



महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

बुधवार, मे ४, २००५/वैशाख १४, शके १९२७

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Water Resources Regulatory Authority Act, 2003 (Mah. Act No. XVIII of 2005), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,

Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XVIII OF 2005.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 4th May 2005).

An Act to provide for the establishment of the Maharashtra Water Resources Regulatory Authority to regulate water resources within the State of Maharashtra, facilitate and ensure judicious, equitable and sustainable management, allocation and utilisation of water resources, fix the rates for use of water for agriculture, industrial, drinking and other purposes, and matters connected therewith or incidental thereto.

WHEREAS, it is expedient to make a law to provide for the establishment of the Maharashtra Water Resources Regulatory Authority

(४३४)

[किंमत : रुपये १.००]

to regulate water resources within the State of Maharashtra, facilitate and ensure judicious, equitable and sustainable management, allocation and utilisation of water resources, fix the rates for use of water for agriculture, industrial, drinking and other purposes, and matters connected therewith or incidental thereto, for the purposes aforesaid ; it is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, 1. (1) This Act may be called the Maharashtra Water Resources
extent and Regulatory Authority Act, 2005.
commence-
ment.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in *Official Gazette*, appoint, and different dates may be appointed for different areas and for different sections of this Act.

Definitions. 2. (1) In this Act, unless the context otherwise requires,—

(a) "Aggregate Bulk Water Entitlement" means an aggregate of Entitlements issued to a group or association of Water User Entities for the purpose of joint management of the Bulk Water Entitlements ;

(b) "allocation" means the portion or percentage of an Entitlement declared annually or seasonally by the Prescribed Authority to be made available to the holder of an Entitlement based upon the availability of water for the period within the sub-basin, river basin, project or storage facility for that season or year ; and during water crisis or scarcity on the principle of proportionate entitlement ;

(c) "Authority" means the Maharashtra Water Resources Regulatory Authority established under section 3 ;

(d) "Board" means the State Water Board constituted under section 15 ;

(e) "Bulk Water Entitlement" shall mean the volumetric entitlement to a share of the surface water resources produced by a project, river system or storage facility, for a specific category or Categories of Use, and deliverable within a specific period of time as specifically provided in the order granting the Entitlement ;

(f) "Category of Use" shall mean use of water for different purposes such as for domestic, agricultural irrigation, agro-based industries, industrial or commercial, environmental, etc., and includes such other purposes as may be prescribed ;

(g) "Chairperson" means the Chairperson of the Authority ;

(h) "Council" means the State Water Council constituted under section 16 ;

(i) "Entitlement" means any authorisation by any River Basin Agency to use the water for the purposes of this Act ;

(j) "Government" or "State Government" means the Government of Maharashtra ;

(k) "Governor's Directives" means the directives issued by the Governor under rule 7 of the 'Development Boards for Vidarbha, Marathwada and the rest of the Maharashtra Order, 1994' made under clause (2) of article 371 of the Constitution of India ;

(l) "Individual Water Entitlement" means any authorization by the Authority to use the water other than Bulk Water Entitlement of an Aggregate Bulk Water Entitlement ;

(m) "Integrated State Water Plan" means a water plan approved by the State Water Council ;

(n) "Irrigation Project" means a project constructed to provide irrigation facilities to the land situated in the command area in accordance with the project reports or orders in this regard, as revised from time to time ;

(o) "Member" means a Member of the Authority and includes the Chairperson ;

(p) "prescribed" means prescribed by the rules made under this Act ;

(q) "Prescribed Authority" means any authority at various levels within the water resource management system that has been duly authorised by the Authority to determine and declare, on an annual or seasonal basis, the quota or amount of water available within a system for use as an allocated percentage of the Entitlements duly issued by the Authority ;

(r) "Project Level Entity" means a group of all Water User Entities, from a common supply source within a water resources project ;

(s) "Quota" means a volumetric quantity of water made available to an Entitlement holder, which is derived by multiplying an Entitlement by the annual or seasonal allocation percentage ;

(t) "regulations" means regulations made by the Authority under this Act ;

(u) "River Basin Agency" means any one of the following River Basin Development Corporations operating in the River Basin and includes the Government Authorities as specified by the Government, from time to time,—

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(1) the Maharashtra Krishna Valley Development Corporation established under the Maharashtra Krishna Valley Development Corporation Act, 1996 ;

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of 1997.

(2) the Vidarbha Irrigation Development Corporation established under the Vidarbha Irrigation Development Corporation Act, 1997 ;

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1998.

(3) the Konkan Irrigation Development Corporation established under the Konkan Irrigation Development Corporation Act, 1997 ;

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1998.

(4) the Tapi Irrigation Development Corporation established under the Maharashtra Tapi Irrigation Development Corporation Act, 1997 ;

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of 1998.

(5) the Godavari Marathwada Irrigation Development Corporation established under the Maharashtra Godavari Marathwada Irrigation Development Corporation Act, 1998 ;

(v) "Selection Committee" means a Selection Committee constituted under section 5 ;

(w) "State" means the State of Maharashtra ;

(x) "State Water Policy" means the Water Policy of the State ;

(y) "Sub-Basin" means a hydrologic unit, or hydrologic sub-unit of a river basin within the State ;

(z) "sub-surface entitlement" means an Individual or Bulk Water Entitlement to a volumetric quantity of water to be extracted in the command area of the irrigation project from a tube well, bore well or other well or by any other means of extraction of sub-surface water, or a group or field or wells duly and legally permitted, registered and constructed in accordance with standards prescribed by the Authority ;

(za) "Utility" means any Water User Entity responsible for the management, treatment and distribution of domestic or municipal water supplies (including water used for industries) ;

(zb) "Volumetric" means a measurement of water on the basis of volume as per the norms of the Bureau of Indian Standard ;

(zc) "Water User Entity" means any Water User's Association, Utility, Industrial User's Association, Other User's Association or any other group which is authorised by the Authority to receive and utilize a water Entitlement ;

(zd) "Water User's Association" means a Water User's Association formed at the minor level or above, which represents the users of irrigation water from that segment of any project, canal or natural flow or storage system ;

(2) Words and expressions used and not defined in this Act but defined in various irrigation or water resources related Acts in the State shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

MAHARASHTRA WATER RESOURCES REGULATORY AUTHORITY

Establish-
ment and
incorpora-
tion of
Authority.

3. (1) The State Government shall within three months from the date of commencement of this Act, by notification in the *Official Gazette*, establish an Authority to be known as the Maharashtra Water Resources Regulatory Authority to exercise the powers conferred on, and to perform the functions and duties assigned to it, under this Act.

(2) The Authority established under sub-section (1) shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to contract, acquire, hold and dispose of property, both movable and immovable, and to do all things necessary for the purposes of this Act, and may sue or be sued by its corporate name.

(3) The head office of the Authority shall be at Mumbai.

(4) The Authority shall consist of a Chairperson and two other Members.

(5) The Chairperson and the other Members of the Authority shall be appointed by the Governor of Maharashtra on the recommendation of the Selection Committee constituted under section 5.

4. (1) The Chairperson, the Members and special invitees of the Authority shall be appointed as follows :—

Qualifica-
tion for
appointment
of Chairper-
son, other
Members
and special
invitees of
Authority.

(a) the Chairperson shall be a person who is or who was of the rank of Chief Secretary or equivalent thereto,

(b) one Member shall be expert from the field of water resources engineering,

(c) one Member shall be expert from the field of water resources economy,

(d) five special invitees as prescribed one from each river Basin Agency area, who are having adequate knowledge, experience or proved capacity in dealing with the problems relating to engineering, agricultural, drinking water, industry, law, economics, commerce, finance or management for assisting the authority in taking policy decisions.

(2) The Chairperson or any other Member of the Authority shall not hold any other office.

5. (1) The State Government shall, by notification in the *Official Gazette*, for the purposes of sub-section (5) of section 3, constitute a Selection Committee consisting of,—

Constitu-
tion and
functions of
Selection
Committee.

(a) the Chief Secretary of the State *ex-officio* President ;

(b) the Secretary, Planning Department *ex-officio* Member ;

(c) the Secretary (Command Area Development Authority),
Water Resources Department. *ex-officio* Member ;

(d) the Secretary, Water Conservation Department. *ex-officio* Member ;

(e) the Secretary, Water Supply Department. *ex-officio* Member ;

(f) the Secretary, Urban Development Department. *ex-officio* Member ;

(g) the Secretary, Energy and Environment Department. *ex-officio* Member ;

(h) The Secretary, Agricultural Department. *ex-officio* Member ;

(i) the Secretary, Water Resources Department *ex-officio* Member-Secretary.

(2) The Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or any Member, and six months before the superannuation or end of tenure of Chairperson or any Member, make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it under sub-section (2).

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as the Chairperson or other Member of the Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as a Member.

(6) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

Term of
office,
salary and
allowances
and other
conditions
of service
of Chair-
person and
Members of
Authority.

6. (1) The Chairperson or other Member shall hold office for a term of three years from the date on which he enters upon his office :

Provided that, the Chairperson or the other Member may be re-appointed but for not more than two consecutive terms :

Provided further that, no Chairperson or other Member shall hold office after he has attained the age of seventy years.

(2) The salary and allowances payable to and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed.

(3) The salary and allowances and other conditions of service of the Chairperson and other Members shall not be varied to their disadvantage after appointment.

(4) The Chairperson and every Member shall before entering upon his office make and subscribe to an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may,—

(a) relinquish his office by giving in writing to the Governor notice of not less than three months ; or

(b) be removed from his office in accordance with the provisions of section 7.

(6) The Chairperson or any Member ceasing to hold office as such shall,—

(a) not be eligible for further employment under the Government of Maharashtra for a period of two years from the date he ceases to hold such office ;

(b) not accept any commercial employment for a period of two years from the date he ceases to hold such office.

Explanation.—For the purposes of this sub-section,—

(i) "employment under the Government" includes, employment under any local or other authority within the territory of Maharashtra or under the control of the Government or under any corporation or society owned or controlled by the Government.

(ii) "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in the Water Resources Sector and also includes a director of a company or partner of a firm and also includes setting up practice either independently or as partner of a firm or as an advisor or a consultant.

7. (1) Subject to the provisions of sub-section (3), any Member of the Authority shall be removed from his office by order of the Governor on the ground of proved misbehavior after the State Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf, reported that the Member, ought on any such ground to be removed. Removal of Member.

(2) The Governor may, during the period of inquiry as specified in sub-section (1), against any Member, suspend such Member of the Authority.

(3) Notwithstanding anything contained in sub-section (1), the Governor may, by order, remove from office, the Chairperson or any other Member, if the Chairperson or such other Member, as the case may be—

- (a) has been adjudged an insolvent ; or
- (b) has been convicted of an offence which, in the opinion of the Government involves moral turpitude ; or
- (c) has become physically or mentally incapable of acting as Chairperson or Member ; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his function as the Chairperson or Member ; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(4) Notwithstanding anything contained in sub-section (3), no Member shall be removed from his office on the ground specified in clause (d) or clause (e), unless the Government has, on an inquiry, held by it in accordance with such procedure as prescribed in this behalf by the Government reported that the Member ought on such ground or grounds to be removed.

Power of
Government
to depute
officers and
employees to
Authority
and their
service
conditions.

8. (1) The Authority may, appoint a Secretary to exercise such powers and perform such duties under the control of the Chairperson and as may be specified by regulations.

(2) The Authority may, with the prior approval of the Government, appoint such number of officers and employees as it considers necessary for the performance of its duties and functions.

(3) The salaries and allowances payable to, and other conditions of service of the Secretary, officers and employees shall be such as may be determined by regulations.

(4) The Government may, in consultation with the Authority, appoint any Government officer or employee on deputation to the Authority.

(5) The period of deputation of any such officer or employee to the Authority shall be five years except when any such person is required to be repatriated on the grounds, such as promotion, reversion, termination or superannuation or any other reason of deputation, he shall stand repatriated to service under the State Government :

Provided that, during the period of such deputation all matters relating to the pay, leave, allowances, retirement, pension, provident fund and other conditions of service of the employees on deputation shall be regulated by the Maharashtra Civil Services Rules or such other rules as may, from time to time, be made by the State Government.

(6) No officer or employee on deputation to the Authority shall be entitled to any deputation allowance.

(7) The salaries and allowances of officers or employees on deputation to the Authority shall be paid by the Authority.

(8) Save as otherwise provided in this section, the terms and conditions of services of employees on deputation to the Authority shall not be less advantageous than those applicable to them immediately before deputation and shall not be varied to their disadvantage except with the previous sanction of the State Government.

(9) The Authority may appoint consultants required to assist the Authority in the discharge of its functions on such terms and conditions as may be determined by regulations.

Proceedings
of
Authority.

9. (1) The Authority shall meet at the head office or any of its offices at such time as the Chairperson may direct and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be determined by regulations.

(2) The Chairperson or if he is unable to attend a meeting of the Authority, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from among themselves, shall preside at the meeting.

(3) All questions come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or the person presiding shall have the right to exercise a second or casting vote.

(4) Save as otherwise provided in sub-section (3), every Member shall have one vote.

(5) All orders and decisions of the Authority shall be authenticated by the Secretary or any other officer of the Authority duly authorised by the Chairperson in this behalf.

10. No act or proceedings of the Authority shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Authority.

Vacancies,
etc., not to
invalidate act
or
proceedings.

CHAPTER III

POWERS, FUNCTIONS AND DUTIES OF THE AUTHORITY

11. The Authority shall exercise the following powers and perform the following functions, namely :—

Power,
functions
and duties
of authority.

(a) to determine the distribution of Entitlements for various Categories of Use and the equitable distribution of Entitlements of water within each Category of Use on such terms and conditions as may be prescribed ;

(b) to enforce the decisions or orders issued under this Act ;

(c) to determine the priority of equitable distribution of water available at the water resource project, sub-basin and river basin levels during periods of scarcity ;

(d) to establish a water tariff system, and to fix the criteria for water charges at sub-basin, river basin and State level after ascertaining the views of the beneficiary public, based on the principle that the water charges shall reflect the full recovery of the cost of the irrigation management, administration, operation and maintenance of water resources project ;

(e) to administer and manage inter-state water resources apportionment on river systems, of the State ;

(f) to review and clear water resources projects proposed at the sub-basin and river basin level to ensure that a proposal is in conformity with integrated State Water Plan and also with regard to the economic, hydrologic and environmental viability and where relevant, on the State's obligations under Tribunals, Agreements, or Decrees involving inter-state Entitlements :

Provided that, while clearing the new water resources projects by the concerned for construction proposed by River Basin Agencies, the Authority shall ensure that Governor's Directives issued from time to time, relating to investment priority for removal of regional imbalance are strictly observed :

Provided further that, in respect of the projects situated in Marathwada and Vidarbha Regions, the powers to accord administrative approval or revised administrative approval, under this clause, shall in accordance with the Governor's directives, be exercised by the concerned River Basin Agency ;

(g) to lay down the criteria and monitor the issuance of Entitlements. These criteria among others shall also include the following,—

(i) the Entitlements shall be issued by River Basin Agency based on the Category of Use and subject to the priority assigned to such use under the State Water Policy ;

(ii) Bulk Water Entitlements shall be issued by the River Basin Agency for irrigation water supply, rural water supply, municipal water supply or industrial water supply to the relevant Water User Entities including Municipalities, Water User's Associations, Industrial Users and State agencies responsible for delivery to the respective sector or to a sub-surface Water User's Association or entity that operates a well field of multiple sub-surface water tube wells, bore wells or other wells on behalf of multiple users ;

(iii) Bulk Water Entitlements for irrigation, shall be issued by River Basin Agency, to the Water User's Associations at the primary unit level, Distributory level and Canal or Project level Associations and River Basin Agencies shall not receive Entitlements but shall act as conveyance entities for the Entitlements issued to the Water User's Associations ;

(iv) Water User Entities including Water User's Associations managing the aggregate of Entitlements on behalf of a group of Entitlement holders may be issued an Aggregate Bulk Entitlement ;

(v) Individual Water Entitlements may be issued by River Basin Agency only for the construction and operation of individual lift irrigation schemes from surface water sources, bore wells, tube wells or other facilities for extraction of sub-surface water. Such Entitlements shall be administered, registered measured and monitored by the respective River Basin Agency in close co-ordination with relevant Government agencies. Where such facilities extract water from alluvial aquifers that are conjunctive with the surface water of a basin, the issuance and operation of such Entitlements shall be conjunctively co-ordinated with the use and yield of surface water resources of the basin and shall be

compatible with the overall water-resource plan of the local area and the respective river basin and the sustainable use of the sub-surface water resources ;

(vi) Bulk Water Entitlements shall be for a specific proportion of flow, storage or other determination of the annual yield of a water resource or facility and the Entitlement shall be measured volumetrically and with respect to time of delivery and flow rate of delivery ;

(vii) the allocation of a percentage of the water available under the Entitlements of each facility, in the drainage basin or river basin shall be determined jointly by the River Basin Agencies and Water User Entities based upon the hydrology and other relevant parameters with regard to the specific basin. This allocation shall be utilised for the determination of the amount of water to be made available under each Entitlement for that specific year or runoff season ;

(h) to lay down the criteria for modification in Entitlements for the diversion, storage and use of the surface and sub-surface waters of the State. These criteria shall among others, include the following :—

(i) Aggregate Bulk Water Entitlements will be considered as Bulk Water Entitlements under the provisions of this Act except that they shall not be a usufructuary right and will only be adjusted by the Authority if there is a compensating change, under the provisions of this Act, to any component Bulk Water Entitlement that comprise part of the Aggregate Bulk Water Entitlement ;

(ii) in the event that any Water User Entity wishes to use its category priority to mandate a change in the use or volume of any Entitlement, that entity shall demonstrate in a public hearing before the Authority, that it has exhausted all attempts to conserve, increase efficiency and manage its demand of water within its Entitlement and has exhausted all opportunities to increase its Entitlement through a transfer within the voluntary, market based economy. If, after such a public hearing, the Authority deems such a mandated transfer, on either an annual or permanent basis, to be legal and necessary in the interest of the people of the State, the Authority shall then determine a fair and just compensation as determined by the market value of the water resource, to be paid to the Entitlement holder by the entity exercising the mandated user category preference ;

(i) to fix the criteria for trading of water Entitlements or Quotas on the annual or seasonal basis by a water Entitlement holder. These criteria shall among others, include the following,—

(i) Entitlements, except Aggregate Bulk Water Entitlements are deemed to be usufructuary rights which may be transferred,

bartered, bought or sold on annual or seasonal, basis within a market system and as regulated and controlled by the Authority as established in the rules of the Authority ;

(ii) Quotas of water determined by the seasonal or annual allocation assigned to an Entitlement shall be volumetric usufructuary rights which may be transferred, bartered, bought or sold on an annual or seasonal basis within a market system as established and controlled by the rules of the Authority ;

(iii) Bulk Water Entitlements or Quotas shall be transferable within the respective category of use as long as such transfers are compatible with the operation of the specific water resource facilities involved. Such annual transfers shall be managed and registered with the respective River Basin Agency which shall have the power to approve or deny such proposed transfers if they are incompatible with the operation of the facility or would damage the Entitlements or rights of other users within the system. The River Basin Agency may charge a nominal fee for the processing and registering such transfer but shall not participate in any compensation between Entitlement holders as a part of such transfer.

(j) Entitlement may be subject to review at intervals of not less than three years and then only if warranted by concerns about, the sustainability of the level of allocation ;

(k) Bulk Water Entitlements shall be registered by the River Basin Agency and shall be monitored by the Authority or its duly delegated competent representative ;

(l) permanent transfer of Entitlements shall only be made with the approval of the respective River Basin Agency and the Authority and in compliance with the rules of the Authority promulgated for this purpose. All approved transfers shall be entered into the registry of Entitlements of the Authority ;

(m) in the event of water scarcity, the Authority, in compliance with its policy and rules for allocating such scarcity, shall adjust the quantities of water to be made available to all Entitlements and shall permit the temporary transfer of Water Entitlements between users and Categories of Users in accordance with the approval of the River Basin Agencies ;

(n) to establish regulatory system for the water resources of the State, including surface and sub-surface waters, to regulate the use of these waters, apportion the Entitlement to the use of the water of the State between water using categories ;

(o) to establish a system of enforcement, monitoring and measurement of the Entitlements for the use of water to ensure that the actual use of water, both in quantity and type of use are in compliance with the Entitlements as issued by the Authority ;

(p) to administer the use and Entitlement of water resources within the State in a manner consistent with the State Water Policy to ensure the compliance of the obligation of State with regard to the apportionment of inter-state waters between the State and other States ;

(q) to promote efficient use of water and to minimize the wastage of water and to fix reasonable use criteria for each Category of Use ;

(r) to determine and ensure that cross-subsidies between Categories of Use, if any, being given by the Government are totally offset by stable funding from such cross-subsidies or Government payments to assure that the sustainable operation and maintenance of the water management and delivery systems within the State are not jeopardised in any way ;

(s) to develop the State Water Entitlement data base that shall clearly record all Entitlements issued for the use of water within the State, any transfers of Entitlements and a record of deliveries and uses made as a result of those Entitlements ;

(t) to facilitate and ensure development, maintenance and dissemination, of a comprehensive hydro-meteorological information data base in co-operation with the River Basin Agencies ;

(u) the Authority shall review and revise, the water charges after every three years ;

(v) The Authority may ensure that the Irrigation Status Report is published by the Government every year. Such report shall contain all statistical data relating to irrigation including details in respect of districtwise irrigation potential created and its actual utilisation ;

(w) such other powers, functions and duties as may be prescribed.

12. (1) The Authority shall work according to the framework of the State Water Policy. General policies of the Authority.

(2) The Authority shall, recognise the policy of empowering River Basin Agencies in accordance with the State Water Policy.

(3) The Authority shall, in accordance with the State Water Policy, co-ordinate with all relevant State agencies to implement a comprehensive hydro-meteorological data system for the State.

(4) The Authority shall, in accordance with State Water Policy, promote and implement sound water conservation and management practices throughout the State.

(5) The Authority shall support and aid the enhancement, and preservation of water quality within the State in close co-ordination with the relevant State agencies and in doing so the principle that ' the person who pollutes shall pay ' shall be follow.

(6) The Authority shall fix the Quota at project level, sub-basin level, on the basis of the following principles :-

(a) for equitable distribution of water in the command area of the project, every landholder in the command area shall be given Quota ;

(b) the Quota shall be fixed on the basis of the land in the command area :

Provided that, during the water scarcity period each landholder shall, as far as possible, be given Quota adequate to irrigate at least one acre of land ;

(c) in order to share the distress in the river basin of sub-basin equitably, the water stored in the reservoirs in the basin or sub-basin, as the case may be, shall be controlled by the end of October every year in such way that, the percentage of utilizable water, including *kharif* use, shall, for all reservoirs approximately be the same ;

(d) subject to the condition of efficient use of water, the existing private sector lift irrigation management schemes shall be allowed to continue for a period of five years from the date of commencement of this Act and thereafter on the date that may be specified by the Government the provisions of sub-section (4) of section 14 shall apply :

Provided that, having regard to geographical conditions, different dates may be notified for different areas ;

(e) the command area of private lift Irrigation schemes, existing on the date of commencement of this Act, shall be treated at par with the notified command area of the irrigation projects.

(7) The Authority shall ensure that the principle of "tail to head" irrigation is implemented by the River Basin Agency.

(8) The Authority shall abide by the relevant provisions of the Maharashtra Ground Water Regulation (Drinking Water Purposes) Act, 1993.

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(9) The Authority shall while framing policy, give preference to the projects so that, the physical backlog forming the basis of the financial backlog be eradicated in accordance with the Governor's directives.

(10) (a) The Authority shall strive to make the water available to the drought prone areas of the State ;

(b) The Authority shall ensure that, the funds made available to a drought prone district are spent preferably in the areas, where irrigation facilities are less than the other areas of that district.

(11) Notwithstanding anything contained in this Act, a person having more than two children shall be required to pay one and half times of the normal rates of water charges fixed under clause (d) of section 11 to get entitlement of water for the purpose of agriculture :

Provided that, a person having more than two children on the date of commencement of this Act, shall not be required to pay such one and half times water charges so long as the number of children he had on such date of commencement does not increase :

Provided further that, a child or more than one child born in a single delivery within the period of one year from such date of commencement, shall not be taken into consideration for the purpose of this sub-section.

Explanation.—For the purpose of this sub-section, —

(a) Where a couple has only one child on or after the date of such commencement, any number of children born out of a single subsequent delivery shall be deemed to be one entity;

(b) "child" does not include an adopted child or children.

5 of 1908. 13. The Authority and the Dispute Resolution Officer shall for the purposes of making any inquiry or initiating any proceedings under this Act, have the powers as are vested in a civil court, under the Code of Civil Procedure, 1908 in respect of the following matters, namely :— Powers of Authority and Dispute Resolution Officer.

(a) the summoning and enforcing the attendance of any witness and examining him on oath ;

(b) the discovery and production, of any document or other material object producible as evidence ;

(c) the reception of evidence on affidavits ;

(d) the requisition of any public record ;

(e) the issue of commission for examination of witnesses ;

(f) review its decisions, directions and orders ;

(g) any other matter which may be prescribed.

CHAPTER IV

STATE WATER PLANNING

14. (1) From the date of commencement of this Act, no person shall use any water from any water source without obtaining the Entitlement from the respective River Basin Agencies : Permission of River Basin Agency.

Provided that, no Entitlement shall be required in case of,—

(a) any bore well, tube well or other wells which are being used for domestic purposes ; and

(b) tanks, small reservoirs or catchments of rainwater harvesting with an annual yield capacity as may be decided by the Authority.

Explanation.—For the purposes of this section, the expression "person" shall includes individual, group of individuals, all local authorities, association, societies, companies, etc.

(2) Use of the water for the purposes of agriculture, through any existing bore well, tube well or other well in the command area of a project on the date of commencement of this Act, shall be allowed to continue till such date as may be notified by the Authority.

(3) There shall not be any restriction on digging of any bore well, tube well and other well in the command area of a project, till such date as may be notified by the Authority.

(4) Water shall not be made available from the canal for perennial crops in such area and from such date as may be notified by the Authority, unless the cultivator adopts drip irrigation or sprinkler irrigation or such other water saving technology approved by the Authority. The quantity of water so saved, after satisfying the future increased demand of drinking water, shall be distributed equitably in the command area and the adjoining area.

State Water Board. 15. (1) The State Government shall, by notification in the *Official Gazette*, constitute a Board to be known as the State Water Board for the purposes of this Act.

(2) The Board shall consist, of the following Members, namely :—

- | | |
|---|-------------------------------------|
| (a) the Chief Secretary of the State | <i>ex-officio</i> President ; |
| (b) the Principal Secretary, Planning Department. | <i>ex-officio</i> Member ; |
| (c) the Principal Secretary, Finance Department. | <i>ex-officio</i> Member ; |
| (d) the Secretary, Water Conservation Department. | <i>ex-officio</i> Member ; |
| (e) the Secretary, Water Supply Department. | <i>ex-officio</i> Member ; |
| (f) the Secretary, Urban Development Department. | <i>ex-officio</i> Member ; |
| (g) the Secretary, Energy and Environment Department. | <i>ex-officio</i> Member ; |
| (h) the Secretary, Water Resources Department (Command Area Development Authority). | <i>ex-officio</i> Member ; |
| (i) the Secretary Agriculture Department | <i>ex-officio</i> Member ; |
| (j) Divisional Commissioners of all Revenue Divisions in State | <i>ex-officio</i> Member ; |
| (k) the Secretary, Water Resources Department. | <i>ex-officio</i> Member Secretary. |

(3) The Board shall prepare a draft Integrated State Water Plan on the basis of basin and sub-basin wise water plans prepared and submitted by the River Basin Agencies.

(4) The Board shall submit its first draft integrated State Water Plan to the Council for its approval within six months from the date on which this Act is made applicable in the State.

(5) The Board shall, while preparing the draft Integrated State Water Plan mentioned in sub-section (3), consider the directives of the State Water Policy.

(6) The Board shall meet at such time and place as the President of the Board may decide and shall follow such procedure as may be prescribed.

16. (1) The State Government shall, by notification in the *Official Gazette*, constitute a Council to be known as the State Water Council for the purposes of this Act.

State Water Council.

(2) The Council shall consist of the following Members, namely :—

(a) the Chief Minister *ex-officio* President ;

(b) the Deputy Chief Minister *ex-officio*
Vice President ;

(c) the Minister, Water Resources. *ex-officio* Vice-President ;

(d) the Minister, Water Resources *ex-officio* Member ;
(Krishna Valley and Kokan
Irrigation Development Corporation).

(e) the Minister, Agriculture *ex-officio* Member ;

(f) the Minister, Water Conservation *ex-officio* Member ;

(g) the Minister, Water Supply *ex-officio* Member ;

(h) the Minister, Finance and Planning. *ex-officio* Member ;

(i) the Minister, Urban Development *ex-officio* Member ;

(j) the Minister, Industries *ex-officio* Member ;

(k) the Minister Environment *ex-officio* Member ;

(l) the Minister (Representative for Marathwada region). *ex-officio* Member ;

(m) the Minister (Representative for Vidarbha region). *ex-officio* Member ;

(n) the Minister (Representative for Rest of Maharashtra). *ex-officio* Member ;

(o) the State Minister, Water Resources Department. *ex-officio* Member ;

(p) the State Minister, Water Resources (Krishna Valley and Kokan Irrigation Development Corporation). *ex-officio* Member ;

(q) the Secretary, Water Resources Department. *ex-officio* Member ;

(r) the Secretary (Command Area Development Authority), Water Resources Department. *ex-officio* Member Secretary.

(3) The Members of the Council at serial numbers (l), (m) and (n) of sub-section (2) shall be nominated by the Chief Minister from among the Cabinet Ministers.

(4) The Council shall approve, with such modifications as deemed necessary, the draft of the Integrated State Water Plan submitted by the Board within a period of six months from the date of submission of draft Integrated State Water Plan keeping in view the directives given by the Governor for removal of regional imbalance. The water plan so approved by the Committee shall become "Integrated State Water Plan".

(5) The Integrated State Water Plan may be reviewed after every five years from the date of its approval by the Council.

(6) The Council shall meet at such time and place as the President of the Council may decide and shall follow such procedure as may be prescribed.

CHAPTER V

ACCOUNTS, AUDIT AND REPORTS

Grants and
advances to
Authority.

17. The State Government may, after appropriation duly made by the State Legislature, by law in this behalf, make such grants and advances to the Authority as it may deem necessary for the performance of its functions and discharge of its duties under this Act; and all grants and advances made shall be on such terms and conditions as the State Government may determine.

Budget of
Authority.

18. The Authority shall prepare in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same to the Government.

Accounts of
Authority.

19. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Government in consultation with the Accountant General.

(2) The accounts of the Authority shall be audited by the Accountant General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Accountant General.

(3) The Accountant General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Accountant General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by the Accountant General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State

Government by the Authority and the State Government shall cause the audit report to be laid, within a period of six months from the date of its receipt, before the State Legislature.

20. (1) (a) The Authority shall prepare once every year in such form, and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the State Government. Annual report of Authority.

(b) Such annual report shall include an Annexure containing irrigation backlog of each district based on the State average Rabbi equivalent irrigation potential Districtwise sown area, standard Rabbi equivalent irrigation potential from State sector and local sector schemes, percentage of irrigation potential to the sown area, percentage less than the State average, backlog in Hectares for the latest year for which the data is available, and every year thereafter, physical backlog worked out on the basis of State average and financial backlog based on the latest schedule of rates.

(c) Such report shall also include Annexure showing Districtwise and Regionwise yearly expenditure incurred on the Irrigation Sector and cumulative figures upto latest year for which data is available and every year thereafter.

(d) The details of Annexures at clauses (b) and (c) may be modified in accordance with the Governor's directives, from time to time.

(2) A copy of the report received under sub-section (1) shall be laid, within six months, after it is received, before the State Legislature.

CHAPTER VI

SPECIAL POWERS OF AUTHORITY FOR REMOVAL OF BACKLOG AS PER GOVERNOR'S DIRECTIVES.

21. (1) The Authority shall carry out a special responsibility in regard to the Districts and Regions, affected by backlog, in irrigation sector as per Governor's directives. Special Responsibility of Authority.

(2) For implementing the Governor's directives, the Authority shall ensure that the manpower available with the Water Resources Department of the Government is used for survey, planning and detailed design of the projects in backlog affected areas and new projects are available for construction in time, for removal of backlog.

CHAPTER VII

MISCELLANEOUS

22. (1) The Government shall by general or special order issued in this behalf authorise any competent officer or officers for each River Basin Agency as Primary Dispute Resolution Officer, to resolve the disputes with regard to the issuance or delivery of water Entitlement, under the Act. Disputes and Appeals.

(2) The Primary Dispute Resolution Officer shall follow such procedure as may be prescribed while hearing the disputes.

(3) Any person aggrieved by an order of the Primary Dispute Resolution Officer may, within sixty days from the receipt of such order, prefer an appeal to the Authority :

Provided that, the Authority may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the said period of sixty days.

(4) The Authority shall follow such procedure while hearing the appeals as may be prescribed.

Directions
by Govern-
ment.

23. (1) The Government may issue to the Authority such general or special directions in writing in the matters of policy involving public interest and the Authority shall be bound to follow and act upon such direction.

(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Government thereon shall be final.

Members,
officers and
other staff
of Authority
to be public
servants.

24. The Chairperson, Members, officers and other employees of the Authority shall be deemed, when acting or purposing to act in pursuance of any of the provisions of this Act or rules or regulations made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection
of action
taken in
good faith.

25. No Suit, prosecution or other legal proceedings shall lie against the Government or the Authority or any officer of Government or any Members, officer or other employees of the Authority for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or rules or regulations made thereunder.

Punishment
for non-
compliance
of orders
under this
Act.

26. Whoever fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder shall be punishable with imprisonment for a term which may extend to six months or with fine, which may extend to ten times of the annual water charges or, with both in respect of each offence.

Offences by
companies.

27. (1) Where an offence under this Act has been committed by a company, every person who at the time, when the offence was committed, was in charge of, and 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 :

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 had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an 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 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 a body corporate and includes firm, association of persons or body of individuals whether incorporated or not.

(b) "director" in relation to firm, means a partner in the firm, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

28. (1) The Authority may, either before or after the institution of the proceedings for any offence punishable under this Act, with the approval of the State Government, accept from any person charged with such offence, by way of composition of the offence, a sum not less than the amount of the maximum fine and not more than double the amount of the maximum fine for the offences punishable by or under this Act.

Compound-
ing of
offences.

(2) On payment of such sum as may be determined by the Authority or the State Government or any officer authorised by the State Government under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence, and any proceedings if already taken or initiated shall stand abated, and the accused person, if in custody, shall be discharged.

29. No Court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by the Authority or by any other officer duly authorised by the Authority for this purpose.

Cognizance
of offence.

30. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

Powers of
Government
to make
rules.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, 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 previously done or omitted to be done under that rule.

Powers of
Authority to
make
regulations.

31. (1) The Authority may, with the previous approval of the State Government make regulations consistent with this Act and the rules made thereunder, for all or any of the matters to be provided under this Act by regulations and generally for all other matters for which provision is, in the opinion of the Authority, necessary for the exercise of its powers and the discharge of its functions under this Act.

(2) Pending making of the regulations by the Authority with the approval of the State Government, the rules and procedures followed by the Water Resources Department shall, *mutatis mutandis*, be followed by the Authority for carrying out its functions.

Power to
remove
difficulties.

32. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient, for removing the difficulty :

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

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.