

Jharkhand Urban Water Conservation and Drinking Water Regulatory Authority Act, 2016

JHARKHAND

India

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Act 4 of 2017

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Jharkhand Urban Water Conservation and Drinking Water Regulatory Authority Act, 2016(Act No. 4 of 2017)A Act to Provide for the Establishment of the Jharkhand Urban Water Conservation and Drinking Water Regulatory Authority within the State of Jharkhnad, to Facilitate Effective utilisation of water Resources and its Conservation within the State to ensure its sustainable and Scientific Management for Drinking, Industrial, Commercial and other Purposes in Urban Area, to Enable Regulaaion of Tariff and others issues relateing to Drinking water Supply in Urban Areas and Matters connected Therewith or incidental Thereto.Be it enacted by the legislature of the State of Jharkhand in the Sixty seventh year of the Republic of Indian as follows :-Chapter-I Preliminary

1. Short title Extent, and Commencement.

- 1.1 This Act may be called the Jharkhand Urban Water Conservation and Drinking Water Regulatory Authority Act, 2016.1.2It extends to the whole of the state of Jharkhand.

2. Definitions.

- 2.1 In this Bill, Unless the context otherwise requires:2.1.1"Area of Operation" under the jurisdiction of an Urban Local Body or Regional Development Authority of Jharkhand.2.1.2"Authority" means the Jharkhand Urban Water Conservation And Drinking Water Regulatory Authority Established Under Section-3 Of The Bill.2.1.3"Category of use" means use o f the water for different purpose such as for domestic, agro-based industries, individual or commercial, environmental, power generation etc., and includes such other purposes as may be presented;2.1.4"Chairperson" means the chairperson of the Authority.2.1.5"Department " means the Department of Urban Development and Housing Department, Government of Jharkhand.2.1.6"Government" or "State Government" means the Government of

Jharkhand.2.1.7"Member" means a Member of the Authority and includes the Chairperson.2.1.8"Notification" means a notification prescribed by rules made under this act.2.1.9"Prescribed" means as prescribed by the Government.2.1.10"Regulation" means the regulation made by the Government under this Act.2.1.11"Search Committee" means a Selection Committee constituted under Section 6 of the act,2.1.12"State" means the State of Jharkhand,2.1.13"Water Project" means a project constructed to provide drinking water and other purposes like Commercial, Industrial and other facilities to the land situated in the command area in accordance with the project report and orders issued in this regards, as revised from time to time.

Chapter II

Establishment of Authority

3.

3.1Establishment of Authority. - 3.1.1 .1 The State Government shall within three months from the date of commencement of this Act, by notification, establish an Authority to be known as the Jharkhand Urban Water Conservation and Drinking Water Regulatory Authority to perform the functions and duties, and to exercise the powers conferred on it, under this act.3.1.2The Authority shall be a body corporate;3.1.3The head office of the Authority shall be at Ranchi;3.1.4The authority shall consist of a Chairperson and two other members notified by the State Government.3.1.5The Chairperson and the Members of the Authority shall be appointed by the State Government on the recommendation of a search committee as referred in section 63.2Objective of the Authority3.2.1To provide safe and quality drinking water to all people/citizen of urban area of the Jharkhand State;3.2.2Conservation of available under ground, stored and surface water of urban area;3.2.3Conservation of rain water, in surface and for taking steps for uplifting the ground water level by different prevalent scientific methods like rain water harvesting, upgrade/recharge and conservation of surface water.3.2.4Recharge of water sources and water regulation3.2.5Ensuring scientific water management of rivers, lakes and other sources to keep it potable.3.2.6To facilitate effective and optimal use of water,3.2.7To stop inappropriate use of water in urban area;3.2.8To implement conditions, provisioned in rule made for water supply from time to time;3.2.9To assist in fixation of water tariff and collection of water charges and to help in enhancement of resources in lieu of water connection and supply;3.2.10To work for creation of awareness for water management.3.2.11To assist in fixation of user water charges from time to time as per cost and service provided and to maintain continuity of service in consultation with the Government, ULBs and general public opinion.3.2.12Work for the water balancing;3.2.13Reduce supply of Non-Revenue Water (NRW)3.2.14Promote and ensure up to 100% metering in households;3.2.15Ensure annual water Audit and make sure for water availability in urban area;3.2.16To fix and regulate the water tariff and charges for surface and sub-surface water used for domestic, commercial, industrial and other purpose for increasing resources.

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

- 4.1 Only such members shall be appointed as the Chairperson or a Member, who possesses the qualifications mentioned as follows:-

4.1.1 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. He must have held the post equivalent to Secretary/Engineer in Chief in the State Government. He/she must work experience in supply of drinking water/water resources/rain water harvesting

4.1.2 Members- 2(two).

4.1.2.1 Member Technical:

A. An expert in the field of water conservation and supply of water for drinking and other purposes/management of water resources.

B. Having a B. Tech/B.E degree in Civil/Mechanical/Hydrology/Allied branches of engineering

C. Should have at least 25 years of services in the field of drinking water/water conservation/water resources.

D. Should have served as Chief Engineer or any post equivalent thereto;

4.1.2.2 Member Administration

A. Must have minimum 25 years of experience in the field of administration.

B. Should possess master's degree in economics/social Science/Statistics/Management or PG Diploma in Management.

4.2 The Chairperson or any member of the Authority shall not hold any other office during his/her tenure.

4.3 The Chairperson shall be the Chief executive Officer of the Authority.

4.4 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 on his behalf, the member(administration) shall exercise the powers and discharge the duties of the Chairperson.

4.5 Salary/Honorarium (Remuneration) and other allowances to the Chairperson and other Members of the Authority

4.5.1. The State Government shall bear the Salary/Honorarium (Remuneration), allowances and administrative expenses of the Authority.

4.5.2. At the time of appointment, if the Chairperson or Member is a serving employee of the State Government, he shall draw the same salary, allowances and other admissible benefits from his parent cadre till superannuation.

4.5.3. At the time of appointment, if the Chairperson or other Member is an employee of Central Government or getting pension from the State Government against his services, the Honorarium (Remuneration) shall be paid after deduction of pension amount. The total monthly emolument shall be not more than to the amount paid at the time of retirement. If Chairperson and Member is appointed after retirement, housing, medical, travel and other admissible facilities will continue as before.

4.5.4 Those persons, who are not the employee of State Government and are appointed as Chairperson or Member of the Authority, the Honorarium (Remuneration) for Chairperson and Members shall be equivalent to Chief Secretary and Principal Secretary respectively of the State Government.

4.6 Admissible leave to the chairperson and other Members of the Authority :

4.6.1 The Chairperson and Members of the Authority shall be entitled for holidays declared by the Negotiable Instrument Act 1881 , Public holidays and holidays declared under Executive Order of the State Government.

4.6.2 The Chairperson and Members of The Authority will be entitled to avail casual leave determined by the State Government for Secretariat and attached offices of the Government.

4.6.3 The sanctioning authority of leave to the Chairperson of Authority would be Secretary/Principal Secretary of the Urban Development and Housing Department and for the Members, the Chairperson of the Authority.

5. Disqualification for being the Chairperson or a member.

- A person shall be disqualified for appointment as the Chairperson or a members, if he,5.1Has been adjudged as insolvent; or5.2Has become physically or mentally incapable of acting; or5.3Has been convicted and sentenced to imprisonment for any offence involving moral turpitude; or5.4Has acquired such financial or other interest as is likely to affect his function as the Chairperson or a member ;or5.5Has so abused his position as to render his continuance in the office prejudicial to the public interest; or5.6Is a Member of Parliament or of any State Legislative or any local authority or is a candidate for election thereto; or5.7Is an active member of a political party or holds a post therein

6. Constitution and function of Search Committee.

- 6.1 The State Government shall constitute a search committee for making appointments of the Chairperson and members under sub-section 5 of section 3, The Committee shall consist of6.1.1The Chief Secretary,Government of Jharkhand: ex office President;6.1.2The Development Commissioner, Government of Jharkhand: ex officio Member.6.1.3Add. Chief Secretary/Principal Secretary, Urban Development and Housing Department, Government of Jharkhand: ex officio Member Secretary.6.1.4Add. Chief Secretary/Principal Secretary, Drinking Water and Sanitation Department, Government of Jharkhand: ex officio Member6.2The 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(s).6.3The 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 Member, as the case may be.6.4The search committee shall try to finalize the selection of the Members within two months from the date on which reference is made to it.6.5The search committee shall recommend a panel of two names for every vacancy referred to it.6.6A person who is considered for selection as the Chairperson or a Member shall notify to the Search Committee:6.6.1Of any office, employment or consultancy agreement or arrangement, which the person or his relative has in his own name or in any firm, association by any of them carrying on any of the following business:6.6.1.1Diversion of surface water, distribution of water, extraction of ground water or supply of water:6.6.1.2Manufacture, sale, lease, hire or otherwise supply of or dealing in machinery, plant equipment, apparatus or fitting related to water industry;6.6.1.3Any entity providing any professional services to any of the business referred to in clause (6.6.1.1) and (6.6.1.2) above.6.6.2Such other details and information as may be prescribed by the Search Committee.6.7The details received from the referred to in sub-section 6.6 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;6.8The Chairperson and each Member shall, before taking charge of the office, divest himself of the interest in the business mentioned in sub-section (6) as a condition of his or her appointment;6.9If 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 private sector or otherwise, he/she shall submit his

resignation or take voluntary retirement from that service before joining the Authority;6.10So 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 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 business mentioned in sub-section 6.6 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.6.11Before recommendation of any person, the Search Committee shall satisfy itself that such person does not have any financial or other interest as referred to in section 6.6 which is likely to affect pre-judicially such person's functions as the Chairperson.6.12All decisions of the Search Committee shall be by a majority.6.13The procedure for selection and appointment of the Chairperson and the Member shall be such, as may be prescribed.6.14No 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.

- 7.1 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.7.2The Chairperson or any Member may relinquish his office at any time, by giving in writing to the Government a notice of three months in advance or may be removed from his office in accordance with the provisions of section 8;7.3The 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 such authority as may be prescribed.7.4The 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.7.5The salary, allowances and other conditions of services of the Chairperson or the Members shall not be varied to their disadvantage after appointment.7.6The Chairperson or a Member ceasing to hold office, shall not :7.6.1Be 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 Government7.6.2Accept any commercial employment for a period of two years from the date he ceases to hold such offices; and7.6.3Represent any person before of Authority in any manner. Explanation:- for the purposes of this sub-section:-7.6.3.1Employment under the State Government include employment under a local body or 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.7.6.3.2Commercial 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 practice either independently or as partner of a firm or as an advisor or a consultant engaged in any water resource related activity.

8. Removal of the Chairperson or any Member.

- 8.1 Subject to the provisions of Section 8.2, Chairperson or any Member shall only be removed from his office by the State Government on the grounds of proved mis-behaviour on enquiry by a panel of three enquiry officers, appointed from amongst the officers equivalent to Secretary to the Government for this purpose, on reference being made to them, by the State Government. 8.2 Notwithstanding anything contained in section 8.1, the State government may, by order, remove a member from his office, if he has incurred any of the disqualification mentioned in section 5. 8.3 Notwithstanding anything contained in section 8.2, 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. 8.4 The state government shall pass suitable order in accordance with the report referred to in subsection (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. 8.5 The Government may, during the period of inquiry, as special 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.

- 9.1 The Authority may appoint a Secretary to exercise and perform such duties, under the control of the Chairperson, as may be specified by regulations. 9.2 The Authority shall obtain necessary inputs from State Urban Development and Housing Department, Drinking Water and Sanitation Department and from the Water Resource Department of the State Government. 9.3 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. 9.4 The salaries and allowances payable and other conditions of services of the Secretary, officers and other employees of the Authority shall be such, as may be determined by regulations. 9.5 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. 9.6 The State Government may appoint any Government officer or employee on deputation to the Authority on the request made by the Authority in this regard. 9.7 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 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 services 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.

- 10.1 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 meeting(including the quorum at its meetings) as may be determined by regulations;10.2The Chairperson or if he is unable to attend a meeting of the Authority, a member nominated by the Chairperson in his behalf, shall preside at the meeting.10.3All 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.10.4All 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;10.5The Authority shall regulate its own procedure.10.6All 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 the Authority.

- 12.1 Powers, functions and duties of the Authority shall be as under:-12.1.1To take steps for providing potable water to general public in the cities of the State by making the Government aware of the real state of affairs.12.1.2To advise the Government on conservation of underground water resources, stored and to increase the surface water level.12.1.3Up-gradation of surface water through rain water harvesting, water recharging and conservation of surface water, and to set the standard.12.1.4To advise Government on water recharge and regulation of water.12.1.5To advise Government for ensuring scientific water management of rivers, lakes and other sources to keep it potable in urban areas.12.1.6To advise to prevent inappropriate use of water in urban area.12.1.7To advise the Government regarding collection of water charges from cent per cent consumer/households, so that it is implemented in all ULBs and generate enough revenues.12.1.8To work for creation of awareness for water management.12.1.9To amend water charges from time to time as per cost and services provided and to implement it by taking suggestion from general mass for regularity of services in future.12.1.10To determine water tariff and regulate it for domestic, industrial and commercial purpose.12.1.11To determine O&M cost of multipurpose water projects.12.1.12To revise and monitor cost and revenue generation of water supply sector.12.1.13To work for the water balancing.12.1.14To reduction in supply of Non-Revenue Water (NRW).12.1.15To promote and ensure up to 100% metering in house hold.12.1.16To ensure water Audit in yearly alternative years and make sure for water availability in urban area.12.2The State will take steps to ensure for full operation and maintenance requirements of such drinking and multipurpose water 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.12.3To promote efficient use of water resource and minimize wastage of water by :12.3.1Fixing and monitoring implementation of stipulated quality standards for management of water resource by various user/departments and recommend action against violations .12.3.2Fixing and monitoring implementation of stipulated quality standards for the services to be provided by various resources services providers and recommend actions against violations.12.4To ensure publication of an annual report containing following information by project authorities:12.4.1Water supply and conservation status containing all statistical data relating to water sources and conservation, including details of project wise water availability and conservation potential and conservation potential and its actual utilization, water user efficiency and productivity relating to the projects.12.4.2Benchmarking of drinking/multipurpose water projects to identify projects with best management practices for emulation by other projects.12.4.3Water Audit of drinking/multipurpose water projects giving a systematic and scientific water account of the projects.12.512.5.1The Authority shall devise a suitable mechanism for financial incentives/disincentives to the Government and consumer organizations and other water users for ensuring delivery of services to their members as per the requirement.12.5.2The authority shall in case of non-compliance of the specific directions in discharge of the powers under this Act, recommend to the Government for necessary action.12.6To perform any other powers, functions and duties as assigned to the Authority by the State Government by Notification.

Chapter IV

Accounts, Audit and Reports

13. Budget of Authority.

- The Authority shall prepare in such form and at time in each financial year as may be prescribed, its budget for the next financial year and forward it to the Government.

14. 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 on such terms and conditions as the State Government may determine.

15. Accounts of authority.

- 15.1 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.15.2The Accounts of the Authority shall be audited by the Accountant General at such intervals as may be specified by him.15.3The Accountant General and persons appointed by him in connection with the audit of the accounts of the Authority under this Act, shall have the same right and privileges and authority 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 officers of the

Authority,^{15.4}The accounts of the Authority, as certified by the Account 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.

16. Annual Report of Authority.

- 16.1 The Authority shall prepare annually a nd 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.16.2A 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

17. General Powers of the State Government.

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

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

- 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 public servants within the meaning of section 21 of the Indian Penal Code.

19. Protection of action in good faith.

- No suit, prosecution or other legal proceeding 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 rules or regulations made there under.

20. Power to make Rules.

- 20.1 The State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules to carry out the purpose of this Act.20.2Every rule 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 in which it is so laid or the session immediately following. If the 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, however, any such

modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

21. Dispute Resolution Mechanism.

- 21.1 The Government by an order issued in its behalf authorize any competent officer for each project as Dispute Resolution Officer to resolve the disputes with regard to the issuance or delivery of determined water under the Act. 21.2 The Dispute Resolution Officer shall follow such procedure as may be prescribed while hearing the disputes.

22. Powers of Authority to make regulation.

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

23. Directions by Government.

- 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 directions. 23.2 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.

24. Power to remove difficulties.

- If any difficulties arises 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 fit to be necessary and expedient.