

Tamil Nadu Groundwater (Development and Management) Act, 2003

TAMILNADU

India

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Act 3 of 2003

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Tamil Nadu Groundwater (Development and Management) Act, 2003(Tamil Nadu Act 3 of 2003)Statement of Objects and Reasons - Tamil Nadu Groundwater (Development and Management) Act, 2000. - Water resources in this State are limited and the rate of utilisation is already high, but the demand for water in this State is increasing manifold. The remedy lies in economising the use of water and regulated development of groundwater. This State has utilised the surface flow almost to the full extent. It is in dire need of conserving groundwater for conjunctive use and supplementation.2. The groundwater extraction has already attained varying degrees of intensity. A detailed groundwater survey conducted by the Government and other agencies has revealed, that in general, there is scope for further development of groundwater. However, in particular locations, the rate of drawal has far exceeded the capacity to recoup and recharge. This is due to a large number of wells and depth and quantity of withdrawal by mechanical and electrical pumpsets and the limitations of aquifer recharge due to adverse climatic conditions. As a consequence, in coastal locations, sea water intrusion is posing a grave threat. 3. The Government have, therefore, decided to undertake necessary legislation both for development of groundwater resources without any counter productive effects of over exploitation and for regulating excessive groundwater utilisation in the State.4. The Bill seeks to give effect to the above decision.Published in IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 30th January 2003.Received the assent of the President on the 4th March 2003 and published in Part IV-Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated 4th March 2003.An Act to protect groundwater resources to provide safeguards against hazards of its over exploitation and to ensure its planned development and proper management in the State of Tamil Nadu and for matters connected therewith or incidental thereto.Whereas it is necessary in the public interest to protect groundwater resources, provide safeguards against hazards of over exploitation and to ensure planned development and proper management of this vital and limited resource;Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-fourth Year of the Republic of India as

follows:-

Chapter I

Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Tamil Nadu Groundwater (Development and Management) Act, 2003. (2) It extends to the whole of the State of Tamil Nadu except the areas to which the Chennai Metropolitan Area Groundwater (Regulation) Act, 1987 (Tamil Nadu Act 27 of 1987) extends. (3) It shall come into force on such date as the Government may, by notification, appoint and different dates may be appointed for different areas and for different provisions of this Act. Notes. - This Act does not come into force and rules have not been framed under this Act.

2. Definitions.

- In this Act, unless the context otherwise requires, - (1) "Authority" means the Tamil Nadu Groundwater Authority established under section 7 and includes any employee to whom the Authority has delegated any of its powers or functions under this Act; (2) "domestic purpose", in relation to a well, means extraction of groundwater from such well for the purpose of drinking, cooking, bathing, washing, livestock or sanitary, by using manual, mechanical or electrical device not exceeding one horse power; (3) "Government" means the State Government; (4) "groundwater" means the water which exists below the surface of the ground at any particular location; (5) "marginal farmer" means a farmer who holds such an extent of land as may be prescribed; (6) "notified area" means the area declared to be a notified area under section 9; (7) "sink" with all its grammatical variations and cognate expressions in relation to an existing well or new well includes digging drilling or boring of new well and deepening carried out in the existing well, for exploitation of ground-water; (8) "small farmer" means a farmer who holds such an extent of land as may be prescribed; (9) "user of groundwater" means a person or an institution including a company or an establishment, whether Government or otherwise, who or which uses groundwater for any purpose other than domestic purpose either on a personal or community basis; (10) "well" means a well sunk for search or extraction of groundwater and includes an open well, dug well, bore well, dug-cum-bore well, tube well, filter point, collection well or infiltration gallery, but does not include a well sunk by the Government or Central Government for carrying out scientific investigation, exploration, development or management work for the survey and assessment of groundwater resources or a well sunk by a small or marginal farmer.

Chapter II

Groundwater Development and Management

3. Groundwater development and management.

(1)The Government shall have power to develop, control, regulate and administer the groundwater in the State and may exercise their power through the Authority in accordance with-the provisions of this Act.(2)The Authority shall have power to direct and regulate the development and management of groundwater resources in the State consistent with, conserving it and ensuring its optimal and efficient utilisation.

4. Conjunctive use of surface water and groundwater.

- Wherever it is feasible, conjunctive use of surface water and groundwater shall be undertaken to maximise beneficial use of the available water resources in the State. The Authority may identify and notify suitable areas for conjunctive use of surface water and groundwater to stabilise the existing use or to improve or increase the use of water.

5. Modification of groundwater regime due to mining activities.

- If the Authority is satisfied that to facilitate mining or quarrying of any mineral or rocks, large scale pumping of groundwater is taking place and that-(i)the mining activity has led to a fall in the water levels in the vicinity of mines; or(ii)the fall in water levels has affected the agricultural and the social activity in the area; or(iii)the pumping or disposal of water from the mining activity has led to degradation in groundwater quality,the Authority may direct the disposal of mine water in a manner that it may be directly used by the farmers and its recharge, if feasible, to augment ground-water storage.

6. Water quality.

- The Authority may, in the manner prescribed, lay down or adopt standards for quality of water, depending on the kinds of water use. In doing so, it shall pay regard to the standards evolved by institutions either statutorily empowered or technically competent to do so.

Chapter III

Tamil Nadu Groundwater Authority and its Functions

7. Establishment of Tamil Nadu Groundwater Authority and its composition.

(1)The Government shall, by notification; establish with effect from such date as may be specified in the notification, an Authority to be called "the Tamil Nadu Groundwater Authority".(2)The Authority shall be a body corporate, having perpetual succession and a common seal and shall be liable to sue and be sued.(3)The Authority shall consist of the following members nominated by the Government, namely:-(a)an officer of the Government, in such rank as may be prescribed, who shall also be the Chairman;(b)two representatives of different departments concerned with ground-water

exploration;(c)one person having special knowledge or practical experience in matters relating to groundwater;(d)one full time technical officer in the rank of Chief Engineer, Public Works Department, who shall also be the Member-Secretary.(4)The term of Office, the manner of filling the vacancies and other conditions of service of non-official members of the Authority shall be such as may be prescribed.(5)The meetings of the Authority shall be at such times and by such procedure as may be prescribed.

8. Appointment of employees.

(1)The Government shall, for the purpose of enabling the Authority to efficiently perform its functions or to exercise its powers under this Act, appoint such number of technical and other employees as they may consider necessary.(2)The functions, powers and terms and conditions of service of the employees appointed under sub-section (1) shall be such as may be prescribed.

9. Powers to notify areas for development, control and regulation of groundwater.

(1)If in the opinion of the Authority, it is in the public interest to notify any area for developing groundwater or to regulate the extraction or use, or both, of groundwater in any form, in such area, it may, subject to the provisions of sub-section (2), from time to time, by notification, declare such area to be a notified area with effect on and from such date as may be specified therein.(2)The Authority shall publish a provisional notification and invite representations thereon from the public within one month from the date of such publication. It shall examine the representations, if any, received and may modify or revise the notification, if necessary. The final notification under sub-section (1) so modified or revised, shall be published before the expiry of three months from the date of publication of the provisional notification.(3)With effect from the date of publication of the final notification, the Authority shall have power to direct, regulate and control the development, extraction and utilisation of groundwater in the notified area in such manner as it deems fit.(4)The Authority may cause to undertake investigations in order to periodically evaluate the groundwater potential in the notified area on a continuous basis.

10. Grant of certificate of registration.

(1)Every user of groundwater in the notified area immediately before the date of publication of the final notification under section 9 in respect of that area shall, within a period of forty-five days from the date specified in such notification, apply to the Authority, in such form and in such manner as may be prescribed for the grant of a certificate of registration:Provided that the Authority may entertain an application after the expiry of the said period of forty-five days, if it is Satisfied that such user was prevented by sufficient cause from filing the application in time.(2)On receipt of an application under sub-section (1), if the Authority is satisfied that it will not be against public interest to do so, may grant, subject to such conditions and restrictions as may be specified, a certificate of registration authorising the use of groundwater.(3)The Authority may, on its own motion, take steps to register the wells existing and in use on the notified date.(4)The registration

shall be completed within such time as may be prescribed.(5)The decision of the Authority shall be communicated to the applicant within a period of sixty days from the date of such decision or such further extended time as may be notified by the Authority, provided that the reasons for extension of time shall be recorded in writing.(6)Pending communication by the Authority of its decision under sub-section (5), every user of groundwater in the notified area immediately before the date of publication of the final notification under sub-section (1) of section 9 in respect of that notified area shall be eligible for the continued use of the groundwater.(7)If a registered well becomes defunct, the fact shall be immediately brought to the notice of the Authority by the user of groundwater.

11. Prohibition of sinking wells in notified area without permit.

(1)No person shall, either himself or through any person on his behalf, engage in sinking any well or any other activity connected therewith in any notified area without obtaining a permit:Provided that this sub-section shall not apply for sinking of well or extraction or use of groundwater for domestic purpose.(2)Any person desiring to sink a well in a notified area, for any purpose other than domestic purpose, shall apply to the Authority in such form and in such manner together with such fee as may be prescribed for the grant of a permit.(3)On receipt of an application under sub-section (2), if the Authority is satisfied after enquiry that it shall not be against public interest to do so, may grant, subject to such conditions and restrictions as it may specify, a permit authorising the sinking of well and the extraction and use of the groundwater from such well, or refuse to grant permit:Provided that, before granting a permit under this sub-section, the Authority shall consult the local body concerned:Provided further that no applicant shall be refused a permit, unless he has been given an opportunity of being heard:Provided also that where the Authority to whom an application is made under sub-section (2) fails to inform the applicant of its decision on the application within a period of thirty days from the date of receipt of such application, the permit shall be deemed to have been granted to the applicant and he shall, for the purpose of this Act, be deemed to be a holder of a permit.Explanation. - For the purpose of this sub-section, "Local body" means the Municipal Corporation, Municipality, Town Panchayat, Cantonment or Village Panchayat, as the case may be.(4)In granting or refusing to grant a permit under sub-section (3), the Authority shall have regard to the following matters, namely:-(a)the purpose for which groundwater is to be used, the quantum and the mode of extraction;(b)the existence of other users including prior users and any community well in the neighbourhood;(c)the quantum of available groundwater resources in the notified area;(d)whether the applicant concerned has the means and competence to extract water; and(e)any other matter as may be prescribed.

12. Registration of new wells.

(1)All the wells sunk in the State on or after the date of commencement of this Act, shall be registered, including the wells in the areas not notified under section 9, with the Authority in such manner as may be prescribed.(2)The provision of sub-section (7) of section 10 shall be applicable for such registration.

13. Grant of permit for transportation of groundwater from notified area.

(1) No person shall transport groundwater by means of lorry, trailer or any other motor vehicle from any notified area for any purpose without obtaining a permit under sub-section (3). (2) Any person desiring to transport groundwater from any notified area for any purpose, by means of lorry, trailer or any other motor vehicle shall apply to the Authority for the grant of a permit in such form and in such manner and shall contain such particulars as may be prescribed. (3) On receipt of an application under sub-section (2), if the Authority is satisfied that it shall not be against public interest to do so, may grant, on payment of such fees as may be prescribed, a permit subject to such conditions and restrictions as may be specified therein, authorising the transportation of groundwater from the notified area, or refuse to grant a permit: Provided that no applicant shall be refused a permit unless he has been given an opportunity of being heard: Provided further that where the Authority, to whom an application is made under sub-section (2), fails to inform the applicant of its decision on the application within a period of thirty days from the date of receipt of such application, the permit shall be deemed to have been granted to the applicant and such person shall, for the purposes of this Act, be deemed to be a holder of a permit. (4) Notwithstanding anything contained in sub-sections (1) to (3), any person transporting groundwater by means of lorry, trailer or any other motor vehicle immediately before the date of publication of the final notification under sub-section (1) of section 9 may continue to transport groundwater for a period not exceeding thirty days from such date. Explanation. - For the purpose of this section, the expression "motor vehicle" shall have the same meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988).

14. Prohibition of carrying on the business of sinking well in notified area without licence.

(1) No person, either himself or through any person on this behalf, shall, after expiry of a period of thirty days from the date of commencement of this Act, carry on the business of sinking of well or extraction of groundwater or any activity connected therewith, by drilling or boring, in any notified area without obtaining a licence. (2) Any person desiring to carry on the business of sinking of well shall apply to the Authority in such form and in such manner together with such fee as may be prescribed for the grant of a permit. (3) On receipt of an application under sub-section (2), the Authority may, after such enquiry as it deems fit and after satisfying itself that the applicant has the means and the knowledge to undertake sinking operation and extraction of groundwater, grant a licence in such form as may be prescribed and subject to such conditions and restrictions as may be specified therein.

15. Power to alter, amend or cancel terms of certificate of registration, permit or licence.

(1) At any time after the issue of a certificate of registration, permit or licence, as the case may be, the Authority may modify, amend or cancel the terms of certificate of registration, permit or licence, as the case may be, for reasons to be recorded, either permanently or for a specified period to prevent

decline in the water table or deterioration in water quality or other effects that may be detrimental to the continued availability or quality of groundwater in the notified area: Provided that no such modification, amendment or cancellation shall be made, unless the holder of such certificate of registration, permit or licence, as the case may be, is given an opportunity of being heard. (2) If the Authority is satisfied, either on information received by it in this behalf or otherwise, that—(a) the certificate of registration, permit or licence has been obtained by fraud or suppression or misrepresentation of facts, or (b) the holder of certificate of registration, permit or licence has contravened any of the provisions of this Act or the Rules made thereunder or has failed to comply with the conditions subject to which the certificate of registration permit or licence has been granted, without prejudice to any other penalty to which the holder of the certificate of registration, permit or licence, may be liable under this Act or any other Act, the Authority may, after giving the holder of the certificate of registration, permit or licence, an opportunity to show cause and after considering his representation, by order, cancel the certificate of registration, permit or licence.

16. Electrical energy not to be supplied for energising wells sunk in contravention of the provisions of this Act.

- Notwithstanding anything contained in the [Indian Electricity Act, 1910 (Central Act IX of 1910)] [This Act has been repealed and re-enacted as the Electricity Act, 2003 (Central Act 36 of 2003).] any licensee or the Tamil Nadu Electricity Board shall not supply electrical energy for energising—(a) any well sunk in contravention of the provisions of this Act or the Rules made thereunder; or (b) any well in respect of which the permit granted under this Act has been cancelled; or (c) any source of groundwater in respect of which certificate of registration has not been granted in accordance with the provisions of this Act or having been granted, the certificate of registration has been cancelled; (d) any well in respect of which conditions including modifications and alterations as laid down in the permit are not carried out.

17. Publication of notification.

- Every notification under this Act shall be in such form as may be prescribed and shall be published, —(a) in the Tamil Nadu Government Gazette and in at least one local daily newspaper in the notified area; (b) by proclaiming the contents of the notification by beat of drums or by means of public address systems in the notified area; (c) by displaying a copy of the notification on the notice board of the public offices of the Revenue and Public Works Departments.

18. Powers of Authority.

(1) For carrying out the purposes of this Act, the Authority or any person authorised by it in writing in this behalf, shall have the following powers, namely: —(a) to enter upon any property belonging to an individual or the Government, as the case may be, for investigation or collection of data pertaining to the land or water; (b) to inspect any well which is sunk or being sunk and the soil, groundwater or other materials, excavated therefrom; (c) to take specimen of such soil, groundwater or other materials; (d) to require in writing any person sinking a well to preserve in the prescribed

manner, specimens of soil, groundwater or any material excavated therefrom for a period not exceeding one month from the date of completion or abandonment of the work;(e)to inspect and take copies of the relevant records or documents and seek any information pertaining to the well as may be required;(f)to serve or cause to be served a notice requiring any person using groundwater to furnish such information as required in such form, at such intervals and with such particulars, as may be prescribed;(g)to require in writing any person using groundwater to install measuring devices on any groundwater supplies;(h)to seize and take possession of any equipment utilised for unauthorised sinking;(i)to require in writing any person using groundwater who does not comply with the provisions of this Act to cease to extract groundwater or dismantle any hydraulic structure found to be unauthorised or direct the authority concerned to enforce the provision of section 16;(j)to enter and search at all reasonable times with such assistance, if any, as it considers necessary, any premises in which it has reason to believe that an offence under this Act has been or is being committed and order in writing to the person who has committed or who is committing the offence not to extract or use the groundwater without obtaining a permit.(2)The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall apply to any search or seizure under this section in the same way as it applies to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.(3)The power conferred under clause (a) of sub-section (1) shall include the power to break open the door of any premises where such sinking, extraction or use of groundwater is going on:Provided that such power to break open the door shall be exercised only if the owner or the person in occupation of the property, refuses to comply with the notice of directions of the Authority on being called upon to do so.

19. Service of orders, etc.

- Every order or notice under sub-section (1) of section 18 shall be served, -(a)by tendering such order or notice either through messenger or sending by registered post to the person for whom it is intended, or(b)if such person cannot be found, by affixing such order or notice on some conspicuous part of his last known place of residence or of business or tendering such order or notice to some adult member or servant of his family or by causing it to be affixed on some conspicuous part of the land or building in which the well is being sunk;(c)where the person on whom an order or a notice is to be served happens to be a minor, service upon his guardian in the manner provided in clause (a) and (b) shall be deemed to be service upon the minor.

20. Delegation of powers and function.

- The Authority may, by general or special order in writing, direct that all or any of the powers or functions which may be exercised or performed by it shall, in such circumstances and under such conditions as may be specified in such order, be exercised or performed by any employee of the Authority specified in this behalf in such order.

21. Appeal.

(1)Any person aggrieved by any order or decision of the Authority or an employee referred to in section 20 may file an appeal to the Government within a period of thirty days from the date on

which such order or decision is communicated to him.(2)On receipt of an appeal under sub-section (1), the Government shall, after examining the case and after, giving the petitioner an opportunity of being heard, pass such order as they may deem fit.

Chapter IV

Offences and Penalties

22. Offences and penalties.

- Whoever-(a)contravenes or fails to comply with any of the provisions of this Act or any Rules made thereunder; or(b)sinks well in notified areas without a permit; or(c)obstructs the Authority or any other employee authorised by it to exercise any of the powers under this Act; or(d)fails to comply with the requisition made under the provisions of this Act; or(e)having been required to furnish any information under clause (f) of sub-section (1) of section 18 wilfully refuses, or without lawful excuse neglects, to furnish such information or return; or(f)wilfully furnishes or causes to be furnished any information or return which he knows to be false, he shall be punishable,-(i)for the first offence, with fine which may extend to one thousand rupees;(ii)for the second and subsequent offences, with fine which may extend to two thousand rupees; and(iii)in respect of continuing contravention of the provisions of section 13, he shall be punishable with fine which may extend to five hundred rupees for every day during which such contravention continues.

23. Offences by companies.

(1)Where an offence punishable under this Act has been committed by a company, every person, who, at the time 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, 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 any 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 any body corporate and includes a firm, society, trust or other association of individuals; and(b)"director" in relation to-(i)a firm means a partner in the firm.(ii)a society, trust or other association of individuals means the person who is entrusted under the Rules of the society, trust or other association with the management of the affairs of the society, trust or other association, as the case may be.

24. Offences under this Act to be cognizable.

(1) Any offence punishable under this Act shall be cognizable within the meaning of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974). (2) No Court shall take cognizance of any offence punishable under this Act, except upon a complaint in writing by the Authority or an officer generally or specially authorised by it in this behalf.

25. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the Government or the Authority or any officer or employee in respect of anything which is done in good faith or intended to be done in pursuance of this Act.

26. Bar of jurisdiction of Civil Courts.

- No order passed, decision or action taken or direction issued under this Act or the Rules made under this Act shall be called in question in any Civil Court and no injunction shall be granted by any Court in respect of any action taken or to be taken by the Government or the Authority or any officer or employee in pursuance of any power conferred under this Act.

Chapter V

Miscellaneous

27. Officers deemed to be public servants.

- Every member of the Authority and every officer or employee acting under or in pursuance of the provisions of this Act or Rules or order or notification made thereunder, shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

28. Act to override other laws.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or agreement or decree or order of a Court or a Tribunal or other Authority.

29. Power of Government to give directions.

(1) The Government may, in the public interest, by order, direct the Authority to make an enquiry or to take appropriate proceedings under this Act in any case specified in the order, and the Authority shall report to the Government the result of the enquiry made or the proceedings taken by it within such period as may be prescribed. (2) The Government may issue such orders and directions of a general character as they consider necessary in respect of any matter relating to the powers and

functions of the Authority and thereupon the Authority shall give effect to such orders and directions.

30. Power to make rules.

(1)The Government may make rules to carry out the purposes of this Act.(2)Every rule made or every notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the Table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or next session, the Assembly makes any modification in any such rule or notification or the Assembly decides that the rule or notification should not be made or issued, the rule or notification shall, thereafter, 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 under that rule or notification.

31. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Tamil Nadu Government Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to them 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.

32. Repeal and saving.

(1)The Tamil Nadu Groundwater (Development and Management) Ordinance, 2003 (Tamil Nadu Ordinance 1 of 2003) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.