



# **The Meghalaya Water Act, 2011**

Draft circulated for comments

The Act aims to deal with water issues in a comprehensive manner without derogating existing laws impinging upon water

**Drafting Committee Meghalaya Water Act  
14/2/2012**

## **The Meghalaya Water Act, 2012**

An Act to provide for water rights and obligations; conservation, control, management and use of water resources and supply; constitution of water and sewerage authorities; facilitate devolution and decentralization of management; elicit public and private participation; the provision of safe water, sewerage services, the regulation thereof and for matters connected therewith or ancillary or incidental thereto.

Whereas all life forms require water, a primary natural resource for sustenance;

And whereas social and economic well being of the people and state's development hinge upon it;

And whereas fundamental right to life includes right to pure and access to safe drinking water;

And whereas existing water related acts cannot cope with adverse effects of floods and droughts, safety of water management structures, sustainable use, demand and changing patterns of water use;

And whereas it is expedient to make arrangement for a comprehensive water act incorporating integrated and sustainable water resource management concept, precise and flexible enough to protect rights and enforce obligations and to set up a sound institutional mechanism towards this end

Be it enacted by Legislative Assembly of Meghalaya in the sixty third year of the Republic of India as follows:

### **CHAPTER I**

#### **SHORT TITLE, EXTENT, COMMENCEMENT AND DEFINITION**

##### **1. Short title, extent and commencement**

This Act may be called the Meghalaya Water, Act 2012

It shall extend to the whole of the State of Meghalaya

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

##### **2. Definitions** In this Act, unless the context otherwise requires –

(1) **Act** means the Meghalaya Water Act, 2012

(2) **Assembly** means Legislative Assembly of Meghalaya

(3) “**basic human needs**” are the needs for sustaining human life

(4) **Catchment area** means an area where springs, streams, rivulets and water sources originate and serve as a potential source of perennial flow of water

(5) **Central Government** means the Government of India

(6) **Dam** includes any existing or proposed structure which is capable of containing, storing or impounding water (including temporary impoundment or storage);

(7) **Dam works** means the alteration, construction, reconstruction or removal of a small dam or large dam

(8) **dam with a safety risk** means any dam— which can contain, store or dam more than 50000 cubic metres of water, whether that water contains any substance or not, and which has a wall of a vertical height of more than five metres, measured as the vertical difference between the lowest downstream ground elevation on the outside of the dam wall and the non-overspill crest level or the general top level of the dam wall;

(9) **Destructive force of water:** Floods, erosion, mudflows, logging, destruction of dams and embankments of shores, raised horizons of underground waters, swamping and salination of soils (lands), formation of new ravines, deepening of the beds of old ones, activation of landslides, scarcity of water and drought

(10) **Emergency situation** is a situation that poses serious and imminent risk to water resources, the environment, public health, private and public properties.

(11) **Environment** includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property

(12) **Land owner** means a proprietor or patta holder and includes a person having an interest in the land under this Act

(13) **Land at the disposal of the Government** means land in respect of which no person has acquired

(a) a permanent, heritable and transferable right of use/occupancy under any law for the time being in force, or

(b) any right created by rent or lease made or continued by, or on behalf of the Government, not being land vested in the State Government for the purpose of the Central Government

(14) **Large dam** means a structure, whether constructed or proposed to be constructed which together with its abutments, appurtenant works and foundations is capable of diverting or storing water and which

(a) has a vertical height of fifteen metres or more measured from the nonoverflow crest of the wall of the structure to the lowest point on the downstream face of the wall; or

(b) is capable of storing one million or more cubic metres of water at full supply level; or

(c) has foundations which may cause special or unexpected difficulties; or

(d) is a small dam of unusual design;

(15) **Local authority** means a municipal board, town committee or cantonment board or any other body, entrusted with the duty of supplying water under the law by or under which it is constituted

(16) **Magistrate** means a Magistrate of the first class or second class having jurisdiction and includes a Magistrate of third class specially empowered by the State Government in this behalf to try offences

(17) **Notification** means a notification published in the Meghalaya Gazette

(18) **Offence** means an offence punishable under this Act or any rule thereunder;

(19) **Prescribed** means prescribed by rules made under this Act.

(20) **River** includes a stream, canal, creek, channel natural or artificial

(21) **Small dam** means a structure, whether constructed or proposed to be constructed, which, together with its abutments, appurtenant works and foundations, is capable of diverting or storing water and which—

(a) has a vertical height of more than eight metres but less than fifteen metres measured from the non-overflow crest of the wall of such structure to the lowest point on the downstream face of such wall; or

(b) is capable of storing more than five hundred thousand but less than one million cubic metres of water at full supply level; or

(22) **Schedule** means a Schedule to this Act

(23) **State** means the State of Meghalaya

(24) **State Government** means the Government of Meghalaya

(25) “**water**” includes—

(a) surface water; and

(b) all water which rises naturally on any private land or drains or falls naturally on to any private land, even if it does not visibly join any public stream; and

(c) all ground water;

(26) **Water basin means** a geographical area, described by the watershed limits of a water system including surface and underground water flowing into a common terminus.

(27) **Watercourse activities**” shall mean all human activities that affect and/or are likely to affect water resources.

(28) **Water management institution** means a catchment management agency, a water user association or any person who fulfils the functions of a water management institution in terms of this Act

(29) **Water Officer** means any person appointed by name or as holding an office by or under the orders of the State Government to be Chief Engineer, Deputy Chief Engineer, Superintending Engineer, Executive Engineer, Sub-Divisional Engineer/Sub-Divisional Officer, Assistant Executive Engineer, Sub-ordinate/Junior Engineer or to discharge any function of Water Officer including authorized/delegated body/agency under this Act or any rules thereunder.

(30) **Water Resources:** All surface and subterranean (subsurface) waters, including any stream, river, spring, wetland, lake, pond, aquifer, and any other body of water, including seasonal water resources.

(31) **Water resource management** means the conservation, development and utilization of water resources and includes with respect thereto, research data collection and the maintaining of inventories, planning and the implementation of plans and the control and regulation of water quality and quantity.

(32) **Water System:** Hydro technical structures (here in after called HTS) related to the use of water resources causing the alteration of water flow or used to convey water resources, including (but not limited to): dams, dikes, embankments, canals, channels, wells, pipelines, pumping plants, purification plants, water outlets, spillways, aqueducts and water storage facilities, any machinery, appliances, apparatus that constructed, erected or used for impounding, storage, conveyance, distribution, drainage, control or extraction of water, power generation, water treatment, water use, or rainfall collection. For purposes of this Code, a water system may include an integrated system or separate parts of such a system.

(33) **Water Use:** Removing water from or otherwise reducing water in a water resource; storing water; impeding or diverting the flow of a water resource; polluting a water resource; discharging wastewater into a water resource; disposing or storing hazardous substance in a

manner that may detrimentally impact a water resource; and, altering the beds, banks, course or characteristics of a water resource.

## CHAPTER II

### WATER USER RIGHTS, DUTY AND PRIORITY

#### **3. Water User rights**

The user of water resources shall have the following rights -

- (1) access to safe, sufficient, acceptable, and affordable water for meeting the basic human needs in a just and fair manner.
- (2) to seek, receive and impart information concerning water issues
- (3) to take part in the public consultation on the management plans
- (4) to use water for disposal of sewage
- (5) to use water and water bodies for other purposes in accordance with this law and other legislation;
- (6) to carry out construction works within the water bodies and their vicinity and to establish constructions necessary for use of water resources provided all the permits stipulated by the legislation have been obtained and the restrictions stipulated by the legislation have been complied with;
- (7) after all the permits stipulated by the legislation have been obtained, to carry out activities that have effect on the water bodies provided these activities are operated in accordance with the legislation and permit conditions;

#### **4. Duty/Obligation**

(1) The users shall make beneficial use of water without causing undue infringement on the rights of the others and the environment.

Every user shall:

- a) manage and use water with good management and conservation practices;
- b) not change/disturb the natural courses of rivers/streams without prior approval of the relevant authorities;
- c) not carry out any activity that involve water use in such a way so as to pollute or allow pollution of water, deteriorate status of surface water and groundwater, cause harm to human health or the environment, in particular, aquatic ecosystems and terrestrial ecosystems directly depending on the aquatic ecosystems, and not to contribute to origination of drought and flood;

- d) rectify or restore or compensate if (2) & (3) are violated;
- e) not use water in contravention of guideline, standard, programme and management plan that may be issued by the Government.
- f) pay for services and associated costs for the delivery of water and disposal of sewerage/waste water.
- g) allow the representatives of authorities to enter premises for monitoring, to take sample of surface water and groundwater or to allow soil sampling and controlling of the monitoring installations within a private land property
- h) terminate the use of water resources if there are proofs of deterioration of the status of surface and groundwater bodies, harm to human health or the environment, especially harm to aquatic ecosystems and terrestrial ecosystems directly depending on aquatic ecosystems.
- i) obtain all the permits for the use of water resources stipulated by the legislation;
- j) submit reports about the use of water resources to the concerned authority in accordance with the procedure stipulated by the legislation and in accordance with the conditions of the water resources use permit;
- k) keep in working order sewage and other water installations and equipment bearing on the state of water; improving on their exploitation parameters; monitoring the quantity and quality of water.

## **5 Priority**

(1) In case of conflicts among users, the following priorities shall apply:

- i. Drinking and sanitation;
- ii. Irrigation;
- iii. Hydropower;
- iv. industries; and
- v. other uses

However, under the above priority setting, established rights of users in the lower priorities shall be protected if there is proven scarcity of water. Water sharing and allocation within the same priority among competing users shall be based on equity.

(2) In case of proven sufficient water, other users shall be entitled to the available water.

(3) In cases where existing water sharing rights result in the exclusion - partially or wholly - of legitimate needs for water under the Act, the authorities may decide to open the existing arrangement of water sharing with the aim of redistribution of water rights.

(4) The State Government is required to open existing arrangements of water sharing in cases where water for priority needs is excluded by the existing arrangement, and where such exclusion of priority needs cannot be amended without entailing excessive costs on users that are deprived of water for priority needs.

(5) When the State Government decide to rearrange an existing water sharing arrangement, the decision on the future arrangement of water sharing should include a decision to allocate the burden of investments already held by existing water right holders as well as a decision on future distribution of burdens relevant to the maintenance and renovation of water installations necessary for the use of water.

(6) The State Government may restrict the right to use a specific water resource or specific types of water resources in order to secure public safety and health or the environment, accommodate religious sentiments and protect cultural heritage.

(7) For the purpose of development of activities regulated under this Act that are declared to be in the interest of the public, the state may expropriate property rights and water user rights subject to payment of compensation.

### CHAPTER III TRUSTEE OF WATER RESOURCES AND WATER SYSTEM

**6. Trustee of water resource** – (1) The Government as trustee of state’s water resource is empowered to regulate all uses, flow and control of water for the benefit of the community. The Government shall ensure that water resources are protected, used, developed, conserved, managed and controlled in a sustainable and equitable manner.

(2) Water systems created by the State are the state property.

### CHAPTER IV AUTHORITIES AND RESPONSIBILITIES

**7. Power and functions of State Government** The State Government in the Department of Water Resources shall determine the State Water Policy, administer and enforce provisions of this Act; determine water resource management scheme, manage water source conservation area; regulate, stipulate and grant permits for the provision, designation, utilization and exploitation of water resources; establish authority/body/institutional mechanism, resolve water dispute, assist local authority and traditional body in fulfilling the basic needs of the community for water; maintain the effectiveness, efficiency, quality and order in managing the water resources; provide technical assistance in managing the water resources to local authority and traditional body.

**8. Appointment of Officers and their power and functions** (1) The State Government may appoint Water officers with such designation as it thinks fit for the purposes of this Act and may entrust to them such of the power and functions under this Act as it may deem fit.



(2) The officers appointed under the above shall be subject to the general control and direction of the State Government or if so directed by that Government also of the authority or agency if any constituted under the Act.

### **9. Delegation of Power by the State Government**

(1) The State Government may constitute and delegate its power, function or duty vested under this Act to -

- (a) any body, board, authority or organization assigning a specific power, function, or duty by the Government as provided in the Schedule;
- (b) a water management institution.

(2) The Department of Water Resources may delegate its authority for resolution of inter-agency disputes to any of its agency or office or provide for the establishment of a water tribunal as may be prescribed in this behalf.

### **10. Power of agencies authorized to enforce the Act**

(1) Agencies authorized by the government to enforce this Act are empowered to make requisition of any data, report, maps, document or any other materials from any public or private agency and to enter upon private lands, with previous notice to the owner, for the purpose of conducting surveys and hydrological investigations, and to perform such other acts as are necessary in carrying out their functions.

(2) Local authorities including town committee shall continue to exercise power and functions as authorized under duly enacted Act of State Government or Central Government as the case may be.

(3) Traditional bodies in rural areas may manage water resources, undertake watershed development, supply drinking water and take up minor irrigation.

**11. Constitution of State Water Advisory Board** – (1) The State Government shall as soon as may be after the commencement of this Act, constitute Meghalaya State Water Advisory Board consisting of the following members, namely

- (a) Chief Minister who shall be the Chairman of the Board
- (b) Ministers in charge of Water Resources, Finance, Planning, Forest and Environment, Agriculture, Horticulture, Health, Community and Rural Development, District Council Affairs, Power, Fisheries, Industries, Soil and Water Conservation, Tourism and Urban Affairs
- © Secretaries and Heads of Departments of the Departments mentioned in (b) above.
- (d) Chief Executive Members of Autonomous District Councils
- (e) Officers of Central Government relating to water, forest and environment, agriculture not exceeding 5 (five)

(f) such other persons, not exceeding ten, atleast three each from Garo Hills, Khasi Hills and Jaintia Hill, who in the opinion of the State Government, are interested in the conservation and utilization of water

(2) The State Government shall appoint either the Administrative Head or the Head of the Department in charge of the Water Resources Department as the Secretary of the Board.

(3) The term of office of the members of the Board and the manner of filling vacancies among them shall be such as may be prescribed

(4) The members shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as the State Government may prescribe.

**12. Procedure to be followed by the Board** – (1) the Board shall meet atleast twice a year at such place as the State Government may direct.

(2) The Board shall regulate its own procedure including quorum to conduct its business.

(3) No act of the Board shall be invalid merely by reason of the existence of any vacancy therein or any defect in the constitution thereof or any irregularity in the procedure of the Board affecting the merits of the case.

**13. Duties of the Board** – It shall be the duty of Board to advise the State Government:

(a) in formulation of the state water policy and amendment thereof through inter-sectoral participation and discussion

(b) in any matter relating to amendment of the Act and Rules

(c) in any other matter connected with planning, conservation, control and management of water resources which may be referred to it by the State Government.

## CHAPTER V

### PLANNING, DEVELOPMENT, PROTECTION AND MANAGEMENT OF WATER RESOURCES

**14. Planning, Development, Protection and management of water resources** (1) Water resources conservation, development and management shall be done in an integrated manner.

(2) All water resources development and management shall be decided through a consultation process involving all users and stakeholders.

(3) Watershed conservation, water source protection and people's participation shall form basic principles of water resources management.

(4) Water resources development shall be carried out in an environmentally sustainable and economically feasible manner.

(5) The State Government shall prepare and adopt an integrated water resource management plan (IWRMP) for the development and management of the state's water resources that shall be periodically revised. The water management plan shall be based on river basins. This plan shall be the basis for the management and discharge of the functions assigned to the State Government.

(6) The Water Resource Management Plan shall serve as a guideline for the delegated authority/agency and all other authorities/agencies of the Government in preparing plans for development of the water resources.

(7) The registration of water abstractions and discharge of effluents shall be done by the River Basin district authorities, Local authority, traditional body, water user association as the case may be. These bodies shall on a regular basis submit a copy of the data of the registrations to the State Government in the format specified in the rules and regulations prescribed for this purpose.

(8) Any watercourse activity involving the jurisdiction of more than one river basin district or local authority or village shall engage the other similar bodies concerned to come to an agreement through consultation. Where such an activity cannot be undertaken due to disagreements, the matter may be referred to the State Government for final decision.

(9) Water resources utilisation shall be monitored and regulated through a registration and a licensing system.

(11) Water sources in private and community land shall be protected in accordance with the Meghalaya Protection of Catchment Areas Act, 1990 and the Meghalaya Forest Regulation Act, 1973

## CHAPTER VI

### CONSTRUCTION, OPERATION, MAINTENANCE AND SAFETY OF WATER INFRASTRUCTURE

**15. Construction, operation and maintenance of water infrastructure** (1) State Government and/or Local Authority may construct water related infrastructure for the purpose of abstraction, protection and/or conveyance of water on or through other's properties if there is no other alternative routes/location for such infrastructure that can be developed within reasonable economic and technical means.

(2) Renovation of existing water infrastructure may be carried out without objection by other persons even if it affects them.

(3) A user shall obtain approval from appropriate authorities for construction of water infrastructure in his or her own property, if such construction affects the others

(4) The user, after receiving approval shall issue a 30 days prior notice of intent (NOI) through State Government or Local Authority concerned and/or other public notifications and carry out the activities with minimum damages to that property and compensating for the damages caused.

(5) Unless the user abandons existing water source and distribution infrastructure on or passing through an individual's property the same cannot be tampered or altered by that property owner.

(6) A user abandons his or her rights if the water source and the distribution infrastructure are not put to beneficial use for five continuous years or more.

(7) If the water source is deemed insufficient a user shall not initiate any activities that would require additional water and that person shall not have any recourse to obtain water.

(8) If there is enough water and capacity in the existing infrastructure, the existing beneficiaries shall provide water to new user or an existing user that require additional water. The new user shall comply with the existing sharing norms and also compensate the former beneficiaries for the investments made for the infrastructure and also shall contribute towards maintenance of the system for his or her share of water use.

#### **16. Control measures for dam with safety risk**

(1) The owner of a dam must—

(a) within the period specified, provide the State Government with any information, drawings, specifications, design assumptions, calculations, documents and test results requested by the it; or

(b) give any person authorised by the State Government access to that dam, to enable the State Government to determine whether—

(i) that dam is a dam with a safety risk;

(ii) that dam should be declared to be a dam with a safety risk;

(iii) a directive should be issued for specific repairs or alterations to that dam; or

(iv) the owner has complied with any provisions of this Act applicable to that dam.

(2) The State Government may by notice in the *Gazette* declare a category of dams to be dams with a safety risk.

(3) The State Government may—

(a) by written notice to the owner of a dam, declare that dam to be a dam with a safety risk;

(b) direct the owner of a dam with a safety risk to submit, at the owner's cost, and within a period specified by the State Government, a report by a professional person regarding the safety of that dam; or

(c) direct the owner of a dam with a safety risk to undertake, at the owner's cost, and within a period specified by the State Government, any specific repairs or alterations to that dam which are necessary to protect the public, property or the resource quality from a risk of failure of the dam.

(4) If the owner of the dam fails to comply with the directive contemplated in subsection (3)(c) within the period specified, the State Government may undertake the repairs or alterations and recover the costs from the owner.

(5) Before issuing a directive, the State Government must—

(a) be satisfied that the repairs or alterations directed are necessary, adequate, effective and appropriate to reduce the risk to an acceptable level; and

(b) consider the impact on public safety, property, the resource quality and socio-economic aspects if the dam fails.

#### **17. Registration of dam with safety risk**

(1) The owner of a dam with a safety risk must register that dam.

(2) An application for registration must be made within 120 days—

(a) after the date on which the dam with a safety risk becomes capable of containing, storing or impounding water;

(b) after the date on which an already completed dam is declared to be a dam with a safety risk; or

(c) after publication of a notice declaring a category of dams to be dams with a safety risk, as the case may be.

(3) A successor-in-title to an owner of a dam with a safety risk must promptly inform the State Government of the succession, for the substitution of the name of the owner.

#### **18. Factors to be considered in declaring dam or category of dams with safety risk**

In declaring a category of dams or a dam to be a category of dams or a dam with a safety risk, the State Government must consider—

(a) the need to protect the public, property and the resource quality against the potential hazard posed by the dam or category of dams;

(b) the extent of potential loss or harm involved;

(c) the cost of any prescribed measures and whether they are reasonably achievable;

(d) the socio-economic impact if such a dam fails; and

(e) in the case of a particular dam, also—

- (i) the manner in which that dam is designed, constructed, altered, repaired, operated, inspected, maintained or abandoned;
- (ii) the person by whom that dam is designed, constructed, altered, repaired, operated, inspected, maintained or abandoned; and
- (iii) the manner in which the water is contained, stored or impounded in that dam.

CHAPTER VII  
USE AND MANAGEMENT OF STATE OWNED WATER SYSTEM

**19. Specific Features of Transfer of Use Rights for State-Owned Water Systems**

- (1) The state-owned water systems can be under state and/or private management.
- (2) The transfer of management rights must in all instances be conducted in a manner that provides for adequate public notice and conditions for competition. Prior to transferring management rights over state owned water systems, the Water Systems Management Body responsible shall make certain that all necessary water use permits and water system use permits are in order.
- (3) Water system use right of the water use permit and water system use permit holder occurs when a written water system use contract is concluded and recorded by the state authorized body for property recording.
- 4) The water system use right may be transferred to other entities, in form and procedures established by this Act.
- (5) The compensation for the use of water system shall be specified in water system use right transfer contract.
- (7) In case of being determined by the Government, during transfer of a water system use right, preference is given to the entities with more extensive professional experience and knowledge.
- (8) The transfer of rights for the use of a water system shall not exceed the term specified in the water system use permit.

**20. Types of Water System Use Rights Transfer**

The right of use of a water system can be transferred in the following forms:

- 1) Trust Management Contract;
- 2) Concession Agreement;
- 3) Creation of a commercial organization;
- 4) Lease.

The procedures for transfer types shall be established by the rules/legislation.

## **21. Water System Use Right Transfer through a Trust Management Contract**

(1) A water system can be provided for trust management in whole or in part.

(2) A water system shall be provided for trust management through a tender.

(3) Throughout the term of the trust management, the water system, including the property acquired by the trust manager of the water system in order to meet the requirements of the tender, shall remain under state ownership.

(4) The public announcement about the tender for trust management of a water system shall include time periods of such management, necessary investments, the starting rate of compensation to the trust manager, the requirements to use the water system and the social guarantees for the employees of the given water system.

(5) The bidders shall be required to present a trust management program in writing, including the following:

(a) Proposed investments to be made;

(b) The rate of compensation to the trust manager;

(c) The size of the collateral guaranteeing the implementation of the trust management requirements;

(d) A program of water protection activities;

(e) Proposals relating to other terms of the tender, established by the legislation.

## **22. Water System Trust Management Program**

(1) The trust management program is the project submitted by the bidder in order to be eligible for participation in the tender for the functions of a water system manager, which shall contain the following:

(a) Justification of the economic expediency of trust management;

(b) The description of the objectives of trust management and the avenues to accomplish such objectives;

(c) Information on the technical and professional capabilities of a person;

(d) The proposed activities for the efficient use and development of the water system, the time periods for their implementation, the proposed methods of implementation, the required financial resources and their sources,

(e) Other information and provisions, which will be considered as necessary by an applicant.

### **23. Criteria for the Evaluation of the Results of Water System Trust Management Tender**

(1) For the purpose of evaluation of the results of the trust management tender of a water system, the State Government shall establish the principles of evaluation of the programs submitted for the tender, by means of setting the weight coefficient for each program parameter, as well as for the evaluation of the collateral guaranteeing the implementation of the trust management requirements.

(2) The technical and professional capacity of the trust management program, as well as the indicators pointing to the availability of financial resources, as well as the collateral guaranteeing the implementation of the trust management requirements shall be subject to a binding evaluation.

(3) The weight coefficient established for the evaluation of the collateral guaranteeing the implementation of the trust management requirements shall not exceed 0.25.

(4) The trust management tender of a water system may have a pre-qualification phase, according to the procedures established by the State Government.

### **24. Transfer of Water System Use Right through Concession Agreement**

(1) A water system can be provided for management through concession agreement in whole or in part.

(2) A concession agreement shall be concluded between the entity accepting the management of a water system through a concession and the Water Systems Management Body.

(3) In case of issuing a concession agreement, the Water Systems Management Body may:

(a) Issue a resolution on providing a concession agreement through a tender, for a certain water system;

(b) Grant the concession agreement to the first-come bidder, or, if several bidders apply for concession at the same time, select the bid that offers the best terms.

### **25. Transfer of the State-Owned Water Systems Use Right through Establishment of a Commercial Organization**

(1) The investment contributed by other persons shall not exceed the 49% of the commercial organization's charter capital. The contract signed by the State Government and the other founder(s) of the commercial organization, may include a provision on the transfer of right of control (or management) over the state-owned shares (stock) to another founder (participant) of the commercial organization selected by the State.



(2) The size of the charter capital of the created organization, the ratio between the state-owned stock (shares) and not state-owned stock (shares) shall be established by the Government, depending on the following:

- (a) The value of the water system, computed in procedures established by the Government;
- (b) The prospects of development of the water system and the volume of the required capital investments.

(3) A right to use water system can be transferred to the commercial organization through investing property of a given water system by adopting a respective law.

## **26. Transfer of Water System Use Right through Lease**

(1) A water system shall be provided for lease by the Water Systems Management Body, in procedures established by the Governmental decision.

(2) A water system shall be provided for lease through an auction if the lesser is not required to meet any conditions.

(3) The only subject for auction discussions is the size of the rent.

(4) A water system shall be provided for lease through a tender if the lesser is required to meet certain conditions associated with the production, technical and environmental issues of a water system.

(5) The lesser/ lessee of the water system and the Water Systems Management Body shall sign a Lease Agreement of the water system.

(6) If a water system is provided for lease through a tender or an auction, the estimated size of the rent shall be the starting point. The Water Systems Management Body shall establish the estimated size of the rent of the water system, in procedure established by the Government. The estimated size of the rent specified in the Lease Agreement must provide an opportunity for the conduct of profitable economic operation in the given sector.

(7) The lesser/ lessee of the water system shall not have the right to provide the leased property for sub-lease, or transfer his/her rights and responsibilities established by the Lease Agreement to another entity, or provide the leased property for non-refundable use, or lay the right of lease as a collateral or a deposit in the charter capitals of economic associations and companies.

## **27. Extension of the Water System Use Right Contract**

A contract for the right of use of a water system shall be considered extended for another effective period, but not exceed the term of the water system use permit, if the parties do not make any announcements about the termination of the terms and conditions established pursuant

to this Code and the water system use contract 6 (six) months prior to the expiration of the terms of such contract.

## **28. Grounds for Termination of the Water System Use Right Contract**

(1) A water system use right shall be terminated if:

- (a) The contract is terminated in procedures established by the water system use contract;
- (b) The effective period of the water system use contract expires and it is not extended;
- (c) The water system manager as a legal entity dissolves;
- (d) The water system manager as a physical entity passes away;
- (e) The use of the water system is prohibited by the legislation;
- (f) Failure to comply with the terms of any applicable water use permit or water system use permit.

(2) The right of use of a water system under item (e) herein may be terminated only following the reimbursement of losses and not-gained benefits of the water system manager according to procedures established by the Government.

## **29. Terms and Conditions for the Transfer of Water System Management right**

(1) The transfer of water system use right shall take place:

(a) In the event of replacement of the Water Systems Management Body, the terms and conditions of the water systems use contract shall remain unchanged, and the transfer of the water system use right shall take place at the State Water Cadastre, by introducing corresponding changes in the registration;

(b) In the event that the transfer of water system use right, carried out in conformance with the provisions of this Code, affects the rights of a third party, or the properties of the water system may change due to such transfer, new terms and conditions for the use of such water system may be established without deviation from any applicable water use permit or water system use permit.

## **39. The Rights of a Water System Manager**

(1) The manager of a water system shall have the right to:

- (a) Use the water system in compliance with the requirements of this Act and the water use permit;
- (b) Claim from water suppliers and/or water users the charge for the water provided by him/her at the established regulated rates;
- (c) Access the territory of a water intake, or a land plot designated for water processing or water transportation operations;
- (d) Reject the water system management rights and the authorities arising from such right, by notifying the Water Systems Management Body at least 6 (six) months in advance;

- (e) Propose amendments and supplements to the water system management contract;
- (f) Propose to extend the term of the contract in instances and in procedures provided by this Act;
- (g) To bring suit against the persons who caused damages to a water system for compensation of damages;
- (h) Carry out any activity evolving by this Act, if not otherwise provided by the water system use contract;
- (i) Exercise other rights that are not prohibited by the legislation.

### **31. The Responsibilities of a Water System Manager**

- (1) The manager of a water system shall be responsible to:
  - (a) Provide the water suppliers and/or the water users with water of the quality, quantity and regime required by the contract;
  - (b) Ensure the recording of the received and allocated water;
  - (c) Perform the payments provided by this Act and established by the legislation;
  - (d) Carry out the contract requirements towards the safe use and maintenance of a water system;
  - (e) Act in conformance with the established environmental criteria and general ecological provisions;
  - (f) Perform other duties specified in the water system use contract.

### **32. Specifics of Irrigation Water Supply Management**

- (1) The management of irrigation water supply shall be carried out by the Water Systems Management Body or the traditional body/water user association (or federation of water user associations) in procedures established by law.
- (2) If the management of irrigation water supply is carried out by the Water Systems Management Body, the right of use of irrigation water supply systems may be transferred through a tender, in forms provided by this Act, for the period of 5 (five) years.

### **33. The Right of Water Land Use**

- (1) The holders of the right to use water systems can give the river beds and water lands for use to other entities to carry out economic activities, for sanitary and water protection zones, by following terms and conditions of water use permit and/or water system use permit and procedures established by this Act.
- (2) The holders of the right to use water systems can execute a contract with other entities for the use of river beds and water lands, the term of such contract not to exceed the time period specified in the contract on the transfer of management right of the water systems, water supply and sanitation systems and hydraulic structures. The transfer of right to use the water systems to

another entity shall not serve a ground for the termination or modification of the contract on the use of riverbeds and water fund lands.

(3) Use of water lands in a procedure established by the legislation provided by the contract on the transfer of rights to use water systems may be restricted or prohibited.

#### CHAPTER VIII WATER SUPPLY AND SEWERAGE

**34. Water supply and sewerage** (1) State Government and every Local Authority may provide or arrange for sufficient supply of wholesome water for drinking or other purpose

(2) For the purpose of such supply the Local Authority or the State Government shall cause to be constructed or maintained such water works as may be necessary and may erect stand pipes or cause to be erected by the Local Authority sufficient and convenient stand pipes, wells or pumps for the use of the inhabitants of the local area.

(3) State Government may supply water in bulk to Local Authority or may do so directly to water users

(4) Not liable for failure of supply – State government and Local Authority shall not be liable to any forfeiture, penalty or damages for failure to supply water or for curtailing the quantity thereof if the failure or curtailment as the case may be arises from accident or from drought or other unavoidable cause unless an express provision is made for forfeiture penalty or damages in the event of such failure or curtailment.

(5) State Government and every Local Authority may permit, provide and maintain a sufficient and satisfactory system of public drains for the effectual drainage of its local area.

(6) The State Government may delegate function of water supply and sewerage to Public Health Engineering Department, Public Works Department, Local Authority, Traditional Body, and Water User Association retaining the discretionary power to withdraw delegation after giving reasonable opportunity to the delegate to present its case.

#### CHAPTER IX PREVENTION AND CONTROL OF WATER'S DESTRUCTIVE FORCE

**35. Control of water's destructive force**

(1) The control of the water's destructive force shall be carried out comprehensively and shall comprise preventive, handling, and restoration efforts.

- (2) The control of the destructive force of water shall be prioritized to the preventive effort by means of preparing a control plan for the destructive force of water that is composed in an integrated and comprehensive manner in managing the water resources scheme.
- (3) The control of the destructive force of water shall be carried out by involving the community.
- (4) To control the destructive force of water shall become the responsibilities of the State Government, local authority/traditional body, as well as the manager of the water resources for the area and community.
- (5) Everyone or enterprises shall be prohibited to carry out activities that may generate the destructive force of water.
- (6) The control of the destructive force of water shall be carried out in the river, lake, reservoir and/or dam, swamp, ground water curvature, irrigation system, and rain water that exist on land.
- (7) Provisions on the control of the destructive force of water in the river, lake, reservoir and/ or dam, swamp, ground water curvature, irrigation system, and rain water that exists on land shall be further regulated under a Government regulation

**36. Prevention of water's destructive force** (1) Prevention shall be carried out by means of physical and/or non physical activities or by means of balancing the upstream and downstream river area.

(2) Preventions shall be prioritized more on the non physical activities.  
The option of activities shall be determined by the authorized/delegated agency/body of the relevant water resources.

(3) Provisions on the prevention of damage and disasters due to the destructive force of water shall be further regulated under a Government regulation.

**37. Handling of destructive force** (1) The handling of the destructive force of water shall be carried out by means of mitigation of disasters.

(2) Handling shall be carried out in an integrated manner by the relevant institution and community by means of a disaster handling coordination agency at the State, District and local authority/village level.

- (3) Provisions on the handling of damages and disasters due to the destructive force of water shall be further regulated under a Government regulation.
- (4) Handling of disasters due to the destructive force of water at the state scale shall become the responsibilities of the State Government.
- (5) Disasters due to the destructive force of water at the state scale shall be stipulated under a notification.
- (6) In the event of a dangerous situation, the State Government or its delegated/authorized body/agency shall be authorized to take emergency action to handle the destructive force of water.
- (7) The restoration of the destructive force of water as shall be carried out by means of restoring the environmental function and the water resources infrastructure system.
- (8) The restoration shall become the responsibilities of the Government, authorized/delegated body/agency, manager of the water resources, and the community.
- (9) Provisions on the restoration of the destructive force of water shall be further regulated under a Government regulation.

## CHAPTER X

### WATER SYSTEM USE AND MAINTENANCE IN EMERGENCY SITUATION

#### **38. Water Systems Use and Protection in Emergency Situations**

- (1) Water resource use and protection emergency regime shall be announced:
- (a) In case of a war announcement by the Central Government and/or a military situation announcement by the President of the Republic of India,
- (b) In case ecological emergency or a part of it announcement either by the Central or State Government.
- (2) The order of announcing water resources use and protection emergency regime shall be established by the State Government.

#### **39. Water Systems Use and Protection during War and Military Situations**

- (1) In case of war and military situation in the Republic of India emergency regime shall be announced in all water systems of the State of Meghalaya.

(2) The manager of the water system, in case of war and military situation in the Republic of India, since the moment of announcement of water system use and protection emergency regime, acts according to the instructions established for that situation by the State Government.

(3) The State authorities of emergency situations of the Republic of India and the State of Meghalaya shall provide completion and preparedness of portable stations for ground water mining from safe depths, which will be ready to supply the population with water of required quality and quantity in case of possible chemical, biological and other possible contamination due to military actions.

#### **40. Reservation of Drinking Water Sources**

To supply drinking water to public in emergency situations, source reservation is done on the bases of ground waters protection from pollution and littering. The order of reservation shall be established by the State Government.

#### **41. Water Systems Use and Protection in Ecological Emergencies**

(1) Ecological Emergency on water systems or a part of it shall be announced if there are such changes which may cause damage to people's health and (or) environment sustainability.

(2) The manager of the water system implements activities according to the instructions established by the Government:

- (a) To localize the emergency area,
- (b) To clear waters,
- (c) To reduce to the minimum and eliminate the consequences of the emergency situation.

(3) The order of elimination of consequences of disasters caused by harmful impact of waters shall be established by notification.

#### **42. Compensation of Damages of Water System Manager in the Result of Water Object Use and Protection in Emergency Regime**

The order of compensation of damages of the water system manager in the result of water resources use and protection in emergency regime shall be established by notification.

### Chapter XI

#### LICENSING/PERMIT AND REGISTRATION

**43. Licence** (1) No person shall commence or continue a watercourse activity unless it is pursuant to a licence or is otherwise authorised under this Act.

- (2) Unless explicitly mentioned or otherwise implied, nothing in this Act shall exempt such activity from requiring consent from a competent authority under any other Act.
- (3) Exemptions from the licence requirement shall not deprive the Authority the right of regulating water allocation for the common good or for resolving water-sharing conflicts.
- (4) Based on notice received, the State Government may issue a permit allowing the intended applicant to carry out assessments, studies and any other activity that may be necessary to enable the intended applicant to prepare an application for a licence.
- (5) No license can be issued for a project before an environmental clearance is obtained
- (6) Anyone who has the right of access to a watercourse may utilise it without a licence for
- (a) household purposes on an individual or collective basis,
  - (b) agricultural purposes on an individual or collective basis,
  - (c) running small watermills or water grinders,
  - (d) other activities which do not require digging ditches or the use of a permanent pipeline or motorised engines, and
  - (e) transportation and,
- (f) hydropower installation which are exempted in accordance with relevant section of the Electricity Act, provided such utilisation does not have a commercial purpose.
- (7) The State Government may in individual cases or by means of rules and regulations, make further exemptions or require a licence for otherwise exempted activities.
- (8) Watercourse activities which had already commenced when this Act entered into force shall obtain license as per the subsequent regulations to be issued by the State Government.
- (9) A licence for a hydropower plant under this Act shall always contain but not limited to the following terms:
- (a) Specification on minimum flow, and
  - (b) Rules of operation.
- (10) (a) The State Government may lay down terms and conditions in an individual licence or generally by means of rules and regulations, in order to prevent or mitigate adverse impacts on the environment, public and private interests.
- (b) The terms and conditions may include fees or charges to be paid by a licensee for the utilisation of the water resources.



(11) The State Government shall by means of rules and regulations give detailed rules on the licensing process and the contents of a licence, such as on, but not limited to, public hearings, terms and conditions, modifications, publicity, evaluation, performance, transfer of rights, revocation, notification and application requirements, and time limit.

**44. Registration** (1) All water abstraction from and discharge of effluents into a watercourse or the aquifer, whether subject to a licence or not, shall be registered unless otherwise specified in this Act.

(2) Water abstraction which does not require, the digging of ditches, the permanent use of a pipeline or motorised engines, is exempted from registration.

(3) Activities that had already commenced when this Act entered into force shall register their abstraction of water or discharge of effluents into a water body within 2 years after the Act has come into force.

## CHAPTER XII WATER QUALITY STANDARDS

**45. Water resources management to be consistent with environmental approaches** (1) Due consideration shall be given to the protection, conservation and sustenance of the environment and right of access by members of the public to places of leisure or natural beauty related to water or water bodies management or exploitation of water resources in considering, formulating and implementing any proposal impinging upon water.

(2) The provisions of the Water Prevention and Control of Pollution, 1974 and the Environment Protection Act, 1986 and the rules made thereunder shall apply *mutatis mutandis*.

## CHAPTER XIII PREVENTION AND CONTROL OF WATER POLLUTION

**46. Prevention and control of water pollution** The provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Environment Protection Act, 1986 and the rules made thereunder shall apply *mutatis mutandis*.

## CHAPTER XIV DISPUTE SETTLEMENT AND APPEAL PROCEDURE

**47. Dispute settlement and appeal procedure** The Department of Water Resources may delegate its authority for resolution of inter-agency disputes to any of its authority or agency or office or provide for the establishment of a water tribunal as may be prescribed.

CHAPTER XV  
RIVER BASIN DISTRICT/WATER USER ASSOCIATION/ RIGHTS OBLIGATIONS AND ROLES OF THE  
COMMUNITY

**48. Identification of river basin district**

(1) River basin district shall be established, taking into account the following conditions:

(a) individual river basins shall be identified and may be combined to form river basin districts, so to ensure optimum management of the river basin district;

(b) small river basins may be combined with larger river basins or joined with neighbouring small basins;

(c) where a groundwater body does not fully follow a particular river basin, it shall be assigned to the nearest or most appropriate river basin district;

(2) The State Government by notification shall identify river basin

**49. River basin district authorities**

(1) (a) A Co-ordination Committee (hereinafter the Committee) shall be established to co-ordinate the management measures within the each river basin district. The Committee shall include representatives of public authorities, municipalities, traditional bodies and nongovernmental organisations.

(b) The State Government shall notify the Committee and spell out its terms and conditions.

(2) The Committee shall:

(a) co-ordinate the issues of interest of the Departments and other public authorities as well as their sub units, municipalities, villages, non-governmental organisations and other stakeholders related to reaching of environmental objectives and intended water use in the respective river basin district;

(b) review the management plan and programme of measures and issue an opinion about them, as well as about the proposed budget for their implementation.

(3) The delegated/authorized body/agency shall:

(a) establish and update drafts of management plans and programmes of measures;

(b) carry out an economic analysis of water resources use;

(c) ensure participation of the public in production and updating of management plans and programmes of measures and informs about the plans and programmes those local authorities/ municipalities/traditional bodies which administrative territories are covered by these documents;

- (d) co-ordinate the implementation of programme of measures;
- (e) develop the budget proposals necessary for the implementation of the programme of measures;
- (f) facilitate activities of the Co-ordination Committees;
- (g) co-operate with the competent authorities of neighbouring river basin district to ensure the achievement of the environmental objectives for the whole inter river basin district, as well as shall implement joint programmes of measures;
- (h) participate in the development and implementation of the programmes for monitoring of water status.

(4) The delegated/authorized body/ Agency shall further:

- (a) develop programmes for monitoring of water status (hereinafter monitoring programmes) within each river basin district;
- (b) develop budget proposals for the implementation of the monitoring programmes;
- (c) co-ordinate and arrange implementation of the monitoring programmes;

#### **50. Water User Association**

To secure efficient distribution of water, incite an awareness of water conservation, participatory management and adequate maintenance of a project or system and to protect environment, the State Government may authorize any officer or organization or local authorities, traditional bodies to form water users association by the water users of a particular project, subproject or hydrological or social unit of a project.

#### **51. Procedure to establish water user association**

1) The government may determine procedures from time to time to establish water user associations, and revise these procedures for equitable, efficient and participatory water resource management including by ensuring the adequate representation of women, landless, share croppers and other vulnerable groups in the association.

2) Until separate Rules are framed by the Government, the Associations shall be registered within the framework of the Meghalaya Societies Registration Act, 1983 or the Cooperative Societies Act and the Rules made there under.

#### **52. Functions of the Associations:**

(1) The broad tasks and responsibilities of the Association will, among other things, include the followings:

- (a) Stakeholders' interactive activities through preliminary discussions, meetings, motivations etc.
- (b) Formally represent the beneficiaries and project affected persons including female in all issues relating to water management

- (c) Participate in all stage of project cycle
- (d) Prepare annual crop/other production plan and O&M plans
- (e) Mobilize local resources and collect beneficiary contribution towards schemes investment and operation and maintenance cost
- (f) Frame the working procedure
- (g) Keep books of account for record and auditing
- (h) Work with implementing agencies, NGOs, Community level self-help groups and local governing institutions including in arranging relevant extension, training and other service for various stakeholder groups. In doing so, the Association will ensure equitable access and participation of female and male in all the services and activities.
- (i) Progressively take up full or shared water management responsibilities
- (j) Resolve conflicts, elect/select office bearers, explore e

### **53. Community**

- (1) In managing the water resources, the community shall be entitled to:
  - (a) to obtain information relating to the management of water resources;
  - (b) to obtain a reasonable compensation for the damages suffered by them due to the management of water resources;
  - © to obtain benefit from the management of water resources;
  - (d) to declare objection against the water resources management plan that has been declared within a certain period in accordance to the local condition; e to submit a report and complaint (e) to the competent authority with respect to the losses that they have suffered in relation to the management of water resources; and/or
  - (f) to file a claim to the court of justice in regard to various issues of water resources that is detrimental to their life.
  
- (2) In utilizing their water utilization right, the community that holds the water utilization right shall be obligated to observe the public interest that is realized through their role in conserving the water resources as well as the protection and securing the water resources infrastructure.
  
- (3) The community shall have an equal opportunity to play a role in the planning, implementation, and supervisory process on the water resources management.
  
- (4) Provisions on the role of the community to manage the water resources shall be further regulated under a government regulation.

**54. Economic analysis, characteristics of the river basin district and review of the environmental impact of human activity**

(1) The State Government shall approve for each river basin district an economic analysis of water resources use (hereinafter economic analysis), characteristics of the river basin district and review of the environmental impact of human activity.

(2) The economic analysis, characteristics of the river basin district and review of the environmental impact of human activity referred to in Paragraph one, shall be updated at least once in a six years.

**55. Economic analyses**

The economic analysis shall contain information:

1) that provides a basis for calculations of the costs of necessary measures, taking into account the principle that the user of water resources shall cover all costs of the use of water resources, as well as taking into account the calculations of the available water resources and long term forecasts of water demand and costs, as well as a forecast of the necessary investments;

2) that allows making judgments about the most cost effective measures to be included in the programme of measures.

**56. Recovery of costs for use of water resources**

(1) Natural and legal persons shall have the right to use free of charge the through flow waters used for production of electrical energy and fish farming (except for a natural resources tax or adjustment of damages for water pollution resulting from the abovementioned activities), as well as to use free of charge water resources for noncommercial transport, swimming, water sports, water tourism or personal needs, where the amount of water abstracted for personal needs does not exceed the limits fixed by delegated/authorized authority/agency.

(2) Natural resources tax to be paid by natural and legal persons for water abstraction and water pollution as well as tariffs [public utilities payments] for water supply and wastewater treatment and fees for the use of water resources, except for those uses referred to above, shall be established in accordance with the Act, considering:

(a) that natural and legal persons shall cover all costs related to the use of water resources, including environmental and resource costs;

(b) polluter – pays principle;

(c) that the water resources shall be used efficiently, thereby contributing to the achievement of the environmental objectives established by this law;

(d) geographical, geological and climatic conditions, evaluating also social, environmental and economic effects of the costs recovery and of the level of the costs recovery.

(3) Management plans shall report on the planned steps towards implementing of the conditions of this Article, as well as on the contribution made by various water users to the recovery of the costs for use of water resources.

(4) Implementation of this section shall not prevent the funding of particular preventive, investigative or remedial measures proposed to achieve the objectives of this act.

**57. Recovery of money due to Government** All money, other fines, payable to the Government under this Act, or under any rule made thereunder, or on account of the price of water or of expenses incurred in the execution of this Act in respect of any matter may, if not paid when due, be recovered under the law for time being in force as if it were an arrear of land revenue.

## CHAPTER XVII

### WATER RESOURCES INFORMATION SYSTEM

#### **58. Water resources information system**

(1) To support the water resources management, the State Government and Local Authority/Traditional Body shall manage the water resources information system in accordance to their functions.

(2) Water resources information comprises information concerning the hydrological, hydro meteorological, hydro geological conditions, water resources policies, water resources infrastructure, water resources technology, the environment of the water resources and its surrounding area, as well as the social, economical and cultural activities of the community relating to the water resources.

(3)(a) Water resources information system shall constitute the water resources information distributed and managed by various institutions.

(b) The water resources information network must be able to be accessed by various stakeholders in the field of water resources.

(c) The State Government and local authority/traditional body may establish the technical implementing unit to carry out the activities of the water resources information system.

(4)(a) The Government and local authority/traditional body as well as the manager of the water resources, in accordance to their authorities, shall provide water resources information for all of the stakeholders in the field of water resources.

(b) In order to carry out information providing activities, all of the State Government institutions, legal entity, organization, and agencies as well as individuals engaging in the activities relating to water resources shall submit reports concerning the result of their activities to the Government institution and regional government that are responsible for the field of water resources.

(c) The Government, local authority/traditional body, manager of water resources, legal entity, organization, agencies and individuals shall be responsible to guarantee the accuracy, truth, and timeliness of the information being submitted.

(5) (a) To support the management of water resources information system, it is necessary to manage the hydrological, hydrometeorological, and hydro geological river/basin area information system at the state, and municipality/village level.

(b) The policies in regard to the management of the hydrological, hydrometeorological, and hydro geological information system information shall be notified by the Government based on the recommendation of the appropriate delegated/authorized body/agency.

(c) The management of the hydrological, hydrometeorological, and hydro geological information system shall be carried out by the State Government and manager of the water resources in accordance to their authorities.

(d) The management of the hydrological, hydrometeorological, and hydro geological information system may be carried out by means of cooperation with other parties.

(6) Provisions on water resources information system shall be further regulated under a Government regulation.

## CHAPTER XVIII

### OFFENCE AND PENALTY, CONIZANCE, ARREST, INQUIRY

#### **59. Offences**

(1) Subject to the provisions of existing laws, the following acts shall be penalized

(a) Use of water for purposes other than those permitted under this Act;

(b) Failure to provide access to any books accounts, documents or assets when required to do so under this Act;

- (c) Failure to comply with any condition attached to an authorized water use under this Act;
- (d) Failure to comply with a directive issued under this Act;
- (e) Unlawfully and intentionally or negligently tamper or interfere with any water work or any seal or measuring device attached to a water work;
- (f) Failure or refusal to give data or information or give false or misleading information when required to give information under this Act;
- (g) Fail to register an existing lawful water use when required by a designated authority;
- (h) Intentional/deliberate refusal to exercise an obligation or obstruct any other person from exercising any of that person's rights or obligations under this Act;
- (i) Unlawful commission or omission, whether by design or by default, of any act which detrimentally affects or could affect a water resource;
- (j) Failure to comply with a temporary restriction to use water.
- (k) Non-observance of any standard specified for the use of water.
- (l) Unauthorized sale, lease, or transfer of water and/or water rights.
- (m) Failure to provide adequate facilities to prevent or control diseases when required by the Government in the construction of any work for the storage, diversion distribution and utilization of water.
- (n) Utilization of an existing well or ponding or spreading of water for recharging subterranean or ground water supplies without permission of the relevant authority.
- (o) Violation of or non-compliance with any order, rule, or regulation of the Government.
- (p) Illegal taking or diversion of water in an open canal, aqueduct or reservoir.
- (q) Interruption of navigation in a natural water body.
- (r) Encroachment on or pollution of any water resource
- (s) Any other act or omission which the government thinks proper to be penalized.

**60. Cognizance of offence (1)** No Court shall take cognizance of any offence under this Act except on a complaint made by

- (a) State Government or any authority, agency or officer authorized in this behalf by that Government, or
- (b) Any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint to the State Government or the authority or the agency or officer authorized as aforesaid

**61. Offences by companies or firms**

(1) Where an offence under this Act has been committed by a company, every person whoever 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 offences.

Provided that nothing contained in this section shall render any such person liable if he proves that the offence was committed without his knowledge or that he or she exercised all due diligence to prevent the commission of such offence.

## **62. Offences by Government Departments**

(1) Where an offence under this Act has been committed by any Department or Division of Government, the Head of the Department or Division shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

(2) Provided that nothing contained in this section shall render such Head of the Department or Division liable to any punishment if he or she shall prove that the offence was committed without his or her knowledge or that he or she exercised all due diligence to prevent the commission of such offence.

## **63. Penalties for Infringement of the Act**

(1) Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one Lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention

(2) If the failure or contravention referred to above continues beyond a period of one year the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.

**64. Power to arrest without warrant** (1) Any Water Officer or Police Officer or Forest Officer may without orders from a magistrate and without warrant, arrest any person reasonably suspected of, having been concerned in any offence punishable under the Act, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Every officer making any arrest under this section shall without unnecessary delay take or send the person arrested before a magistrate having jurisdiction in the case

(3) Any Water officer or Police officer or Forest Officer who vexatiously or maliciously arrests any person on the pretence that he is suspected of having been concerned in any offence shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both.

(4) No such Water Officer or Police Officer or Forest Officer shall detain in custody a person arrested for a longer period that under all the circumstances of the case is reasonable; and such period shall not exceed twenty four hours exclusively of the time necessary for the journey from the place of arrest to the Magistrate's Court having jurisdiction in the case.

**65 Power to prevent commission of offence** It shall be the duty of every Water Officer, Police Officer and Forest Officer to prevent, and any such officer may interfere for the purpose of preventing, the commission of any offence.

**66 Power to compound offence** (1) The State Government may by notification in the Gazette empower any Water Officer by name or as holding an office -

(a) To accept from any person against whom a reasonable suspicion exists that he has committed any offence a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(b) When any property has been seized as liable to confiscation, to release the same on payment of the value as estimated by such officer

© On payment of such sum of money as such value or both as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released and no further proceedings shall be taken against such person or property

### **67. Investiture of Officers with certain powers**

(1) The State Government may invest any Water Officer of Water Resources Department its delegated/authorized body/agency by name or as holding an office with all or any of the following powers namely

- a) Power to enter upon any land and to survey, demarcate and make a map of the same
- b) Power of a civil court to compel attendance of witness and the production of documents
- c) Power to issue search warrants under the CrPC

- d) Power to hold inquiry into offence and the course of inquiry to receive and record evidence
- e) Power to grant permission, grant, concession

(2) Any evidence recorded in course of inquiry shall be admissible in any subsequent trial before a Magistrate of the alleged offender; provided it has been taken in the presence of the accused person and recorded in the manner provided in the CrPC, 1973

#### CHAPTER XIX MISCELLANEOUS

**68. Land required under this Act to be deemed to be needed for public purpose** Whenever it appears to the State Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of Section 4 of the Land Acquisition Act, 1870

**69. Officers to be public servants** Every person or Officer, appointed under, or exercising any power conferred by and under this Act shall be deemed to public servants within the meaning of Section 21 of the Indian Penal Code (XLV of 1860)

**70. Protection of action taken in good faith** No suit or criminal prosecution or other legal proceeding shall lie against any public servant for anything done in good faith or omitted to be done likewise under these Act or rules or orders made thereunder

**71. Power of State Government to make rules**

**72. Rules made under this Act to be laid before Assembly** Every rule made under this Act shall be laid, as soon as may be after it is made, before Legislative Assembly while it is in session, for a total period of thirty days which may be comprised on one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, the Assembly agree in making any modification the rule or agree that the rule should not be made, the rule 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.

**73 Effect of other laws** The provisions of this Act shall be in addition to and not in derogation of existing laws impinging upon water related issues.

**74. Power to remove difficulties** (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government , may , by order published by notification, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act

(2) Every order made under this section shall be laid as soon as may be after it is made, before the Assembly.

Principal Secretary/Commissioner & Secretary to the Government of Meghalaya,  
Water Resources Department

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