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Ground Water Management Ordinance, 1985

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THE GROUND WATER MANAGEMENT ORDINANCE, 1985

(ORDINANCE NO. XXVII OF 1985).

[9th June 1985]

An Ordinance to manage the ground water resources for agricultural production.

WHEREAS it is expedient to manage the ground water resources for agricultural production and for matters connected therewith;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

1. Short title and commencement.-(1) This Ordinance may be called the Ground Water Management Ordinance, 1985.

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

2. Definitions.-In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) “aquifer” means a body of saturated soil at any depth below ground level that can store and transmit sufficient quantity of water to the wells;

(b) “Chairman” means the Chairman of the Upazila Parishad;

(c) “Committee” means an Upazila Irrigation Committee;

(d) “deep tube well” means a tube well called as such operated by a submersible pump set or turbine pump coupled with a prime mover capable of pumping ground water when the pumped water level depth is more than 7 metres;

(e) “deep set hand-pumped tube well” means a hand-pumped well used for either irrigation or water supply where the pump valve is set below the surface and operated remotely by a pump rod operated from the surface and is capable of pumping ground water when the pumped water level depth is more than 8 metres;

(f) “drawdown” means the difference in ground water level between static water level and pumped water level;

(g) “prescribed” means prescribed by rules made under this Ordinance;

(h) “pumped water level” means the depth from ground level to the saturated water level measured in a well when the well is pumping;

(i) “shallow tube well” means a tube well called as such operated by a centrifugal pump coupled with a prime mover but only capable of pumping water when the vertical distance between the centrifugal pump and the pumped water level depth is within 7 metres;

(j) “static water level” means the depth from ground level to the saturated water level beneath the ground surface where no pumping has taken place;

(k) “suction lift hand-pumped tube well” means hand-pumped well used for either irrigation or potable water supply when the pump valves are situated above ground level but is only capable of operation when the vertical distance between the pump valve and the pumped water level depth is within 8 metres;

(l) “tube well” means a deep tube well, shallow tube well, suction lift hand-pumped well or deep set hand-pumped well used for irrigation or water supply;

(m) “Upazila Irrigation Committee” means a Upazila Irrigation Committee constituted under section 4 and includes a Thana Irrigation Committee in a Thana which has not been declared a Upazila;

(n) “Upazila Parishad” means a Upazila Parishad constituted under the Local Government (Upazila Parishad and Upazila Administration Reorganisation) Ordinance, 1982 (LIX of 1982), and includes a Thana Parishad in a Thana which has not been declared a Upazila.

3. Effect of laws, etc inconsistent with the Ordinance.-The provisions of this Ordinance and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any rule, regulation, bye-law, or in any other instrument.

4. Upazila Irrigation Committee.-There shall be constituted, in the prescribed manner, a Upazila Irrigation Committee in each Upazila for the purposes of this Ordinance.

5. Licence for tube well.-(1) No tube well shall be installed in any place without a licence granted by the Upazila Parishad.

(2) An application for licence for installation of a tube well shall be made to the Upazila Parishad in such form as may be prescribed.

(3) No application shall be entertained by the Upazila Parishad unless it is accompanied by such fee as may be prescribed.

(4) On receipt of an application for licence, the Upazila Parishad shall direct the Committee to hold a local enquiry and submit a report on the following points, namely:-

(a) the aquifer condition of the soil where the tube well is to be installed;

(b) the distance of the nearest existing tube well;

(c) the area likely to be benefited by the tube well;

(d) the likely effect on the existing tube wells including tube wells used for domestic purpose;

(e) the suitability of the site for installation of the tube well; and

(f) the conditions on which a licence, if any, may be granted.

(5) If, on consideration of the report of the Committee, the Upazila Parishad is satisfied that the installation of tube well applied for-

- (a) will be beneficial to the areas for which it is to be installed, or
- (b) will not have any adverse effect upon the surrounding area, or
- (c) is otherwise feasible,

it may grant the licence applied for.

(6) A licence granted under sub-section (5) shall be in such form as may be prescribed and shall be subject to such conditions as may be specified therein.

(7) Any person aggrieved by the decision of the Upazila Parishad may file an application to such authority as may be prescribed for review of the decision and the decision of that authority on such review shall be final.

6. Licence of existing tube wells.-Notwithstanding anything contained in this Ordinance, a tube well in existence on the day of commencement of this Ordinance shall not operate after six months from such commencement unless a licence is obtained in the meantime from the Upazila Parishad on payment of the prescribed fee:

Provided that no enquiry by the Committee shall be necessary for granting a licence under this section.

7. Suspension and revocation of licence.-(1) The Committee may, if it is satisfied that the conditions of a licence are being violated, by order in writing specifying the reasons therefore, suspend the licence of a tube well and report the matter forthwith to the Upazila Parishad.

(2) The Upazila Parishad may confirm the order of suspension of a licence if it is satisfied that there are good reasons for suspension of the licence:

Provided that the Upazila Parishad shall not confirm the suspension of a licence unless the licensee is given a reasonable opportunity of being heard:

Provided further that, if an order of suspension is not confirmed within fifteen days from the date of making of the order of suspension, the order of suspension shall be deemed to have been vacated on the expiry of that period.

(3) An order of suspension confirmed by the Upazila Parishad shall remain valid for a period of forty five days.

(4) Any person aggrieved by an order of suspension confirmed by the Upazila Parishad may make an application to such authority as may be prescribed for review of the order and the decision of that authority on such review shall be final.

8. Cancellation of licence.-(1) A licence granted under this Ordinance may be cancelled by the Upazila Parishad if, on a report from the Committee, it is satisfied that,-

- (a) the licensee has violated the terms and conditions of the licence; or
- (b) the licence was suspended for more than three times during one year preceding the order:

Provided that no licence shall be cancelled unless the licensee is given a reasonable opportunity of being heard.

9. Supply of tube wells by Corporation, etc.-Notwithstanding anything contained in any other law for the time being in force, neither the Bangladesh Agricultural Development Corporation established under the Agricultural Development Corporation Ordinance, 1961 (E.P. Ord. XXXVII of 1961), nor any other authority or person dealing with tube wells shall supply tube wells to any person unless he has a licence for installation of a tube well granted under this Ordinance.

10. Offences.-Whoever contravenes any provision of this Ordinance or rules made thereafter shall be punishable with fine which may extend to two thousand taka.

11. Cognizance of offence.-No Court shall take cognizance of an offence under this Ordinance except on a complaint made in writing by the Chairman.

12. Power to make rules.-The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

13. Power to exempt.-The Government may, by notification in the official Gazette, exempt any project or any area specified in the notification from the operation of this Ordinance.