

Jharkhand Water Resources Regulatory Authority Act, 2014

JHARKHAND

India

Jharkhand Water Resources Regulatory Authority Act, 2014

Rule

JHARKHAND-WATER-RESOURCES-REGULATORY-AUTHORITY-ACT- of 2014

- Published on 1 January 2014
- Commenced on 1 January 2014
- [This is the version of this document from 1 January 2014.]
- [Note: The original publication document is not available and this content could not be verified.]

Jharkhand Water Resources Regulatory Authority Act, 2014(Jharkhand Act No. 10, 2014)Last Updated 14th March, 2020(As passed by the Legislature of the State of Jharkhand)An Act to Provide for the establishment of the Jharkhand Water Resources Regulatory Authority for Regulation of Water Resources within the state of Jharkhand, facilitate effective utilization of Water Resources within the state to ensure its sustainable and scientific management for drinking, Agriculture, Industrial and other purposes and matters connected therewith or incidental thereto.

Chapter I Preliminary

1. Short title, Extent, and Commencement.

(1)This may be called the Jharkhand Water Resources Regulatory Authority Act, 2014(2)It extends to the whole of the State of Jharkhand.(3)It shall come into force on such date as the State Government may, by notification in Official Gazette, appoint.(4)The provisions of this Act shall apply notwithstanding anything to the contrary contained in the Bengal Irrigation Act, 1875 and Bihar Irrigation Act, 1997.

2. Definitions.

(1)In this Act, unless the context otherwise requires : (a)"Area of Operation" means the entire geographical area of Jharkhand in which water is managed and supplied to different use sectors by public or private agency or the area which is benefited by flood protection and drainage

works;(b)"Basin" means the area of land around a river from which streams run down into it;(c)"Bulk Water Entitlement" means the volumetric authorization given by the Authority to a share of water resources made available by a project, river system or storage facility, for a specific period of time as specifically provided in the order granting the entitlement;(d)"Cess" means an amount to be charged on lands benefited by flood protection and drainage works from owner/lease holders of such lands;(e)"Entitlement" means any authorization by the Authority to use the water for the specified purpose under this Act;(f)"Category of Use" means use of water for different purposes such as for domestic, agricultural, irrigation, agro-based industries, industrial or commercial, environmental, power generation etc., and includes such other purposes as may be prescribed;(g)"Chairperson" means the Chairperson of the Authority;(h)"Authority" means the Jharkhand Water Resources Regulatory Authority established under section-3 of the Act.(i)"Government" or "State Government" means the Government of Jharkhand.(j)"Irrigation Project" means a project constructed to provide Irrigation facilities to the land situated in the command area in accordance with the project reports and orders issued in this regard, as revised from time to time;(k)"Member" means a Member of the Authority and includes the Chairperson;(l)"Notification" means a notification published in the Jharkhand Gazette and the word notified shall be construed accordingly;(m)"Prescribed" means prescribed by rules made under this Act;(n)"Search Committee" means a Selection Committee constituted under Section 6 of the Act.(o)"State" means the State of Jharkhand.(p)"Water User Association" or "Water Committee" means the Committees constituted under the Bihar Irrigation Act 1997(Bihar Irrigation Act No. 11 of 1997).(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

Establishment of Authority

3. Establishment of Authority.

(1)The State Government shall within three months from the date of commencement of this Act, by notification, establish a Authority to be known as the "Jharkhand Water Resources Regulatory Authority" to perform the functions and duties assigned to, and to exercise the powers conferred on it, under this Act.(2)The Authority shall be a body corporate.(3)The head office of the Authority shall be at Ranchi.(4)The Authority shall consist of a Chairperson and two other members notified by the State Government.(5)The Chairperson and the Members of the Authority shall be appointed by the State Government on the recommendation of a search committee referred to in section 6.

4. Qualification for appointment of Chairperson and other Members of the Authority.

(1)Only such person shall be appointed as the Chairperson or a Member who possesses the qualification mentioned hereunder :-(a)Chairperson - The Chairperson shall be a person having minimum bachelor's degree of any recognized university/institute with administrative/technical

experience of not less than 25 years, and must have held the post equivalent to Secretary/Engineer in Chief in the State Government.(b)Members :- (i) One Member shall be expert in the field of water resources having a B-Tech degree in civil/mechanical/Hydrology and allied trades of engineering of any recognized university/ institute and having experience of at least 25 years of service in the field of irrigation/water resources and having served as Chief Engineer or any post equivalent thereto.(ii)One Member shall be an expert and must have minimum 25 years of experience in the field of administration having master's degree in economics/Agricultural Science/Statistics/Management or PG Diploma in Management.(2)The Chairperson or any Member of the Authority shall not hold any other office during his/her tenure as such.(3)The Chairperson shall be the Chief Executive Officer of the Authority.(4)Where the Chairperson is unable to discharge his functions owing to absence, illness, death, resignation or any other cause or where any vacancy occurs in the office of the Chairperson, any Member nominated by the Chairperson on his behalf, shall exercise the powers and discharge the duties of the Chairperson.

5. Disqualification for being the Chairperson or a member.

- A person shall be disqualified for appointment as the Chairperson or a Member, if he :-(a)has been adjudged as insolvent; or(b)has become physically or mentally incapable of acting; or(c)has been convicted and sentenced to imprisonment for any offence involving moral turpitude; or(d)has acquired such financial or other interest as is likely to affect his functions as the Chairperson or a Member; or(e)has so abused his position as to render his continuance in office prejudicial to the public interest; or(f)is a Member of Parliament, or of any State Legislature or any local authority or is a candidate for election thereto; or(g)is an active member of a political party or holds a post therein.

6. Constitution and function of the Search Committee.

(1)The State Government shall, by notification, constitute a search committee, for the purposes of making appointments of the Chairperson and Members under sub-section 5 of section 3. The Committee shall consist of :-(i)the Chief Secretary, Government of Jharkhand : ex officio President;(ii)the Chairman, Central Water Commission or his nominee who shall be the member of the Central Water Commission: ex officio Member;(iii)the Principal Secretary, Water Resources Department, Government of Jharkhand. - ex-officio Member Secretary.(iv)Director Indian institute of management Ranchi : ex-officio Member;(v)The Principal secretary, Agriculture Department Government of Jharkhand: ex-officio Member.(2)The State Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal and six months before the superannuation or end of tenure of the Chairperson or the Member, make a reference to the Search Committee for filling up of the vacancy.(3)The search committee while making recommendation of the Chairperson and the Members, shall have due regard to performance record, ability, integrity, character, qualification and experience of the person proposed to be selected as Chairperson or other Member as the case may be.(4)The search committee shall try to finalize the selection of the Members within two months from the date on which reference is made to it.(5)The search committee shall recommend a panel of two names for every vacancy referred to it.(6)A person who is considered for selection as the Chairperson or a

Member shall notify to the Search Committee :-(a)of any office, employment or consultancy agreement or arrangement which the person or his relative has in his own name or in any firm, association of persons or body corporate, owned or otherwise controlled by any of them carrying on any of the following business:(i)diversion of surface water, distribution of water, extraction of ground water or supply of water;(ii)manufacture, sale, lease, hire or otherwise supply of or dealing in machinery, plant equipment, apparatus or fittings related to water industry;(iii)any entity providing any professional services to any of the business referred to in clause (i) and (ii) above.(b)such other details and information as may be prescribed by the Search Committee.(7)The details received from the persons referred to in sub-section (6) of the preceding section shall be placed for consideration of the Search Committee at the time of selection and recommendation of the person for appointment as the Chairperson or a Member.(8)The Chairperson and each Member shall, before taking charge of the office, divest himself of the interest in the businesses mentioned in subsection (6) as a condition of his or her appointment.(9)If a person to be appointed as the Chairperson or a Member holds any office under the State or Central Government or any public sector corporation or any government body or is gainfully employed or engaged in service by any other person, government authorities, public or private sector or otherwise, he shall submit his resignation or take voluntary retirement from that service before joining the Authority.(10)So long as a person holds the office of the Chairperson or a Member and for a period of two years there after he ceases to be the Chairperson or a Member for any reason whatsoever, he shall not acquire, hold or maintain, directly or indirectly any office, employment or consultancy arrangement or any financial interest in any of the businesses mentioned in sub-section (6) and if he acquires any such interest by way of succession or testamentary disposition he will divest himself of the interest within a period of three months of such interest being acquired.(11)Before recommending any person, the Search Committee shall satisfy itself that such person does not have any financial or other interest as referred to in sub-section (6) which is likely to affect prejudicially his functions as the Chairperson or a Member.(12)All decisions of the Search Committee shall be by a majority.(13)The procedure for selection and appointment of the Chairperson and the Members shall be such as may be prescribed.(14)No appointment of the Chairperson or a Member shall be invalid merely by reason of any vacancy in the Search Committee.

7. Terms of office and conditions of service of the Chairperson and the Members.

(1)The Chairperson or a Member shall hold office for a term of three years from the date he enters upon his office:Provided that, the Chairperson or a Member may be re-appointed but not for more than two consecutive terms:Provided further that the Chairperson or a Member shall not hold office after he has attained the age of seventy years.(2)The Chairperson or any Member may relinquish his office at any time, by giving in writing to the Governor a notice of three months in advance or may be removed from his office in accordance with the provisions of section 8.(3)The Chairperson and every Member shall before entering upon his office make and subscribe to an oath of office and secrecy in such form and in such manner and before Hon'ble Governor or by him such authority as may be prescribed.(4)The salary and allowances payable to and other terms and conditions of service of the Chairperson or the Members shall be such as may be prescribed.(5)The salary, allowances and other conditions of services of the Chairperson or the Members shall not be varied to

their disadvantage after appointment.(6)The Chairperson or a Member ceasing to hold office as such shall not,(a)be eligible for further employment under the State Government for a period of two years from the date he ceases to hold such office except with the permission of Government;(b)accept any commercial employment for a period of two years from the date he ceases to hold such offices; and(c)represent any person before the Authority in any manner.Explanation:- for the purposes of this sub-section :-(i)"Employment under the State Government" includes employment under a local body or any other authority within the territory of India under the control of any State Government or under any corporation or society owned or controlled by State Government.(ii)"Commercial Employment" means employment in any capacity under or agency of, a person engaged in commercial, industrial or financial business in the water resources related industry and includes also a director of a company or partner of a firm and it also includes setting up practise either independently or as partner of a firm or as an advisor or a consultant.

8. Removal of the Chairperson or a Member.

(1)Subject to the provisions of sub-section (2), Chairperson or any Member shall only be removed from his office by the State Government on the ground of proved misbehaviour after the panel of three enquiry officers, appointed from the officers equivalent to Secretary to the Government for this purpose on reference being made to them by the State Government, has on inquiry, held by the panel.(2)Notwithstanding anything contained in sub-section (1), the State Government may, by order, remove a member from his office if he has incurred any of the disqualification mentioned in section 5.(3)Notwithstanding anything contained in sub-section (2), the Chairperson or a member shall not be removed from his office on the ground specified in clause (b), clause (d) or clause (e) of section 5 unless the enquiring officers on a reference being made to them in this behalf by the State Government, have on an inquiry, held by them reported that the member ought on such grounds to be removed.(4)The State Government shall pass suitable order in accordance with the report referred to in sub-section (1) or sub-section (3), as the case may be, and the final decision of the State Government shall be communicated to the Chairperson or other Member concerned within a period of 30 days of receipt of such report.(5)The Governor may, during the period of inquiry, as specified in sub section (1), against any Member, suspend such Member of the Authority.

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

(1)The Authority may appoint a Secretary to exercise and perform such duties, under the control of the Chairperson, as may be specified by regulations.(2)The Authority shall obtain necessary inputs from State Water Resources Department.(3)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.(4)The salaries and allowances payable to and other conditions of service of the Secretary, officers and other employees of the Authority shall be such as may be determined by regulations.(5)Save as otherwise provided in this section, the terms and conditions of service 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.(6)The State

Government may appoint any Government officer or employee on deputation to the Authority on the proposal made by the Authority in this regard.(7)The period of deputation of any such officer or employee to the Authority may be three 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 condition of service of the employees on deputation shall be regulated by the applicable Services Rules or such other rules as may, from time to time, be made by the Government.

10. Proceedings of the Authority.

(1)The Authority shall meet at such time and place within the State as the Chairperson may think fit and shall observe such rules of procedure in 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, a member nominated by the Chairperson in this behalf, shall preside at the meeting.(3)All matters which come up before the Authority shall be decided by a majority of votes of the Members present and voting and in the event of a tie of votes, the Chairperson or person presiding shall have the right to exercise a second or casting vote.(4)All decisions, directions and orders of the Authority shall be in writing supported by reasons and shall be available for inspection by any person and copies of the same shall also be made available in such manner as the Authority may determine.(5)The Authority shall regulate its own procedure.(6)All orders and decisions of the Authority shall be authenticated by the Secretary or any other officer of the Authority duly authorized by the Secretary in this behalf.

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

- 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.

Chapter III

Powers, Functions and Duties of the Authority

12. Powers, functions and duties of Authority.

- The powers, functions and duties of the Authority shall be as under : (1)(a)To determine and regulate the distribution of entitlement of water for various categories of uses as well as within each category of use (such as irrigation, municipal/rural drinking water/industry etc) on a yearly/seasonal basis.(b)To determine the requirement of irrigation water for the various levels of Farmers Organization (namely, Project Committee, Distributary Committee and Water User Association) based on the cropping pattern approved by the project authorities on a yearly/season basis and implement the same,(2)(a)To fix and regulate the water tariff system and charges for surface and sub-surface water used for domestic, agriculture, industrial and other purposes(b)To

determine the adequate operation and maintenance (O&M) cost of irrigation/ multipurpose water projects(c)To periodically review and monitor the water sector costs and revenues.(d)The State will try to ensure provisions for full operation and maintenance requirements of such irrigation projects as determined by the Authority, through an appropriate budgetary support, to ensure that the quality of the service delivery is not allowed to suffer for want of systems Operation and Maintenance needs.(3)To promote efficient management of irrigation water : (a) Providing Guidelines / Procedures / modalities for ploughback of operation & maintenance amount to the farmers organisations for the operation and maintenance of the irrigation systems as well as standards of services,(b)Monitoring the technical standards for operation and maintenance, cyclical repairs and minimum rehabilitation of irrigation system,(c)Ensure that the principle of "tail to head" irrigation is implemented by the project authorities.(4)To promote efficient use of water resources and minimizing wastage of water by : (a)Fixing and monitoring implementation of stipulated quality standards for management of water resources by various users/departments and recommend actions against violations.(b)Fixing and monitoring implementation of stipulated quality standards for the services to be provided by various water resources service providers and recommend actions against violations.(5)To ensure publication of an annual report containing following information by project authorities : (a)Irrigation status containing all statistical data relating to irrigation including details of the project wise and basin wise irrigation potential and its actual utilization, water user efficiency and productivity relating to the projects.(b)Benchmarking of irrigation/multipurpose water projects to identify projects with best management practices for emulation by other projects.(c)Water Audit of Irrigation/multipurpose water projects giving a systematic and scientific water account of the projects.(6)(a)The Authority shall devise a suitable mechanism for financial incentives/ disincentives to the farmer's organisations and other water users for ensuring delivery of services to their members as per the determination.(b)The Authority shall in case of non-compliance of the specific directions in discharge of the powers under this Act, recommend to the Government suitable disciplinary action against such Government officials.(7)To perform any other powers, functions and duties as assigned to the Authority by the State Government by notification.

13. General policies of the Authority.

- The Authority shall work according to the framework of the State Water Policy and other existing laws of the state.

Chapter IV

Accounts, Audit and Reports

14. Budget of Authority.

- 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 and forward it to the Government.

15. Grants and advances to Authority.

- 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.

16. Accounts of Authority.

(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.(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 Government by the Authority.

17. Annual Report of Authority.

(1)The Authority shall prepare once in 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 sent to the Government.(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 V

Miscellaneous

18. General Powers of the State Government.

- The Government shall have the power to issue policy directions to the Authority on matters concerning water in the State including the overall planning and co-ordination.

19. Members, Officers and other staff of Authority to be public servants Central Act 45 of 1860.

- The Chairperson, members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or rules or regulations

made there under, to be the public servants within the meaning of section 21 of the Indian Penal Code.

20. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the Government or the Authority and 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 of rules or regulations made there under.

21. Power to make Rules.

(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.(2)Every rule made under this Act shall be laid, as soon as it is made, before House of the State Legislature, while in session for a total period of fourteen 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, House agree in making any modification in rule or House 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.

22. Dispute Resolution Mechanism.

(1)The Government by an order issued in its behalf authorize any competent officer or officers for each project as Primary Dispute Resolution Officer to resolve the disputes with regard to the issuance or delivery of determined water under the Act.(2)The Primary Dispute Resolution Officer shall follow such procedure as may be prescribed while hearing the disputes.

23. Powers of Authority to make regulations.

- The Authority with the prior approval of the State Government may make regulations for discharging its duties consistent with this Act and the rules made thereunder.

24. Directions by Government.

(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 directions.(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.

25. Power to remove difficulties.

(1) If any difficulties arise in giving effect to the provisions of this Act, by reasons of anything contained in this Act, or any other enactment for the time being in force, the State Government may, as the occasion requires, by order direct that this Act shall, during a period not exceeding twelve months after the date of such order have effect subject to such adaptations, whether by way of modifications, addition or omission, as it may deem to be necessary and expedient. (2) No order under sub-section (1) shall be made after the expiration of a period.