

MAHARASHTRA GROUNDWATER (DEVELOPMENT AND MANAGEMENT) ACT, 2009

(Act No.XXVI of 2013, Maharashtra Government Gazette, Extraordinary, Part IV, dated 3rd December 2013)

Background

An overwhelming population of rural Maharashtra and to some extent urban population is dependent on groundwater for drinking purposes. Earlier, the use of groundwater was insignificant in the State. Subsequent to 1972, the occurrence of frequent droughts, limitations of the availability of surface water, development of low cost drilling device, availability of relatively low cost institutional finance, and energization have all led to proliferation of irrigation wells. More than 50% irrigation in the state is through groundwater and more and more industries now prefer groundwater due to its uniformity in temperature. Increasing population, uncontrolled urbanization and growing industrialization have led to more and more exploitation of groundwater to supplement the water supply though surface water. The attributes of groundwater like universal availability, less vulnerable to pollution, assured availability during scarcity period etc and an advantage over surface water has also led in increasing its use. Similarly, there being no legal restrictions on the withdrawal of groundwater its use has increased in many folds. Due to all these factors the groundwater draft has increased over the years but the natural groundwater recharge remained the same. As a result of this imbalance the problems like over-exploitation, progressive water level decline, deterioration of groundwater quality etc have cropped up and started adversely affecting the drinking water sources within such areas. This needs to be tackled by proper management of the water resources. Maharashtra Water and Irrigation Commission (MWIC, 1999) recommended that for planning and management, it is necessary to consider and estimate the groundwater and surface water together and that too on watershed/sub-basin basis.

Maharashtra is one of the few States to enact the Maharashtra Groundwater (Regulation for Drinking Water Purposes) Act, 1993 and subsequent framing of rules in 1995, to regulate the exploitation of groundwater for the protection of Public Drinking water sources. As per the provisions made under Section 6 and 7 in the Maharashtra Groundwater (Regulation for Drinking Water Purpose) Act, 1993, declaration of Over-exploited watershed and subsequently the groundwater developmental activities in Over-Exploited and Critical watersheds have been prohibited. It is mandatory for the District Collector to notify the list of villages which are included in Over-Exploited and Critical watersheds. Accordingly, as per the Groundwater Estimation Report for 2008-09, District Collectors have notified 1239 villages from 57 talukas of 13 districts. In

these villages the construction of new wells and energization of existing wells have been banned.

However, this Act does not provide the community participation framework and the effective and integrated use of groundwater for different purposes. Similarly the issues pertaining to mandatory measures of artificial groundwater recharge, drilling of deep borewells, groundwater quality and their management etc are also missing. With these limitations and to strike the balance between the regulatory and developmental measures, with a view to protect drinking water sources on one hand and to promote optimum utilization of groundwater based irrigation potential in a sustainable manner on the other hand, the State Government has decided to rebuilt the Maharashtra Groundwater (Regulation for drinking water purposes), Act 1993.

A bill on Maharashtra Groundwater (Development and Management) 2009 was prepared by Water Supply and Sanitation Department after detailed deliberations with the stakeholders, experts, different organization and Government officials, through state and regional level workshops. It was under consideration of the Joint select committee of Legislative Assembly/council. The Joint Legislative Committee after detailed deliberations of 16 meetings followed by a field visit of Rajasthan State, finalized and submitted the report to the Legislative Assembly. This bill has been unanimously passed in the State Legislative Assembly and Council in April 2012 budget session.

The Bill has been assented by Hon'ble President on 22nd November 2013. The GoM has published the Maharashtra Groundwater (Development and Management) Act 2009 (Act No.XXVI of 2013) in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 3rd December 2013.

Objective

The objective is to facilitate and ensure sustainable and adequate supply of groundwater of prescribed quality, for various category of users, through supply and demand management measures, protecting public drinking water sources and to establish the State Groundwater Authority, District Level Authority and Watershed Water Resources Committee to manage and to regulate, with community participation, the exploitation of groundwater within the State of Maharashtra.

The groundwater will be treated as a common property resource and the community will take care of effective management (demand and supply) of Groundwater Resources with GoM support.

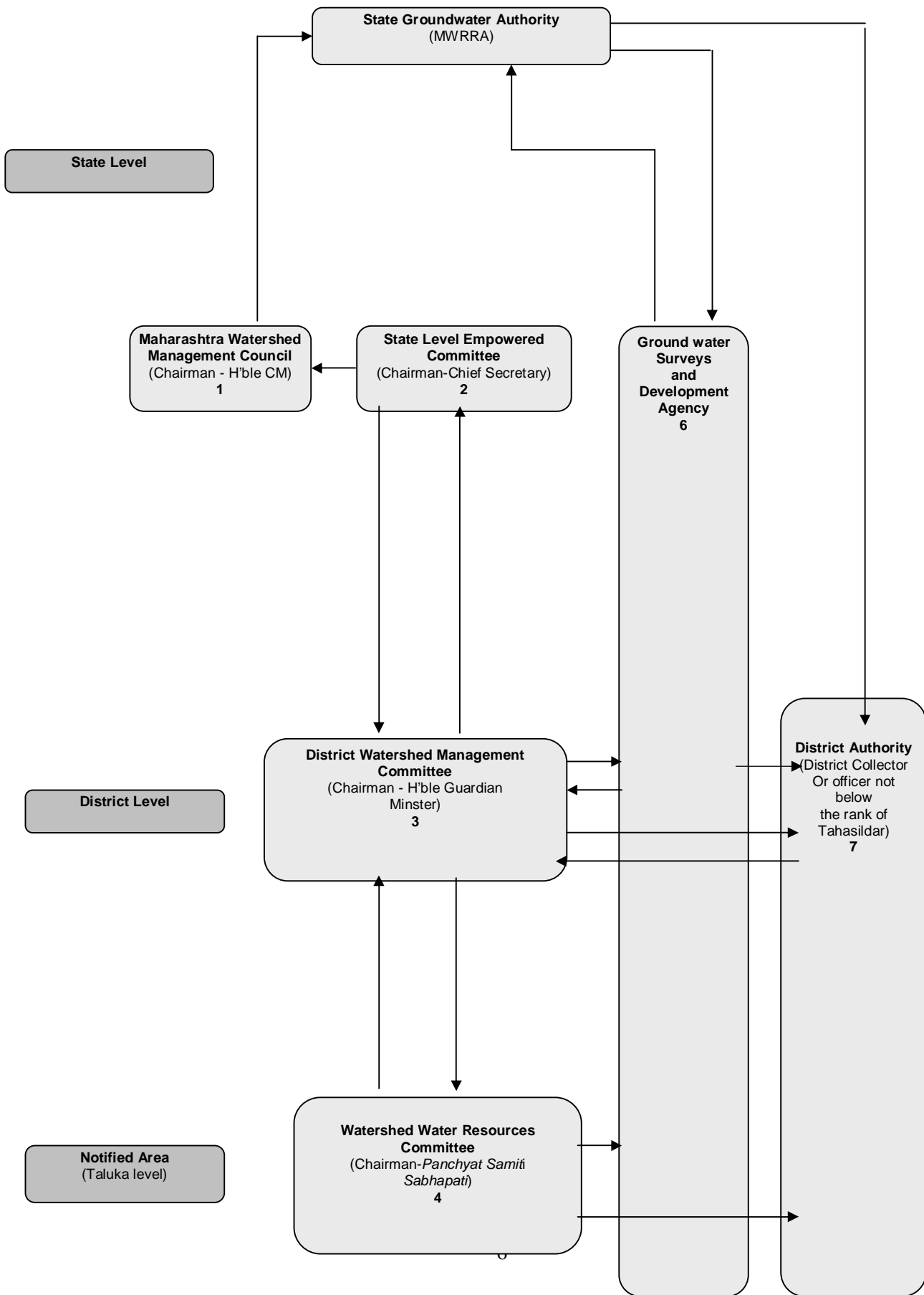
Important Provisions

- 1** Important Institutional Arrangements-
 - i. State Watershed Management Council under the Chairmanship of Honourable Chief Minister (Section 16).
 - ii. Empowered Committee under the Chairmanship of Chief Secretary (Section 15).
 - iii. State Groundwater Authority (SGWA) (Responsibility on Maharashtra Water Resources Regulatory Authority) (Section 3).
 - iv. District Watershed Management Committee under the Chairmanship of District Guardian Minister with one local MLA as a member (Section 18).
 - v. In Notified area community led Watershed Water Resources Committee under the Chairmanship of concerned *Panchayat Samiti Sabhapati* (Section 28).
 - vi. In Non-notified area Grampanchayat (Section 46).
 - vii. For all levels technical support of Groundwater Surveys and Development Agency (Sections 41 to 46).
- 2** Along with the protection of the public drinking water sources, integrated planning, development and management of groundwater resources as a whole (Section 8,9,10).
- 3** For effective implementation of the Act, the community participation is envisaged through State Watershed Management Council, District Watershed Management Committee, Watershed Water Resources Committee (Sections 16, 18 & 29).
- 4** Declaration of over exploited or water quality affected areas, as notified area (Section 4).
- 5** Protection of Public Drinking Water Source along with the polluters pay principle for protection of public drinking water sources (Section 6).
- 6** Mandatory registration of existing and new wells, borewells etc within notified and non-notified areas (Section 7).
- 7** The State Groundwater Authority shall prohibit the drilling of deep borewell/s, for usages other than drinking purposes, within the notified and non-notified areas (Section 8(1)).
- 8** Prohibition on construction of new well within the notified areas and Prohibition on extraction of groundwater from existing deep wells (> 60 m) within notified areas (Section 8(2)).
- 9** Cess on groundwater withdrawal from deep wells (> 60 m) within non notified areas (Section 8(3)).
- 10** Prohibition on sale of groundwater within notified areas (Section 8(5)).

- 11** For Integrated Water Resources Management at Watershed, District and State level there is a provision for co-ordination of surface and groundwater. The Integrated Watershed Development and Management Plan (IWDMP) shall be a part of the sub-basin/basin water plan (Section 9(2)).
- 12** Preparation and implementation of Integrated Watershed Development and Management Plan (IWDMP) with the assistance of WWRC within the notified areas on priority (Section 9(3)).
- 13** Provision to make available the grants for IWDMP through government budgetary procedure (Section 9(4)).
- 14** Mandatory provision of rain water harvesting for artificial groundwater recharge within the city areas from notified areas for roofs greater than 100 sq m (Section 9(7)).
- 15** Preparation of prospective crop plan based on groundwater use plan is mandatory in notified areas. This plan is binding on all the stakeholders and non-observance of the plan shall be deemed to be a cognizable offence under this Act (Section 10(1)).
- 16** Establishment of market linkages for less water requirement crops (Section 10(2)).
- 17** Preparation and keeping of water account by WWRC within notified areas and by Gram Panchayat within non notified areas. WWRC shall promote locally suitable cropping pattern within the notified areas (Section 10(3) and Section 46).
- 18** Mandatory provision of registration drilling rigs with Groundwater Surveys & Development Agency (Section 12).
- 19** Prohibition of construction of new wells within the area of influence of the public drinking water source. Till the area of influence of the public drinking water sources are notified the existing provision of 500 m distance is kept as it is. Any well constructed without prior permission shall be liable for confiscation (Section 21).
- 20** Declaration of water scarcity area and regulation of extraction of water from wells within **one km** of distance, during scarcity (Section 25 & 26).
- 21** Provision for issuing guidelines for safety of wells and the Gram Panchayat or the urban local bodies shall have to monitor it (Section 13).
- 22** WWRC to recommend the regulation or prohibition of sand mining within the notified areas (Section 35).
- 23** Delineation and declaration of basic watershed or aquifer, area of influence of public drinking water sources etc by Groundwater Surveys and Development Agency (Section 47).

- 24** In non-notified areas *Grampachayats* or Urban Local Bodies to prepare and maintain the Water Account and Groundwater Use Plan (Section 46).
- 25** Under offences and penalties, for first offence fine up to Rs.10000/-. For the subsequent offence imprisonment up to six months or with a fine up to Rs.25000/- or both (Section 52).
- 26** Provision for notification of public drinking water sources (Section 20).

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 (As passed by Legislative Assembly on 16th April 2012 and Legislative Council on 20th April 2012)



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State Groundwater Authority

- MWRRA to function as SGWA (Section 3)
- Invitee shall be Director, GSDA, one expert from the field of GW and one woman representing the user of gw (Section 3(2)).
- To notify areas to regulate the development and management of groundwater and establish WWRC (Section 4), to de-notify areas (Section 5)
- Protection of GW quality (Section 6)
- Ensure registration of all the owners of the well/s in the State (Section 7)
- Prohibition of drilling of deep-wells for agriculture and industry, in notified and non-notified areas. (Section 8(1))
- Regulation including total ban on construction of wells in notified areas. Levy of cess for use of deep wells in the non-notified areas (Section 8(2) & (3)).
- Identify recharge worthy area (Section 9(1)).
- Ensure implementation of Integrated Watershed Dev. & Management Plan (IWDMP), Community Participation, issue guidelines to dis-incentivise the groundwater users for taking water intensive crops, directives for urban rainwater harvesting, steps for promotion of mass awareness & training, encourage and incentivise best practices (Section 9).
- Advise State Govt to prepare the perspective crop plan based on the groundwater use plan in the notified area. The plan is binding and non observance shall be deemed to be cognizable (Section 10(1)).
- May declare a total prohibition on the water intensive crops in the notified areas (Section 10(3)).
- Shall issue guidelines for implementation of groundwater use plan in non-notified areas (Section 11).
- Shall issue guidelines for safety of wells in the State (Section 13).

State Level

1 Maharashtra Watershed Management Council (Section 16)

- Means State Water Council constituted under Section 16 of MWRRA.
- Chief Minister – ex officio President, Deputy Chief Minister – ex officio Vice President, Minister for Water Resources, Planning and Finance, Urban Development, Agriculture, Water Conservation, Industries, Environment, Water Supply & Sanitation, State Minister for Water Supply and Sanitation – Members, etc, Secretary – Water Supply and Sanitation Department – ex officio Member Secretary
- Shall approve the IWDMP for the entire State and shall ensure its integration with the State Water Plan

2 State Level Empowered Committee (Section 15)

- Means the State Water Board constituted under Section 15 of MWRRA.
- Chief Secretary – ex officio President, Secretary Water Supply and Sanitation Dept – ex officio member secretary, Secretary - Planning, Finance, Water Conservation, Energy & Env, Urban, Water Resources, Agriculture – members, all revenue commissioners – ex officio members.
- Shall integrate the IWDMP for the entire State and submit to State Watershed Management Council for approval.

6 Groundwater Surveys and Development Agency

- Registration of drilling rig owners and operators (Section 12).
- Make available the grants to the WWRC, prepare annual budget & maintain proper accounts (Section 38,39,40).
- Identification, delineation and declaration of basic watershed or aquifer (Section 41).
- Delineation of Area of Influence (Section 42).
- Shall assist WWRC or Grampanchayat in preparation of watershed or aquifer based groundwater use plan (Section 43).
- Assistance in preparation of IWDMP (Section 44).
- Technical Survey and Support work (identification of recharge worthy areas) (Section 9,45,46).

District Level

3 District Watershed Management Committee

- Constitution of District Watershed Management Committee under the Chairmanship of District Guardian Minister with District Collector as Member Secretary & One MLA member.(Section 18(1),(2)).
- To prepare watershed wise Integrated Watershed Development and Management Plan on priority for Notified areas and subsequently in non-notified area (Section 19).

7 District Authority

- Constitution of District Authority – not below the rank of Tahsildar (Section 17)
- To notify public drinking water sources (Section 20).
- To notify area of influence around the public drinking water source and prohibition of construction of well within it. (Section 21).
- Protection of drinking water sources against contamination (Section 23)
- Declaration of water scarcity area & regulation of extraction of water from wells during water scarcity (Section 25, 26)
- To notify the watershed or aquifer based groundwater use plan (Section 30 (1)).
- To implement the decisions of the District Watershed Management Committee and WWRC (Section 34)

**Notified Area
(Taluka level)**

4 Watershed Water Resources Committee

- Establishment of WWRC for Notified area comprising of at least eleven villages (Section 29).
- Shall consist of Chairman of the Concerned *Panchayat Samiti* – ex officio Chairperson, one representative from each *Grampanchayat* and ULB – members, one representative each from WSSD, Water Resources, Agriculture, Animal Husbandary, Dairy Development & Fisheries, GSDA (not below the rank of Dy Engg), one representative from Water Users Association, elected members of the concerned *Panchayat Samiti* and *Zilla Parishad* – ex officio members, one representative of NGO/VO working in water conservation – member invitee, Block Development Officer – ex officio Member Secretary
- WWRC to prepare the watershed or aquifer based groundwater use plan and to recommend the Dist Authority, the steps to be taken for regulation of groundwater within notified area (Section 30(2)).
- Shall pursue the implementation of IWDMP, individual measures of artificial recharge; specify cropping pattern based on water budget (Section 30 (3), (4), (5)).
- Prohibit or limit the use of chemical fertilizers or pesticides (Section 31)
- To permit sinking of new well within notified area (Section 32).
- To promote community participation, recommend regulation or prohibition of sand extraction or mining (Section 33 & 35)
- Shall publish report of its working (Section 37)

**Non-notified Area
Grampanchayat level**

5 Grampanchayat

- To prepare and maintain the water account of the village in non-notified area (Section 46)
- Plan and execute watershed or aquifer based groundwater recharge and groundwater use plan in non-notified area (Section 46)
- Shall take into consideration the groundwater use plan and technical advice of GSDA, before giving permission for drilling borewell or tube well of sixty mts in non-notified area. (Section 46)
- Permission well in non-notified area shall be subject to the condition of construction of artificial recharge structure of appropriate size. (Section 46)

Offences and Penalties

- For first offence, with fine which may extend to Rs 10,000/- and for subsequent offence with imprisonment for a term which may extend to six months or with fine which may extend to Rs 25,000/- or with both (Section 52).
- For company offence the in charge shall be deemed to be guilty of the offence (Section 53)
- Compounding of offences (Section 54).

Appeals

- First appeal shall be with District Authority (within sixty days).
- Second appeal with the State Authority (Section 56).