

Bombay Irrigation (Gujarat Amendment) Act, 1976

GUJARAT

India

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Act 45 of 1976

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Enacted by the President in the Twenty-seventh year of the Republic of IndiaAn Act further to amend the Bombay Irrigation Act, 1879, as in force in the State of Gujarat.In exercise of the powers conferred by section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1976 (44 of 1976), the President is pleased to enact as follows:-

1. Short title and commencement.- (1) This Act may be called the Bombay Irrigation (Gujarat Amendment) Act, 1976.

(2)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Insertion of new Part XII in Bombay Act VII of 1879.- In the Bombay Irrigation Act, 1879, as in force in the State of Gujarat, after Part XI, the following Part and Schedule shall be inserted, namely:-

"PART XIISPECIAL, PROVISIONS REGULATING THE CONSTRUCTION AND MAINTENANCE OF TUBEWELLS, ARTESIAN WELLS AND BOREWELLS.

92. Definitions.- In this part, unless the context otherwise requires,-

(a)"artesian well" means a well which taps artesian or piratic water having piezo-metric level above the ground;(b)"Borewell" means a well drilled in hard rock areas where the bore can stand on its own and where lining by pipes is not necessary, and includes a dug-cum-bore well;(c)"Ground water" means water under the surface of the earth regardless of the geological structure in which it is stationary or moving and include all ground water reservoirs;(d)"proscribed" means prescribed by rules made under section 101;(e)"Regional Canal Officer" means a Canal Officer authorised by the State Government by notification in the Official Gazette to perform the, functions of the Regional

Canal Officer under this Part in such area as may be specified in the notification;(f)"Tubewell" means a deep bore drilled into the ground for the purpose of drawing water through one or aeries of permeable layers of wafer bearing strata.

93. Areas to which this Part applies.- (1) The provisions of this Part shall apply in the first instance to the areas specified in the Schedule.

(2)The State Government may, by notification in the Official Gazette, apply the provisions of this Part to such other areas as may be specified in the notifications.(3)The State Government may, by a like notification, direct that the provisions of this Part shall cease to apply to such area on and from such date as may be specified in the notification; and with effect on and from that dale, the said provisions shall cease to apply to such area, except as respects things done or omitted to be done before such cesser.

94. Regulation of construction and maintenance of fubewells, etc.-
Notwithstanding anything contained in the Bombay Land Revenue Code or in any other law for the time being in force, no holder of any land assessed or held for the purpose of agriculture within the meaning of the said Code (hereafter in this part referred to as agricultural land) shall after the commencement of the Bombay Irrigation (Gujarat Amendment) Act, 1976 Construct, or cause or permit to be constructed, any tubewell, artesian well or borewell, exceeding forty-five metres in depth for extracting ground water except under and in accordance with the terms and conditions (including conditions relating to the maintenance of such well) of a licence issued under section 95 and the hides made under section 101.

95. Grant of licence.- (1) Where a holder of any agricultural land desires to construct therein any tubewell, artesian well or borewell, exceeding forty-five metres in depth for extracting ground water, he shall make an application to the Regional Canal Officer having jurisdiction for the grant of a licence.

(2)Every application made muter sub-section (1) shall be in such form, shall contain such particular and shall be accompanied with such fees he may be prescribed.(3)On the receipt of an application under sub-section (1) the Regional Canal Officer may, after making such inquiry as he thinks fit and having regard to the availability and quality of ground water and the density of wells in the area in which the tubewell, artesian well or borewell, as the case may be, is proposed to be constructed and such other relevant factors as the circumstances or the case may require, by order, grant or refuse to pant the licence applied for:Provided that before refusing to grant the licence, the applicant shall be given a reasonable opportunity of being heard in the matter:Provided further that where the Regional Canal Officer to whom an application has been made under sub-section (1) fails to inform the applicant of his decision on the application within a period of three months from the date of

receipt of the application, the licence shall be deemed to have been granted to the applicant.(4)Every licence granted or deemed to have been granted under sub-section (3) shall be in such form as may be prescribed and shall be subject to such terms and conditions as may be specified therein, including conditions relating to the maintenance of the well.

96. Regulation of existing tubewells, etc.- Where any tubewell, artesian well or borewell is in existence in an agricultural land at the commencement of the Bombay Irrigation (Gujarat Amendment) Act, 1976 and the depth of such well is in excess of forty-five metres, then the holder of the agricultural land shall, within three months from such commencement, furnish information in respect of the well to the Regional Canal Officer having jurisdiction, in such form as may be prescribed and on receipt of the information, the Regional Canal Officer shall if he is satisfied that the well was in existence at such commencement grant to the holder of land a certificate in the prescribed form to the effect that the said well was in existence at such commencement.

97. Cancellation of licence.- If the Regional Canal Officer is satisfied either on a reference made to him in this behalf or otherwise that-

(a)any licence granted under section 95 has been obtained by fraud or misrepresentation as to an essential fact, or(b)the holder of a licence has, without reasonable cause, failed to comply with the terms and conditions subject to which the licence has been granted, or has contravened any of the provisions of this Part or the rules made under section 101, then, without prejudice to any other penalty to which the holder of the licence may be liable under this Part, the Regional Canal Officer may after giving the holder of the licence an opportunity of showing cause, by order, cancel the licence.

98. Appeals.- (1) Any person aggrieved by an order of the Regional Canal Officer made under section 95 or section 97 or section 99 may prefer an appeal to the prescribed authority against such order within the proscribed period and the decision of the proscribed authority on such appeal shall be final.

(2)Every appeal preferred under sub-section (1) shall bear court-fee stamps of such value as may be prescribed.

99. Regulation of use of water.- (1) No holder of agricultural land in which there is a tubewell, artesian well or borewell, exceeding forty-five metres in depth shall allow any water from such well to be used for a purpose other than for the purpose of agriculture or of drinking or to be wasted either

through leaky casing, pipe fittings, valves or pumps either above or below the surface or on account of any other reason whatsoever:

Provided that such holder may allow water from such well to be used for any purpose other than for the purpose of agriculture or of drinking if the Regional Canal Officer, subject to any general or special order made by the State Government, by order permits the use of water for such purpose.(2)If in the opinion of the Regional Canal Officer water from any tube well, artesian well or borewell exceeding forty-five metres in depth, is used for a purpose other than for the purpose of agriculture or of drinking, without the order of the Regional Canal Officer, or is wasted, he may, after giving the holder of the agricultural land in which such well is situated a notice of not less than thirty days, by order require him to close or seal off the well at his expense and in such manner as the Regional Canal Officer may specify in such order and the holder of such agricultural land shall comply with such order.(3)Where any holder of agricultural land fails to comply with any order made under sub-section (2), the Regional Canal Officer may, after giving the holder of the agricultural land due notice in that behalf, enter upon the land and close or seal off the well and the cost incurred therefor shall be recoverable from the holder as an arrear of land revenue.

100. Penalty.- If any person contravenes the provisions of section 94 or section 96, or any rules made under section 101 in respect of the construction or maintenance of tubewells or any of the terms or conditions specified in a licence granted under section 95 he shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

101. Power to make rules.- (1) The State Government may, by notification in the Official Gazette and after previous publication, make rules to carry out the provisions of this Part.

(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(a)the form of application for the grant of licence under section 95, the particulars to be contained in such application and the fees to be accompanied with such application;(b)the form of licence to be granted under section 95;(c)the form in which information may be furnished by the holder of an agricultural land under section 96 and the form of certificate to be granted under that section;(d)the authority to which an appeal may be preferred under section 98, the period within which such appeal shall be preferred and the value of court-fee stamps which such appeal shall bear;(e)the manner of construction of tubewells, artesian wells or bore wells exceeding forty-five metres in depth;(f)any other matter which is required to be, or may be, prescribed.(3)All rules made under this section shall be laid for not less than thirty days before the State Legislature, as soon as may be after they are made and shall be subject to rescission by the State Legislature or such modification as the State legislature may make during the session in which they are so laid or the session immediately following.(4)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall

thereupon take effect. THE SCHEDULE [See section 93(1)] Areas

- 1. Ahmadabad District.**
- 2. Banaskantha District.**
- 3. Baroda District.**
- 4. Broach District.**
- 5. Gandhinagar District.**
- 6. Kaira District.**
- 7. Kutch District.**
- 8. Mehsana District.**
- 9. Sabarkantha District."**