-section(1), every existing user of ground water in the notified area shall be entitled to the continued use of the ground water in the same manner and in the same quantity as he was entitled to prior to the date of his application.

8. POWER TO ALTER, AMEND OR VARY THE TERMS OF THE PERMIT.

At any time after a permit or certificate of registration, as the case may be, has been granted the Ground Water Authority may, for technical reasons, alter, amend or vary the terms of the permit or certificate of registration, as the case may be, with a view to limit the use of water either permanently or temporarily.

Provided that no such alteration, amendment or variation shall be made unless the permit holder or certificate of registration holder, as the case may be, has been given an opportunity of being heard;

Provided further that before taking such action, the Ground Water Authority shall ensure that the standing crop(s) are not damaged.

9. PROHIBITION OF CARRYING ON THE BUSINESS OF SINKING WELLS IN NOTIFIED AREA.

No person shall, himself or by any person on his behalf, after six months of the enforcement of the Act, carry on the work of sinking of wells or extraction of groundwater or any other activity connected with the sinking of wells and/or extraction of groundwater in any notified area except under and in accordance with a licence granted in his behalf. Such a licence shall be obtained within 6 months of the enforcement of the Act.

10. GRANT OF LICENCE FOR SINKING OF WELLS.

- (1) Any person desiring to carry on the business of sinking of wells and/or installation of devices for extraction of groundwater in the notified area may make an application to the Ground Water Authority for the purpose.
- (2) Every application under sub-section (1) shall be made in such form, shall contain such particulars and shall be accompanied by such fees as may be prescribed.
- (3) On receipt of an application under sub-section (1), the Ground Water Authority may, after such enquiry as it deems fit and after satisfying itself that the person concerned has the means and the knowledge to undertake sinking operations and/or extraction of groundwater grant a licence in such

form as may be prescribed and subject to such conditions as may be specified therein.

11. CANCELLATION OF PERMIT/CERTIFICATE OF REGISTRATION OR LICENCE.

If the Ground Water Authority is satisfied either on a reference made to it in this behalf or otherwise, that:

- (a) the permit, certificate of registration or the licence granted under sub-section (3) of section 6, or sub-section (3) of section 7 or under sub-section (3) of section 10, as the case may be, has been obtained by fraud or misrepresentation as to an essential fact, or
- (b) the holder of the permit or certificate of registration or licence has without reasonable cause failed to comply with the conditions subject to which the permit or certificate of registration or licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder, or
- (c) a situation has arisen which warrants limiting of the use or extraction of groundwater, then, without prejudice to any other penalty to which the holder of the permit or of the certificate of registration or licence may be liable under this Act, the Ground Water Authority may after giving the holder of the permit, certificate of registration or licence, an opportunity of showing cause, cancel the permit, certificate of registration or licence, as the case may be.

12. POWERS OF THE GROUND WATER AUTHORITY.

- (1) The Groundwater Authority or any person authorised by it in writing in this behalf shall have power –
 - (a) to enter at any reasonable time on any property (private or Government owned) with the right to investigate and make any measurements concerning the land or the water located on the surface or underground.
 - (b) to inspect the well which is being sunk or has been sunk and the soils and other materials excavated therefrom;
 - (c) to take the specimens of such soils or other materials or of water extracted from such wells;
 - (d) to require by order in writing the persons sinking a well to keep and preserve in the prescribed manner specimen of soils or any material excavated therefrom for such period not exceeding three months from the date of completion or abandonment of the work as may be specified by the Groundwater Authority and thereupon such person shall comply with such requisition;
 - (e) to inspect and to take copies of the relevant record or documents and ask any question necessary for obtaining any information (including diameter or depth of the well which is being or has been sunk; the level at which the water is or was struck and subsequently restored / rested, the types of strata encountered in the sinking of the well and the quality of the water struck) required for carrying out the purposes of this Act;
 - (f) to serve or cause to be served a notice requiring any user of groundwater to furnish such information or returns in such form, at such intervals and with such particulars, as may be prescribed and thereupon such person shall comply with such requisition;

- (g) to require the user of groundwater to install water measuring devices on any water supplies when necessary to properly administer the water or where there is reason to believe that the user does not comply with the provisions contained in this Act or any other sufficient reason for defending the public interest;

Provided that where the user of groundwater does not comply with the requisition issued to him within a period of thirty days, the Groundwater Authority itself may install such water measuring device and recover the cost from the defaulting user of groundwater;

- (h) to seize any mechanical equipment utilised for illegal sinking;
- (i) to require any user of groundwater who does not comply with the provisions of this Act and rules framed thereunder to close down any water supply or destroy any hydraulic work found to be illegal according to the provisions of this Act and the rules framed thereunder;

Provided that where the user of groundwater does not comply with the requisition issued to him within a period of sixty days, the Groundwater Authority itself may carry out the necessary work and recover the cost from the illegal user of ground water.

- (j) to enter and search at all reasonable times with such assistance, if any as it considers necessary, any place in which it has reason to believe that offence under this Act has been or is being committed and order in writing the person who has or is committing the offence not to extract or use the groundwater for a specified period not exceeding thirty days;

- (k) to exercise such other powers as may be necessary for carrying out the purposes of this Act or any rules made thereunder;

- (2) The power conferred by this section includes the power to break open the door or any premises where sinking, extraction and use of groundwater may be going on;

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, refuse to open the door on being called upon to do so.

- (3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 93 of the said Code.

- (4) Where the Ground Water Authority seizes any mechanical equipment under clause (h) of sub-section (1), it shall as soon as may be, inform a magistrate and take his orders as to the custody thereof.

13. RESTRICTION ON PUBLICATION OF INFORMATION AND RETURNS.

Any user of ground water may give notice in writing to the Ground Water Authority to treat as confidential any specimen taken under clause (c) of sub-section (1) of section 12 or any other information or return furnished by him under clause (f) of sub-section (1) of that section and thereupon the Ground Water Authority shall not allow that specimen or other information or return, except in so far as it contains or affords information as to water resources and supplies and geological conditions to be published or shown to any person (not being an officer of Government) unless the person giving the notice consent thereto.

14. SERVICE OF ORDERS, ETC.

- (1) Every order under clause (d) of sub-section (1) of section 12 and every notice under clause (f) of sub-section (1) of that section shall be served –
 - (a) by giving or tendering the order of notice or by sending it by post to the user for whom it is intended, or
 - (b) if such user cannot be found, by affixing the order of notice on some conspicuous part of his last known abode or place of business or by giving or tendering the order of notice to some adult male member or servant of his family or by causing it to be affixed on some conspicuous part of the land or building in which the well is being sunk.
- (2) Where the person on whom an order or a notice is to be served is a minor, service upon his guardian in the manner provided in sub-section (1) shall be deemed to be service upon the minor.

15. DELEGATION OF POWERS AND DUTIES.

The Groundwater Authority may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in its order be exercised or discharged also by any employee of the Groundwater Authority specified in this behalf in the order.

16. MEMBERS AND EMPLOYEES OF THE GROUNDWATER AUTHORITY TO BE PUBLIC SERVANTS. CENTRAL ACT 45 OF 1860.

All members and employees of the Groundwater Authority shall when acting or purporting to act in pursuance of the provisions of this Act or of any rules made thereunder be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

17. PROTECTION AGAINST ACTION TAKEN IN GOOD FAITH.

No prosecution, suit or other legal proceeding shall be instituted against the Government or the Groundwater Authority or any other officer of the Government or any member or other employees of the Groundwater Authority for anything done or intended to be done in good faith under this Act, or the rules made thereunder.

18. COGNIZANCE AND TRIAL OF OFFENCES.

- (1) No prosecution for an offence under this Act shall be instituted except by or with the written consent of the Groundwater Authority or a person authorised in this behalf by the Groundwater Authority.
- (2) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.

19. OFFENCES AND PENALTIES.

- (1) If any user –
 - (a) contravenes or fails to comply with any of the provisions of this Act or any rule made thereunder, or
 - (b) obstructs the Groundwater Authority or any other person authorised by it to exercise any of the powers under this Act, or
 - (c) having been required to furnish any information or return under clause (f) of sub-section (1) of section 12 –

- (i) willfully refuses; or without lawful excuse, neglects to furnish such information or return, or
- (ii) willfully furnishes or causes to be furnished any information or return which he knows to be false,

he shall be punishable –

- (i) for the first offence with fine which may extend to five hundred rupees, and
- (ii) for the second and subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.
- (iii) If any person contravenes the provisions of sub-section (1) of section 6 or section 9, he shall be punishable with a fine of rupees fifty, in addition to the penalties under sub-section (i) and (ii) above, for everyday till such contravention continues.

20. COMPOUNDING OF OFFENCES.

Any offence under this act may before or after the institution of the proceedings be compounded by the Groundwater Authority, as prescribed.

21. OFFENCES BY COMPANIES.

- (1) Whenever an offence under this Act has been committed by a company, every person who at the time the offence is committed was in charge of, or was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :
- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

EXPLANATION :- For the purpose 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 a partner in the firm.

22. APPEALS.

- (1) Any person aggrieved by a decision or action of the Groundwater Authority under this Act may, within a period of thirty days from the date on which the action is taken or the decision is communicated to him and on payment of such fees as may be prescribed, prefer an appeal to such authority as may be specified by the State Government or Union Territory in this behalf.
Provided that appellate authority may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time.

- (2) on receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

23. BAR OF JURISDICTION BY CIVIL COURTS.

No civil court shall have jurisdiction in respect of any matter which the State Government or the Groundwater Authority is empowered by this Act to determine and no injunction shall be granted by any court or any other authority in respect of any action taken or to be taken in pursuance of any powers conferred by or under this Act.

24. POWER TO MAKE RULES.

- (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for :-
 - (a) the term of office and manner of filling vacancies and other conditions of service among the members and Chairman of the Groundwater Authority;
 - (b) the functions and the terms and conditions of service of the employees of the Groundwater Authority;
 - (c) any other manner of affecting service of the notification under clause (c) of sub-section (2) of section 5;
 - (d) the form of application under sub-section (2) of section 6, and sub-section (2) of section 10 and the particulars that may be furnished with these applications;
 - (e) the form of application under section 7;
 - (f) fees to accompany the application of licence under sub-section (2) of section 10;
 - (g) the form of the permit and certificate of registration under sub-section 6 of section (6) and sub-section (6) of section 7;
 - (h) the form of the licence under sub-section (3) of section 10 and the conditions that may be specified therein;
 - (i) the manner in which the specimens of soils or other material shall be kept and preserved under clause (d) of sub-section (1) of section 12;
 - (j) the form in which and the interval at which the information or return under clause (f) of sub-section (1) of section 12 shall be furnished and the particulars which such information or return shall contain;
 - (k) specifying the appellate authority under sub-section (1) of the section 22 and the fees to accompany the application for appeal;
- (1) any other matter which is to be or may be prescribed.
- (3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fifteen days, which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, Assembly agrees in making any modification in the rule or the Assembly agrees that the rule should not be made, the rule thereafter shall have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything done earlier under that rule.