

The M.P. Regulation of Waters Act, 1949

MADHYA PRADESH

India

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Act 37 of 1949

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The M.P. Regulation of Waters Act, 1949(M.P. Act No. 37 of 1949)[Dated 10th June, 1949]Received the assent of the Governor-General on the 10th June, 1949; assent first published in the "Central Provinces and Berar Gazette" on the 17th June, 1949.An Act to regulate the appropriation of water by an industrial concern on a local authority for industrial or urban purposes.Preamble. - Whereas it is expedient to provide for the regulation of the appropriation of water by an industrial concern or a local authority for industrial or urban purposes;It is hereby enacted as follows :-

1. Short title, extent and commencement.

(1)This Act may be cited as the Madhya Pradesh Regulation of Waters Act, 1949.(2)It extends to the whole of Madhya Pradesh.(3)It shall [come into force on such date] [Not came into force so far.] as the State Government may, by notification, appoint.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(a)"industrial concern" means a person or a body of persons, whether incorporated or not, engaged in the manufacture of any commodity with or without the aid of mechanical power;(b)"natural source of supply" means a riser or a stream flowing in natural channels or a spring and any lake or other natural collection of still water;(c)"prescribed" means prescribed by rules made under this Act;(d)"private water-work" means a water-work which is not the property of the Government;(e)"water-work" means a work constructed or maintained for the supply or storage of water which is or is capable of being used for industrial or urban purposes and includes wells, pumps reservoirs, cisterns, tanks, aqueducts, conduits, cuts, sluices, filter beds, mains, pipes, hydrants, culverts, engines, anti all machinery, lands, buildings and things for supplying or used for supplying water.

3. Right of the Government in water.

- With effect from the date appointed under sub-section (3) of Section 1 (hereinafter referred to as the relevant date) all rights in the water of any natural source of supply shall vest in the Government except to the extent to which rights may have been acquired in such water before the relevant date and notwithstanding anything contained in the Indian Easements Act, 1882 (V of 1882) or the Indian Limitation Act, 1908 (IX of 1908) or any custom to the contrary, no rights shall be acquired after such date against the Government by any person in the water from such supply.

4. Restriction on appropriation of water by an industrial concern or local authority.

(1) No local authority, which was not appropriating water of any natural source for an industrial or urban purpose immediately before the relevant date, shall, from the said date, appropriate or be entitled to receive for the said purpose water from any natural source of supply except in accordance with the rules made in this behalf. (2) No industrial concern, which has not acquired a right to appropriate water of any natural source for an industrial or urban purpose immediately before the relevant date, shall from the said date, appropriate or be entitled to receive, for the said purpose of water from any natural source of supply except in accordance with the rules made in this behalf.

5. Power to make rules.

(1) The State Government may, after previous publication, make such rules as appear to be it to be necessary or expedient for regulating the quantity and manner of supply and use of water from any natural source of supply for industrial or urban purposes by an industrial concern or local authority or for prohibiting such use at any time and for any purpose incidental and ancillary thereto. (2) Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for all or any of the following matters, namely :-(a) the manner and form of application for water and the particulars to be supplied therewith; (b) the fee, if any, to be paid with the application; (c) the fixation of the rates for the supply of water; (d) the conditions to be observed by an industrial concern or a local authority receiving water; (e) the circumstances in which the supply of water may be discontinued; (f) the maintenance and upkeep of the machinery used in carrying the water from any natural source of supply to be the works of an industrial concern or a local authority; (g) entry upon and survey of land required for placing and maintaining aqueducts, conduits and lines of mains or pipes; (h) the grants of licence to an industrial concern or local authority and the charging of fees therefor; (i) the conditions subject to which exemption may be granted to an industrial concern or local authority from any provision of the Act or any rule made thereunder; (j) the manner and conditions to be prescribed for construction of any work with respect to a private water-work; (k) the mode of recovery of any sums due from any industrial concern or local authority; (l) the disposal of waste water; (m) the prevention of pollution of the natural source of supply or danger to public health or safety. (3) In making any rule under this section, the State Government may direct that a breach thereof shall be punishable with fine which may extend to one thousand rupees, and where the breach is a continuing breach, with further fine which may extend

to one hundred rupees for every day after the first during which the breach is proved to have been persisted in.

6. Proceedings on application.

(1)Where an industrial concern or a local authority makes an application to the State Government for the use of water from a natural source of supply, the State Government may in its discretion accept or reject the same and in the event of its acceptance may itself construct the whole or part of any water-work or require the applicant to construct the same.(2)Any land required for the construction of such water-work or any part thereof may be acquired by the State Government for the benefit of the industrial concern or the local authority in accordance with the provisions of the Land Acquisition Act, 1894 (1 of 1894), so far as may be, and the costs of acquisition shall be payable by the industrial concern or the local authority, as the case may be.

7. Determination of compensations.

(1)Any person who, in consequence of the appropriation of water by an industrial concern or a local authority under the provisions of this Act, or any rules made thereunder is adversely affected, may apply for compensation in such form, as may be prescribed, to the Collector of the district in which the damage in consequence of such appropriation occurs.(2)Notwithstanding anything contained in the Indian Limitation Act, 1908 (IX of 1908) or any other enactment for the time being, in force, no claim for compensation under sub-section (1) shall be made after the expiration of one year from the date of the appropriation of water by an industrial concern or local authority under this Act.(3)On receipt of such application the Collector shall make such enquiry as he deems necessary and, on being satisfied that compensation is payable, determine the amount of compensation. The order of the Collector shall, subject to the result of the civil suit filed, if any, under sub section (5), be conclusive.(4)Compensations not to be awarded in certain cases. - No compensation shall be awarded for any damage caused by-(a)stoppage or diminution of percolation or Hoods;(b)deterioration of climate or soil;(c)stoppage of navigation, or of the means of drifting timber or watering cattle as a result of the use of water from a natural source of supply under this Act.(5)Any person aggrieved by the decision of the Collector under sub-section (3) may, within six months from the date of such decision, institute a suit in a Civil Court to have such decision set aside or modified.(6)The amount of compensation determined under this section or by a Civil Court in consequence of a suit instituted in pursuance of sub-section (5) shall be paid by the industrial concern or local authority in respect of which an order under Section 8 was issued.(7)If in any case no civil suit is filed in accordance with sub-section (5) and-(i)the industrial concern fails to pay the amount of compensation determined under this section, the amount shall, after the expiration of the period allowed for filing the civil suit, be recoverable as arrears of land revenue;(ii)the local authority fails to pay the amount of compensation determined under this section, the State Government shall, after the expiration of the period allowed for filing the civil suit, by an order in writing fix a period for the payment of the said amount and if the local authority commits default, the State Government may make an order directing the person having the custody of the balance of the fund of the local authority concerned to pay the amount and such person shall comply with the order.(8)The payment of compensation under this section to the person entitled thereto in the

opinion of the Collector shall be a full discharge of the State Government and the industrial undertaking or the local authority, as the case may be, from all liability in respect of compensation, but shall not prejudice any rights in respect of the said property to which any other person may be entitled by due process of law to enforce against the person to whom compensation has been paid as aforesaid.(9)Except as provided in sub-section (5), no Civil Court shall have jurisdiction to entertain any suit for compensation by a person affected in consequence of appropriation of water by an industrial concern or local authority under the provisions of this Act or any rules made thereunder.

8. Private water-work.

(1)If the State Government is satisfied that it is necessary to utilize the water of any private water-work, the State Government may, by order, direct the owner or other person in charge of such private water-work to supply water to a specified industrial concern or local authority in such quantities and in such manner as may be specified in the order.(2)Compensation how determined. - Whenever an order under sub-section (1) is made, the owner shall be paid compensation determined in the manner and in accordance with the principles hereinafter set out, that is to say,-(i)where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;(ii)where no such agreement can be reached the State Government shall appoint as arbitrator the District Judge or the Additional District Judge or any Civil Judge having jurisdiction over the area in which the private water-work is situate;(iii)at the commencement of the proceedings before the arbitrator, the representative of the industrial concern or the local authority, as the case may be, and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;(iv)the arbitrator in making his award shall have regard to the provisions of sub-section (1) of Section 23 of the Land Acquisition Act, 1894 (1 of 1894) so far as the same can be made applicable and also to any reasonable extent of damage suffered by the owner;(v)save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.(3)The decision given by an arbitrator shall be final and shall not be called into question before any authority.(4)(a)The State Government may make rules for the purpose of carrying into effect the provisions of this section.(b)In particular and without prejudice to the generality of the foregoing power such rules may prescribe-(i)the procedure to be followed in arbitrations under this section and the manner and time of payment of compensation;(ii)the principles to be followed in apportioning the costs of proceedings before the arbitrator.(5)The payment of compensation under this section to any person appearing entitled to it in the opinion of the State Government or the arbitrator, as the case may be, shall be a full discharge of the State Government, the industrial concern or the local authority, as the case may be, from all liability in respect of such compensation but shall not prejudice any rights in respect of the use of the private water-work under this section which any other person may be entitled by due process of law to enforce against the person to whom compensation has been paid as aforesaid.(6)If the owner or the person in charge of the private water-work fails to give effect to the direction given under sub-section (1) the State Government may, without prejudice to any other action under the Act, authorise, by an order any officer to take or caused to be taken such steps and use or caused to be used, such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the directions given under sub-section (1).(7)If it appears to the State Government that it is necessary to get any work constructed for making the water-work efficient, it

may direct the industrial concern or the local authority specified under sub-section (1) to get such work constructed at its cost in such manner-and subject to such conditions as may be prescribed.

9. Offences by Corporation or local authority.

- If an industrial concern or a local authority contravenes any provision of this Act or rule made thereunder, then in the case of the industrial concern, every director, manager, secretary, or other officer or agent thereof and in the case of a local authority, the Chief Executive Officer and the Engineer-in-charge in the employ of such local authority shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

10. Penalty.

- Whoever contravenes any provision contained in this Act shall be punishable with imprisonment which may extend to six months or with fine not exceeding five thousand rupees and if the contravention is a continuing one, to a further fine not exceeding two hundred rupees for each day of such continuance.

11. Jurisdiction of Court.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898) no Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act or a rule made thereunder.

12. Cognizance of offence.

- No Court shall take cognizance of any offence punishable under this Act or any rule made thereunder except on a report in writing of the facts constituting such offence made by the Director of Industries Madhya Pradesh or any officer authorised by him in this behalf.

13. Delegation of powers and duties of State Government.

- The State Government may by order direct that any power or duty which is conferred or imposed on the State Government or any authority by or under this Act, shall in such circumstances and under such conditions, if any, as may be specified in that direction be exercised or discharged by any officer or authority subordinate to the State Government.