

Maharashtra Groundwater (Development and Management) Act, 2009

MAHARASHTRA

India

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Act 26 of 2013

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Maharashtra Groundwater (Development and Management) Act, 2009 Maharashtra Act No. 26 of 2013 MH93 (First published, after having received the assent of the Hon'ble President in the "Maharashtra Government Gazette", on the 3rd December, 2013) An Act to further facilitate and ensure sustainable, equitable and adequate supply of groundwater of prescribed quality, for various category of users, through supply and demand management measures, protecting public drinking water sources and to establish the State Groundwater Authority and District Level Authorities to manage and to regulate, with community participation, the exploitation of groundwater within the State of Maharashtra; and matters connected therewith or incidental thereto. Whereas it is expedient to make a law to facilitate and ensure sustainable, equitable and adequate supply of groundwater of prescribed quality, for various category of users, through supply and demand management measures, protecting public drinking water sources and to establish the State Groundwater Authority and District Level Authorities to manage and to regulate, with community participation, the exploitation of groundwater within the State of Maharashtra; and matters connected therewith or incidental thereto; it is hereby enacted in the Sixtieth Year of the Republic of India as follows :-

Chapter I

Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Maharashtra Groundwater (Development and Management) Act, 2009. (2) It extends to the whole of the State of Maharashtra. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

(1) In this Act, unless the context otherwise requires, - (i) "aquifer" means geological formation saturated with water below ground; (ii) "Area of Influence" means the entire area beneath which groundwater or pressure surface contours are modified by pumping, which includes the area of pumping depression and area of diversion; (iii) "artificial recharge to groundwater" means the process by which groundwater reservoir is augmented in excess of recharge under natural conditions of replenishment; (iv) "Deep-Well" means a machine-made pit or hole, usually vertical, that derives groundwater from the pores, weathered strata, interstices, fractures or joints of the rocks or soils that it penetrates, and includes a bore-well, tube-well of normally sixty metre or of more depth, which taps one or more aquifers; (v) "District Authority" means the Authority appointed under section 17; (vi) "District Watershed Management Committee" means the District Watershed Management Committee constituted under section 18; (vii) "drinking water purposes", in relation to the use of water, means consumption or use of water by human population for drinking and for other domestic purposes such as cooking, bathing, washing, cleaning and other day-to-day activities, and includes consumption of water for similar such relevant purposes for live-stock; (viii) "Empowered Committee" means the Empowered Committee specified under section 15; (ix) "Expert Bodies" means the Central or the State Government organizations, institutions or agencies and private sector and non-government organizations, accredited by the Central Government or the State Government or the State Authority, working in the groundwater sector; (x) "Government" or "State Government" means the Government of Maharashtra; (xi) "groundwater" means water existing in an aquifer below the surface of the ground in the zone of saturation which can be extracted through wells, borewells, tubewells or any other means or emerges as springs and base flow in streams and rivers; (xii) "Groundwater Surveys and Development Agency" means the Groundwater Surveys and Development Agency, under the Water Supply and Sanitation Department of the Government; (xiii) "hydrological year" means the year which starts from the 1st day of the month of June and ends on the 31st day of the month of May, every succeeding year; (xiv) "Integrated Watershed Development and Management Plan" means an Integrated Watershed Development and Management Plan prepared under sub-section (2) of section 9; (xv) "non-notified areas" means areas other than the notified areas; (xvi) "notified areas" means areas included in over-exploited or critical or water quality affected watershed or aquifer or any such categorization as per the groundwater estimations carried out, based on the guidelines issued, from time to time, by the Central Government and State Government, which have been notified by the State Authority for regulation of extraction of groundwater after following the procedure indicated in section 4; (xvii) "Panchayat" means a Panchayat established or deemed to have been established under the Bombay Village Panchayats Act, 1958; (xviii) "Panchayat Samiti" means a Panchayat Samiti constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961; (xix) "prescribed" means prescribed by the rules; (xx) "Public Drinking Water Source" means a source from which the State Government or a local authority or such other authority as the State Government may, by notification in the Official Gazette specify, provides water to the public and includes such well, borewell, tubewell or any other drinking water source as may be notified by the District Authority; (xxi) "Public Water Supply System" means the structure relating to a public drinking water source, including conveying pipelines, storage reservoir, stand posts, cisterns, hand pump, power pump and all other materials connected thereto, through which

water is supplied for drinking water purposes;(xxii)"rain water harvesting" means the technique of collection and storage of rain water on surface or in sub-surface aquifer or other structures;(xxiii)"recharge worthy area" means area favourable for groundwater recharge and storage, as delineated by the Groundwater Surveys and Development Agency;(xxiv)"rules" means the rules made under this Act;(xxv)"sand mining" means the process of the actual removal or extraction of sand from the foreshore including rivers, streams, lakes, etc., and also the coastal areas;(xxvi)"sink" means, with all its grammatical variations and cognate expressions, in relation to a well, includes digging, drilling or boring of a new well or an existing well, deepening and modification of radials and galleries of the existing wells;(xxvii)"stakeholders of the area" means the authorities, corporate bodies and persons concerned with the planning, development, regulation and management of groundwater and uses thereof;(xxviii)"State Authority" means the State Ground Water Authority established under section 3;(xxix)"State Watershed Management Council" means the State Water Council constituted under section 16 of the Maharashtra Water Resources Regulatory Authority Act, 2005;(xxx)"Talathi" means revenue functionary at the level of village or group of villages;(xxxi)"urban local bodies" means a Council constituted under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, and a Municipal Corporation constituted under the Mumbai Municipal Corporation Act or the City of Nagpur Corporation Act, 1948 or the Bombay Provincial Municipal Corporations Act, 1949;(xxxii)"user of groundwater" means the person or persons or an institution including a company or an establishment, whether Government or non-Government, Water Users' Association, Groundwater Users' Association, Industrial Users' Association, co-operative society registered under the Maharashtra Co-operative Societies Act, 1960, Panchayat, Private Bulk Users, Public Registered Bodies, etc., or any other group of community, who or which extracts and uses or sells groundwater for any purpose including domestic, industrial or agricultural purposes;(xxxiii)"water scarcity area" means an area declared as such by the District Authority under section 25;(xxxiv)"watershed" means an area confined within the topographic water divide line, as identified and notified by the Groundwater Surveys and Development Agency, from time to time, having regard to the purposes of this Act;(xxxv)"watershed or aquifer based groundwater use plan" means the groundwater plan prepared by the Watershed Water Resources Committee or Panchayat, with the technical assistance of the Groundwater Surveys and Development Agency, which indicates the groundwater status or levels in the watershed or aquifer and includes the water account and water budget of both recharge and withdrawal of groundwater of the area during the hydrological year;(xxxvi)"Water Resources Act" means the Maharashtra Water Resources Regulatory Authority Act, 2005;(xxxvii)"Water User's Association" means a Water User's Association formed at minor level or above, which represents the users of irrigation water from that segment of any project, canal or natural flow or storage system;(xxxviii)"Watershed Water Resources Committee" means the Watershed Water Resources Committee constituted under section 29;(xxxix)"well" means a well sunk for the search or extraction of groundwater by a person or persons and includes open-well, dug-well, bore-well, dug-cum-bore-well, tube-well, filter point, collector well, infiltration gallery, recharge well, disposal well or any of their combinations or variations, excluding the structures sunk by the authorised officials of the Central or the State Government for carrying out scientific investigations, exploration, augmentation, conservation, protection or management of groundwater.(2) Words and expressions used and not defined in this Act but defined in various irrigation or water resources or other related Acts in the State, in force shall have the same meanings as respectively assigned to them in those

Acts.

Chapter II

State Groundwater Authority, Its Powers, Functions and Duties

3. State Groundwater Authority.

(1)The Maharashtra Water Resources Regulatory Authority established under section 3 of the Water Resources Act, shall be the State Groundwater Authority for the purposes of this Act, who shall exercise the powers conferred on and discharge such functions and duties as assigned to it, under this Act, in the manner as may be prescribed.(2)In addition to the five special invitees mentioned in clause (d) of sub-section (1) of section 4 of Water Resources Act, the State Authority shall invite the Director, Groundwater Survey and Development Agency and one expert from the field of groundwater and one woman representing the users of groundwater as may be specified by the Government and on such terms and conditions as may be prescribed for assisting the State Authority in taking policy decisions.

4. Powers to notify areas to regulate the development and management of groundwater.

(1)The State Authority, after receiving recommendations from the Groundwater Surveys and Development Agency and views of various institutions working in the groundwater field including the Central Groundwater Authority, based on scientific groundwater quality studies and estimation and after ascertaining the views of the users of groundwater of the area, is of the opinion that it is necessary or expedient in the public interest to regulate the extraction or the use of groundwater or both in any form in a watershed or aquifer area, shall declare such area to be a notified area, by notification in the Official Gazette, for the purposes of this Act, with effect from such date as may be specified therein.(2)On notifying an area under sub-section (1), the State Authority shall establish the Watershed Water Resources Committee under section 29 of this Act, with the objective of promoting and regulating the development and management of groundwater in the notified area.

5. Powers to de-notify areas.

- If in the opinion of the State Authority, the availability and quality of groundwater has improved in the notified area, it shall, after consultation with the Groundwater Surveys and Development Agency and after obtaining the views of expert bodies, including the Central Groundwater Authority, de-notify such area by notification in the Official Gazette.

6. Protection of water quality.

(1)No user of groundwater shall do anything or release any effluent that contaminates the groundwater either temporarily or permanently.(2)The State Authority shall take such measures as

may be necessary for the protection and preservation of water quality of drinking water source within the notified and non-notified areas in the State, in consultation with the Groundwater Surveys and Development Agency and District Authority.(3)The State Authority shall take such necessary measures as may be prescribed for the protection and preservation of groundwater quality of all the existing drinking water sources in the State, including the measures for protecting the drinking water sources and recharge worthy areas.(4)The funds required for implementing such measures shall be made available to the State Authority by the State Government.(5)The State Authority shall refrain the polluters of the groundwater, including the rural or urban local bodies, from polluting the groundwater sources and take such measures, as may be prescribed, to restore the quality of water to the prescribed standards, at the cost of the polluter.

7. Registration of well owners in the State.

- The State Authority shall ensure the registration of all the owners of wells both in notified and non-notified areas of the State, in the manner as may be prescribed.

8. Prohibition of drilling of deep-wells, withdrawal of groundwater from existing deep-well and provision for levy of cess.

(1)The State Authority shall prohibit the drilling of deep-wells within the notified and non-notified area, for agriculture or, industrial usage :Provided that, the State Authority may, after recording the reasons in writing and in the prescribed manner grant specific permission to any person or user of groundwater to drill any deep well within the notified or non-notified area, for drinking water purposes.(2)The State Authority shall regulate, including total ban on, the construction of wells, other than deep-wells, for any purpose within the notified areas.(3)On the advice of the State Authority, the State Government shall give such guidelines to the concerned Authority to levy such cess as may be prescribed, on the use of existing deep-wells in the non-notified areas:Provided that, the proceeds of cess levied shall be forwarded by the concerned Authority to the Panchayat or the urban local body, as the case may be, and the same shall be used for implementing groundwater conservation programme.(4)The State Authority shall direct the District Authority to exercise a total prohibition on pumping of groundwater from the existing deep-wells at a depth of sixty metres or more, in the notified area. The users of deep-wells in the notified area shall follow the Groundwater Use Plan and Crop Plan prepared under section 10.The State Government shall levy appropriate cess from such users till such time these plans are notified. The District Authority shall ensure the implementation in the manner as may be prescribed.(5)No person or user of groundwater shall indulge in sale of the groundwater, within the notified area, without the prior permission of the District Authority obtained in the manner as may be prescribed.

9. Rain water harvesting for artificial recharge of groundwater.

(1)The State Authority shall identify the recharge worthy areas in the State, in consultation with the Groundwater Surveys and Development Agency and the Central Groundwater Board and issue necessary guidelines for rain water harvesting to recharge groundwater.(2)The State Authority shall

direct the District Watershed Management Committee, in consultation with the Watershed Water Resources Committee, Panchayat and the Groundwater Surveys and Development Agency, to prepare an Integrated Watershed Development and Management Plan for artificial recharge of groundwater on priority for the notified areas and subsequently for the non-notified areas. This plan shall be a part of the sub-basin and basin-wise water plan of the State.(3)The State Government and the State Authority shall ensure the implementation of the Integrated Watershed Development and Management Plan in consultation with the Watershed Water Resources Committee and Panchayats. The State Government shall implement the Integrated Watershed Development and Management Plan for the artificial recharge of groundwater within the notified areas on priority. The District Watershed Management Committee, constituted under this Act, shall monitor the implementation of the plan in the manner as may be prescribed.(4)The funds required for implementing such measures shall be made available to the State Authority by the State Government.(5)The State Authority shall also ensure the engagement of the stakeholders in watershed development and management to facilitate groundwater recharge through community participation.(6)The State Authority shall issue guidelines to dis-incentivise the groundwater users for taking water intensive crops, in the manner as may be prescribed.(7)In urban areas falling in notified areas, the State Authority shall issue directives to the concerned authorities or urban local bodies for ensuring construction of appropriate rain water harvesting structures in favourable or technically suitable residential, commercial, industrial and other premises having an area of one hundred square metres or more within the stipulated period failing which the urban local bodies may get such rain water harvesting structure constructed and recover the cost incurred along with a penalty from the occupants, in the prescribed manner.(8)Notwithstanding anything contained in the relevant laws, the urban local bodies or any other local authority, as the case may be, may impose necessary conditions for providing rooftop rain water harvesting structures in the building plan in the area of one hundred square metres or more, before .according approval for construction and permanent water and electricity connections shall be extended only after compliance of the directions given in this regard, in the manner as may be prescribed.(9)The State Authority itself or through other agencies shall take steps for promotion of Mass Awareness and Training Programme for Watershed Water Resources Committee and stakeholders on rain water harvesting and artificial recharge to groundwater through Government Agencies, Non-Government Organisations, Volunteer Organisations, educational institutions, Industries or individuals.(10)The State Authority may encourage or incentivize the best practices, innovative activities implemented by the Watershed Water Resources Committee, village, local community or Non-Government Organisations, by giving some incentives through State Government in the manner as may be prescribed.

10. Groundwater Use Plan and Crop Plan.

(1)On the advice of the State Authority, the State Government shall give directives to the concerned Government authorities to prepare a prospective Crop Plan based on the Groundwater Use Plan in the notified area, in consultation with the District Authority, the Watershed Water Resources Committee and Panchayat, in the manner as may be prescribed.This plan shall be binding on all the stakeholders and non- observance of the plan shall be deemed to be a cognizable offence under this Act.(2)The State Government, on the advice of the State Authority, shall direct the concerned Government authorities to create necessary infrastructure and linkages for water efficient

crops.(3)The State Authority, based on the recommendations of the Watershed Water Resources Committee and the Groundwater Surveys and Development Agency and the watershed or aquifer-wise Groundwater Use Plan and Crop Plan, may declare a total prohibition on the water intensive crops in the notified areas:Provided that, any groundwater user in such area may approach the Watershed Water Resources Committee for permitting cultivation of such water intensive crops in the manner as may be prescribed. The Watershed Water Resources Committee upon receiving a request for permitting cultivation of such water intensive crops by any groundwater user in such area, may consider the request for cultivation of such crops on the condition that the applicant would minimize the usage of groundwater in the cultivation of such crops and also take such water conservation measures at his own cost to maintain the water budget of the village.

11. Guidelines for preventive measures.

- The State Authority in consultation with the Groundwater Surveys and Development Agency, shall issue necessary guidelines to the concerned Government authorities regarding implementation of watershed and aquifer based Groundwater Use Plan in non-notified areas. The State Authority shall give preference to the areas having possibility of becoming critical or polluted and also give directives to encourage the farmers in the non-notified areas for adopting suitable cropping pattern as per the availability of water resources and watershed-wise Groundwater Use Plan.

12. Registration of drilling agencies.

- The State Authority shall monitor compulsory registration of drilling rig owners and operators in the State, with the Groundwater Surveys and Development Agency on such terms and conditions and in the manner as may be prescribed.

13. Safety measures for well.

- The State Authority shall issue guidelines to the concerned Government authorities to take appropriate precautionary measures for the safety of wells. The Panchayat and the urban local bodies in the area shall monitor it.

14. Delegation of powers and duties of the State Authority.

- The State Authority may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it under the Act shall, in such circumstances and under such conditions, if any, as may be specified in the order issued in this behalf by the State Authority, be exercised or discharged by any employee of the State Authority, the District Authority, the Watershed Water Resources Committee or the Groundwater Surveys and Development Agency.

15. Empowered Committee.

(1)The State Water Board constituted under section 15 of the Water Resources Act shall be the Empowered Committee for the purposes of this Act.(2)The Empowered Committee shall integrate the Integrated Watershed Development and Management Plan for the entire State and shall submit it to the State Watershed Management Council for its approval. This plan shall be a part of the Integrated Watershed Development and Management Plan.

16. State Watershed Management Council.

(1)The State Government shall, by notification in the Official Gazette, assign the responsibility of the State Watershed Management Council to the State Water Council constituted under section 16 of the Water Resources Act.(2)The State Water Council and State Watershed Management Council shall approve the Integrated Watershed Development and Management Plan for the entire State and shall ensure its integration with the State Water Plan.

Chapter III

District Authority, Its Powers, Functions and Duties

17. District Authority.

- The State Government shall, by notification in the Official Gazette, designate any officer not below the rank of Tahsildar, to be the District Authority for such area as may be specified in the notification for the purposes of this Act.

18. Constitution of District Watershed Management Committee.

(1)The State Government shall, by notification in the Official Gazette, constitute a District Committee to be known as the District Watershed Management Committee for the purposes of this Act.(2)The District Watershed Management Committee shall consist of the Guardian Minister of the District as Chairperson and one member of the State Legislature from the concerned area including such other members as may be prescribed, to be nominated by the State Government. The Collector shall be the Member-Secretary of the District Watershed Management Committee.(3)The decisions of the District Watershed Management Committee, shall be implemented by the District Authority, in the manner as may be prescribed.

19. Preparation of Integrated Watershed Development and Management Plan.

- The District Watershed Management Committee shall prepare Integrated Watershed Development and Management Plan for artificial recharge of the groundwater in consultation with the Groundwater Surveys and Development Agency, the Watershed Water Resources Committee and Panchayat, for the notified areas on priority and for non-notified areas subsequently, in the manner

as may be prescribed.

20. Power to notify Public Drinking Water Source.

- The District Authority shall, by order, notify the Public Drinking Water Source.

21. Notification of area of influence and prohibition of construction of Wells within certain limits.

(1)After the Public Drinking Water Source is notified under section 20, no person shall sink any Well for any purpose within a distance of five hundred metres of such Public Drinking Water Sources. The District Authority shall also define and notify the area of influence around the Public Drinking Water Source, based on the date provided by the Groundwater Surveys and Development Agency. Upon such area of influence being notified, no person shall sink any Well for any purpose, in such area of influence:Provided that, the provisions of this section shall not apply to the sinking of a Well on behalf of the State Government or a local authority for being used as a Public Drinking Water Source.(2)Sinking of any Well in contravention of the provisions of sub-section (1) shall ensue closure or confiscation of such well by the District Authority. No compensation or damages shall be payable for any closure or confiscation under this sub-section and any such closure or confiscation shall be without prejudice to any of the provisions of section 52.

22. Prohibition of extraction of water from existing well for a certain period.

- If, any existing well, within the area of influence, in the notified and non-notified areas or in the notified area other than an area of influence, is found to be adversely affecting any Public Drinking Water Source, the District Authority may, after ascertaining the views of the Watershed Water Resources Committee and Panchayat, and on the technical advice of the Groundwater Surveys and Development Agency, notwithstanding anything contained in any other law for the time being in force having regard to the quantum and pattern of rainfall and any other relevant factors, and after giving its owner a reasonable opportunity of being heard, by an order, prohibit the extraction of water from such well for a reasonable period, in the manner as may be prescribed.

23. Protection of drinking water sources against contamination.

- No person shall do anything which shall contaminate the drinking water source of ground water. The District Authority shall take necessary action for preservation of quality of groundwater of the drinking water source and shall regulate extraction of groundwater in villages, in the manner as may be prescribed, where drinking water sources are getting contaminated by any means.

24. District Authority to be assisted by Panchayat.

- The District Authority shall be assisted by Panchayat in sustainable management of drinking water sources and protection of drinking water sources during water scarcity, under this Act.

Chapter IV

Declaration of Water Scarcity Area and Protection of Drinking Water Sources During Water Scarcity

25. Declaration of water scarcity area.

- If, at any time during the course of monsoon or thereafter; the District Authority, Panchayat or Panchayat Samiti based on the advise of the Groundwater Surveys and Development Agency, suo-motu or on the request of the Watershed Water Resources Committee or Panchayat, having regard to the quantum and pattern of rainfall and water level data in watershed area, or any other relevant factor, is of the view that the availability of the drinking water from the Public Drinking Water Source in that watershed area of the district is likely to be less than the requirement of the livestock and human being population of that area as pre-demand of Panchayat and Panchayat Samiti, it may, by order, declare such area to be a water scarcity area for such period, as may be specified in the order, but not exceeding one hydrological year at a time.

26. Regulation of extraction of water from wells in water scarcity area.

- On declaration of water scarcity area under section 25, the District Authority may, for the duration of such water scarcity period, by order; regulate the extraction of groundwater from any well, including the temporary closure of such well, in that area, within the Area of Influence or within a distance of one kilometer of the Public Drinking Water Source, whichever is more, in the manner as may be prescribed.

27. Payment of Compensation.

- Where an order of temporary closing down is made under section 26, the District Authority may, in consultation with the concerned department of the State Government, on making such inquiry and requiring the owner to produce such evidence as it may deem necessary, make an order of payment of compensation after considering the market value of fruits and trees standing orchard at the time of order, which shall not be less than the market value thereof, in the manner as may be prescribed.

28. Powers of District Authority to enquire or implement or enforce the decisions of Watershed Water Resources Committee.

(1)The District Authority shall enforce the decisions of the Watershed Water Resources Committee. Whenever it is necessary to make an inquiry or to implement or enforce any decisions under this Act, in connection with the protection of a Public Drinking Water Source or with the maintenance of a public water-supply system, the District Authority or any officer duly authorized by it in this behalf, may, after giving prior notice to the owner or occupier of any land, -(a)undertake surveys or take levels thereon;(b)conduct pumping tests and geophysical surveys;(c)install and maintain water

level recorder and water gauges on the well;(d)enter any property including Government owned, with the right to investigate and make any measurements concerning the land or the water located on the surface or underground;(e)inspect the well, which has been or is being sunk with or without the permission of the Watershed Water Resources Committee and the soils and other materials excavated therefrom and to take specimens of such soils or other materials or of water extracted from such wells for testing the quality and contamination;(f)by order, in writing, require the person sinking a well to keep and preserve, in the prescribed manner, the specimens of soils or any material excavated therefrom for such period not exceeding three months from the date of completion or abandonment of the work as may be specified by the District Authority and such person shall comply with such requisition;(g)inspect and take copies of the relevant records or documents and conduct inquiry for obtaining any information required for carrying out the purposes of this Act;(h)order the user of groundwater to install at the expenses of District Authority such measuring device on any groundwater abstraction structures and monitor the quantity pumped;(i)seize any equipment or device utilised for illegal sinking or construction and demolish the illegal work executed;(j)direct any user of groundwater who does not comply with the provisions of this Act and rules framed thereunder to close down the extraction of groundwater, disconnection of its power supply and seal any hydraulic work found to be illegal according to the provisions of this Act and the rules framed thereunder;(k)enter and search with such assistance, if any, as it considers necessary, any place in which it has reason to believe that the offence under this Act has been or is being committed; and within thirty days thereof, issue the order, in writing to the person who has committed or is committing the offence, not to extract or use the groundwater for a specified period;(l)break open the door of any premises where sinking, extraction and use and pollution of groundwater may be going on, which is detrimental to sustainable groundwater development, after informing the person, in case the person refuse to open the door on being called to do so;(m)do all such other things as may be necessary for the prosecution of such inquiry and examination and implementation as per the provisions of this Act.(2)The provisions of the Code of Criminal Procedure, 1973 shall apply to any search or seizure under this section a-. they apply to any search or seizure made under the authority of a warrant issued under section 93 of the said Code.(3)Where the District Authority seizes any mechanical equipment or device under clause (i) of sub-section (1), it shall, as soon as may be, report the same to the Magistrate and take his orders as to the custody thereof.

Chapter V

Watershed Water Resources Committee, Its Powers, Functions and Duties

29. Establishment, constitution and incorporation of the Watershed Water Resources Committee.

(1)The State Authority shall constitute a Watershed Water Resources Committee for the notified area comprising of area of more than eleven villages in the manner as may be prescribed to perform the functions and duties assigned to it under this Act.(2)The Watershed Water Resources

Committee shall consist of the following members, namely :-

- (a) Chairman of the concerned Panchayat Samiti ex-officioChairperson;
one representative each from every Panchayat and urban localbodies within the notified area who shall be member of
 - (b) VillageWater and Sanitation Committee or Watershed Development TechnicalCommittee or any other person having Members;
knowledge and experience inwater conservation related field or in land use planning andwater conservation
one representative not below the rank of Deputy Engineer eachfrom the Water Supply and Sanitation Department, the
 - (c) WaterResources Department, the Agriculture, Animal Husbandry, Members;
DairyDevelopment and Fisheries Department, the Ground Water Surveysand Development Agency
 - (d) one representative each from every Water Users' Association inthe Members;
notified area
 - (e) elected members of the concernedPanchayat SamitiandZilla ex-officiomembers
Parishad
one representative of Non-Government Organisation or
 - (f) VolunteerOrganisation working on water conservation, within the Member-invitee;
notifiedarea
representative of concerned Water User's Association, if apart of
 - (g) the command area of an Irrigation Project is included inthe Members;
notified area
 - (h) Block Development Officer ex-officioMember-Secretary
- (3)Atleast one third of the members of the Watershed Water Resources Committee shall be women.(4)The term of office of members of the Watershed Water Resources Committee shall be such as may be prescribed.(5)Every member shall be paid (not being a member representing the State Government) travelling and daily allowances for attending meetings of the Watershed Water Resources Committee at such rates as may be prescribed.(6)The Watershed Water Resources Committee shall meet once in each quarter of the year and as and when required at the time of emergency. The procedure to be followed at the meetings of the Watershed Water Resources Committee and all matters supplementary or ancillary thereto shall be such as may be prescribed. Tahsildar shall be a convener of the metting of the Watershed Water Resources Committee:Provided that, if there are less than eleven villages within the notified area, then the State Authority shall entrust the functions of such Watershed Water Resources Committee to the concerned Panchayat or urban local body.

30. Groundwater management for existing users of groundwater.

(1)The Watershed Water Resources Committee shall, with the technical support of the Groundwater Surveys and Development Agency, prepare a watershed or aquifer based groundwater use plan and

the District Authority shall notify it, in the manner as may be prescribed.(2)Based on the rainfall and groundwater level of the hydrological year, the Watershed Water Resources Committee shall update the watershed or aquifer based groundwater use plan every year and shall monitor the withdrawal of the groundwater accordingly and also safeguard the sustainability of Public Drinking Water Sources. The Watershed Water Resources Committee shall recommend to the District Authority, the steps to be taken for regulation of groundwater. It shall recommend measures to the State Government, Panchayat, Panchayat Samiti, or urban local body to augment the groundwater resources in the area.(3)The Watershed Water Resources Committee shall also pursue, with the State Government, the implementation of the Integrated Watershed Development and Management Plan.(4)The Watershed Water Resources Committee shall also ascertain the existing users of groundwater and owners of wells, the implementation of individual measures for artificial recharge of groundwater, in the manner as may be prescribed.(5)The Watershed Water Resources Committee shall specify the cropping pattern for the area based on the water budget and a plan for the required withdrawal of groundwater, from the existing wells, for different usages like domestic, agriculture, industry or any other use, based on the Groundwater Use Plan, in the manner as may be prescribed.

31. Prohibit or limit use of chemical fertilizers or pesticides, etc.

(1)The Watershed Water Resources Committee shall recommend to the District Authority to control the use of chemical fertilizers or pesticides, to regulate the disposal, burial or injection of waste, industrial effluent and to protect the quality of groundwater.(2)On such recommendation the District Authority, after ascertaining the facts, shall take necessary measures with the help of the concerned Government Authorities, Panchayat, Panchayat Samiti or urban local body.

32. Construction of new well in the notified area.

(1)No person shall sink a well in the notified area without the prior permission of the Watershed Water Resources Committee. Such person shall apply to the Watershed Water Resources Committee in the manner and in such form, as may be prescribed.(2)On receipt of an application under sub-section (1), the Watershed Water Resources Committee shall refer it to the Groundwater Surveys and Development Agency for recommendations and based on the recommendation of the Groundwater Surveys and Development Agency, decide to grant or refuse the permission:Provided that, no permission shall be refused unless an opportunity of being heard is given to the applicant.(3)The decision regarding the grant or refusal of the permission shall be intimated by the Watershed Water Resources Committee to the applicant within a period of forty-five days from the receipt of the application.(4)The permission for sinking of well shall be subject to condition of construction of artificial recharge structure of appropriate size by the applicant within the specified period, as may be prescribed.

33. Promotion of community participation.

- The Watershed Water Resources Committee shall be responsible for the community participation, as per the guidelines of the District Authority, with the objective of equitable and sustainable development, protection, conservation, regulation and management of groundwater resources in the

notified area, in the manner as may be prescribed. The Watershed Water Resources Committee shall be responsible for the concept of community ownership of the groundwater, the concept of protection of the rights of the small and marginal farmers, restrictions being laid down for surveys of a groundwater and withdrawal of groundwater and prevention of over-drawal of groundwater.

34. Implementation of decisions and plans of Watershed Water Resources Committee.

- The decisions of the Watershed Water Resources Committee which are regulatory in nature shall be executed by the District Authority. The Watershed Water Resources Committee may get its plans implemented in co-ordination with the Panchayat, Panchayat Samiti or urban local bodies or the authorities, in the manner as may be prescribed. For the purpose of implementation of plans of the Watershed Water Resources Committee or enforcement of its decisions, the Panchayat, Panchayat Samiti or urban local bodies or the authorities shall have the powers of the District Authority under clauses (a) to (h) of sub-section (1) of section 28.

35. Regulation or prohibition of sand mining.

- Notwithstanding anything contained in any other law, the Watershed Water Resources Committee shall, in consultation with the expert bodies and the Groundwater Surveys and Development Agency, recommend the District Authority to regulate or prohibit sand mining in the notified area, in the manner as may be prescribed.

36. Financial resources for Watershed Water Resources Committee.

(1)The funds required for implementing such measures shall be made available to the Watershed Water Resources Committee by the State Government.(2)The Watershed Water Resources Committee may charge application fee and collect service charges from users of groundwater at the rates specified by the State Authority, and shall utilise it in the manner as may be prescribed.

37. Transparency in working of Watershed Water Resources Committee.

- The Watershed Water Resources Committee shall publish its report in the manner as may be prescribed and submit the report to Gram Sabha and to such other bodies, as may be prescribed.

Chapter VI

Accounts and Audit

38. Grants and Advances to Watershed Water Resources Committee.

- The State Government may, after appropriation duly made by the State Legislature, by law in this behalf, make such grants and advances to the Groundwater Surveys and Development Agency,

which shall make it available to Watershed Water Resources Committee, 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.

39. Budget of Watershed Water Resources Committee.

- The Groundwater Surveys and Development Agency shall prepare in such form and at such time in each financial year as may be prescribed, budget for the Watershed Water Resources Committee for the next financial year, showing the estimated receipts and expenditure of the Watershed Water Resources Committee and forward the same to the Government.

40. Accounts of Watershed Water Resources Committee.

(1)The Groundwater Surveys and Development Agency 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 Watershed Water Resources Committee shall be audited by the Accountant General at such intervals as may be specified by him or at the time of audit of Groundwater Surveys and Development Agency and an expenditure incurred in connection with such audit shall be payable by the Watershed Water Resources Committee to the Accountant General.

Chapter VII

Groundwater Surveys and Development Agency, Its Powers, Functions and Duties

41. Identification, delineation and declaration of basic watershed or aquifer.

- The Groundwater Surveys and Development Agency shall identify, delineate and declare the basic watershed or aquifer in the State, alongwith the boundaries thereof, for the purposes of this Act.

42. Delineation of area of influence.

- The Groundwater Surveys and Development Agency shall carryout, on priority, the delineation of Area of Influence of the notified Public Drinking Water Sources.

43. Watershed or aquifer based groundwater use plan.

- The Groundwater Surveys and Development Agency shall assist the Watershed Water Resources Committee and Panchayat in preparation of watershed or aquifer based groundwater use plan in the manner as may be prescribed.

44. Assistance in preparation of Integrated Watershed Development and Management Plan.

- The Groundwater Surveys and Development Agency shall assist the District Watershed Management Committee in the preparation of the Integrated Watershed Development and Management Plan for the artificial recharge of groundwater.

45. Technical survey and supporting work.

(1)The Groundwater Surveys and Development Agency shall carry out the necessary hydro-geological studies and supporting work, as entrusted by the State Authority, the District Authority, the Watershed Water Resources Committee, Panchayat, Panchayat Samiti or urban local bodies in the manner as may be prescribed.(2)The Groundwater Surveys and Development Agency shall carry out any other functions and duties entrusted to it under the provisions of this Act or rules made thereunder.

46. Groundwater Surveys and Development Agency to advise Panchayat, Panchayat Samiti and urban local bodies in the non-notified areas.

- The Groundwater Surveys and Development Agency shall render technical advise to the Panchayat, Panchayat Samiti and urban local bodies in the non-notified areas to monitor and encourage the individual measures of artificial groundwater recharge for existing well to protect the Safe Watershed Status of the area and to permit any person or a user of groundwater to drill borewell or tubewell up to sixty metres in non-notified area:Provided that, for this purpose the Panchayat, Panchayat Samiti and urban local bodies shall prepare and maintain the water account and water budget of the area, plan and execute watershed or aquifer based groundwater recharge and groundwater use plan, in the manner as may be prescribed and while deciding applications for permission to drill such borewells and tubewells, it shall take into consideration the groundwater use plan and technical advise of the Groundwater Surveys and Development Agency:Provided further that, any permission for sinking a well in non- notified area shall be subject to the condition of construction of artificial recharge structure of appropriate size within the specified period, as may be prescribed.

Chapter VIII

Miscellaneous

47. Service of order.

- Every order under this Act shall be served, in the manner as may be prescribed.

48. Directions by Government.

(1)The Government may issue to the State Authority, such general or special directions in writing in the matters of policy involving public interest and the State 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.

49. Members and employees of State Authority and Watershed Water Resources Committee to be public servants.

- Every member of the State Authority, the District Authority and every officer or employee of such Authorities and the Watershed Water Resources Committee acting under or in pursuance of the provisions of this Act or rules made thereunder; or order or notification issued thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

50. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the Government or the State Authority or the District Authority or the Watershed Water Resources Committee or Panchayat, Panchayat Samiti or urban local bodies or the Groundwater Surveys and Development Agency or any member, officer or employee thereof for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or rules or orders made thereunder.

51. Bar to claim compensation.

- Subject to the provisions of section 27, no person shall be entitled to claim any damages or compensation from the Government for any loss sustained by him by virtue of any action taken under this Act.

52. Offences and penalties.

- Whoever contravenes or fails to comply with any of the provisions of this Act or any rules made thereunder or obstructs the State Authority, the District Authority, the Watershed Water Resources Committee, Panchayat, Panchayat Samiti and urban local body, the Groundwater Surveys and Development Agency and any person authorised to exercise any of the powers under this Act, shall on conviction be punished,-(i)for the first offence, with fine which may extend to rupees ten thousand; and(ii)for the subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to rupees twenty-five thousand or with both.

53. Offences by companies.

(1)Where an offence under this Act has been committed by a company, every person who at the time, when 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 under this Act, if he proves that 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 an 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 purpose of this section, - (i) "company" means any body corporate and includes a firm, association of persons or body of individuals whether incorporated or not; (ii) "Director", in relation to a firm, means a partner in the firm, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

54. Compounding of offences.

(1) Any contravention under this Act may, either before or after institution of proceedings for any offence punishable under this Act, may be compounded by the District Authority, on accepting from any person charged with such offence by way of composition of the offences, such sum not more than the amount of maximum fine specified in section 52, to which he is liable on conviction for such offence. (2) On compounding of offence by way of composition under sub-section (1), no further proceeding shall be taken or continued against the person concerned in respect of such offence and if any proceedings in respect of that offence have already been instituted against him in any court, the same shall abate.

55. Cognisance and trial of offences.

(1) No prosecution for an offence under this Act shall be instituted except by or with the written consent of the District Authority, by general or special order. (2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence under this Act. (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, offences punishable under this Act and rules made thereunder shall be cognizable.

56. Appeals.

(1) Any person aggrieved by a decision, order made, action taken by the Watershed Water Resources Committee, Panchayat, Panchayat Samiti or urban local bodies under this Act may, within a period of sixty days from the date on which the action is taken or the decision or order is communicated to him and on payment of such fees as may be prescribed, prefer such an appeal to the District Authority : Provided that, the District Authority may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within time. (2) If the aggrieved person is not satisfied with the decision of the District Authority under sub-section (1), within a period of sixty days from the date on which the decision is

communicated to him and on payment of such fees as may be prescribed, prefer an appeal against the order of the District Authority to the State Authority and the decision of the State Authority shall be final.(3)On receipt of an appeal under sub-section (1) or (2), the District Authority or the State Authority shall, as the case may be, after giving the applicant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

57. Power of Government 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 may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty 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, both Houses agree in making any modification in rule or both Houses 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.

58. Power to remove difficulties.

(1)If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order, published in the Official Gazette, do anything, not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of 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.(2)Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

59. Repeal and saving.

(1)The Maharashtra Groundwater (Regulation for Drinking Water Purposes) Act, 1993 is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under or in pursuance of the said Act before such repeal, shall continue to have effect in relation thereto and section 7 of the Bombay General Clauses Act, 1904, shall apply with respect to the repeal of the said Act.