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Model Groundwater (Sustainable Management) Act, 2016

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MODEL
GROUNDWATER (SUSTAINABLE MANAGEMENT) ACT
2016

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MODEL GROUNDWATER (SUSTAINABLE MANAGEMENT) ACT, 2016

AN ACT to achieve sustainable management of groundwater by restoring and ensuring groundwater security through availability of sufficient quantity and appropriate quality of groundwater to all stakeholders in rural and urban areas

WHEREAS groundwater, being the single most important source of water for domestic, agricultural and industrial uses, is the backbone of drinking water, food and livelihood security in rural and urban areas;

AND WHEREAS a serious groundwater crisis prevails due to excessive overdraft and groundwater contamination;

AND WHEREAS this crisis is mainly responsible for the recurrence of droughts year after year, leading to a crisis of life and livelihoods, sometimes even resulting in suicides by farmers;

AND WHEREAS the equitable and environmentally sound regulation of groundwater can contribute to tackling some of the most important challenges of our times, including farmer suicides and climate change;

AND WHEREAS water is unitary in nature, requiring the integration of surface water and groundwater, has integral links to land and vegetation and has an intricate relationship with rainwater (through natural recharge);

AND WHEREAS groundwater in its natural state is a common pool resource and the Supreme Court of India has applied the public trust doctrine to groundwater, in recognition that private property rights in groundwater are inappropriate given the emerging status, conflicts and dynamics of groundwater;

AND WHEREAS the Supreme Court of India has recognised the fundamental right to water as integral to the right to life and further specified variously the corresponding duties of the state;

AND WHEREAS the regulatory powers of gram sabhas, panchayats and municipal bodies related to groundwater must be strengthened in line with Articles 243G and 243W of the Constitution;

AND WHEREAS various levels of groundwater protection are necessary, the highest priority being given to areas demarcated as groundwater protection zones that need to be established and protected, and that shall be accorded the highest priority in both planning and management

AND WHEREAS contestation and conflict over groundwater uses and users are becoming more and more common by the day;

AND WHEREAS the present legal framework for groundwater has led to over-exploitation of groundwater, endangering access to drinking water as also water for livelihoods, therefore a new legal framework with norms, principles, procedures and institutions suitable to address contemporary and imminent challenges is required to ensure the qualitative and quantitative sustainability of groundwater resources and equity in groundwater use:

Be it enacted by the State Legislature in the ___ year of the Republic of India, as follows:

CHAPTER I – PRELIMINARY

1.SHORT TITLE, EXTENT AND COMMENCEMENT-

- (1) This Act may be called __ Groundwater (Sustainable Management) Act, 2016.
- (2) It extends to whole of the State of ____.
- (3) It shall come into force ninety days after its adoption by the state legislature.

2. DEFINITIONS -

- (1) In this Act, unless the context otherwise requires:
 - a) ‘Appropriate government’ is the lowest possible public authority, including gram sabhas, gram panchayats, block panchayats, district panchayats, , municipal authorities and the State Government;
 - b) ‘Aquifer’ means a geological formation, group of formations or part of a formation that is sufficiently porous and permeable to yield a significant quantity of water to a well or spring;
 - c) ‘Artificial recharge area’ includes catchment areas of percolation tanks, recharge ponds, infiltration tanks and all such appropriate measures from where water is harvested for recharge to aquifers.
 - d) ‘Environmental flows’ refer to the quality, quantity, and timing of water flows required to maintain the components, functions, processes, and resilience of aquatic ecosystems that provide goods and services to people
 - e) ‘Gram Sabha’ refers to the assembly of persons whose names are included in the electoral rolls at the village level;
 - f) ‘Groundwater’ means water occurring in its natural state, where it exists below the surface in the zone of saturation whereby it can be extracted through wells or any other means or emerges as springs and base flows in streams and rivers. In its natural state, it is a common pool resource;
 - g) ‘Groundwater Estimation Committee (GEC) Report’ refers to the latest approved report on the methodology used by CGWB and State Groundwater Agencies as a basis for the periodic national assessment of groundwater resources. This assessment is conducted at the taluka/mandal levels and in some cases at the watershed level.
 - h) ‘Groundwater Security Plan’ means a plan to be progressively based on available aquifer information, as under sections 15-16 of this Act;
 - i) ‘Information and Monitoring Cells’ refer to the Information and Monitoring Cells constituted under section 30 of this Act;
 - j) ‘Municipality’ refers to a Municipality, a Municipal Corporation or similar body of local urban governance by any other name;
 - k) ‘Pollutant’ means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, harmful to groundwater and impacting human and non-human life;
 - l) ‘Pollution’ shall have the meaning ascribed to it in section 2(e) of the Water (Prevention and Control of Pollution) Act 1974;

- m) 'Recharge areas' here are referred to as those significantly large areas from where infiltration of surface water (precipitation, surface water – streams, lakes, ponds, wetlands and reservoirs) is converted to significant groundwater recharge to aquifer systems below. Identification of such recharge areas require hydrogeological studies that are able to map and delineate such large recharge areas or zones in a region.
 - n) 'Rainwater harvesting' means the technique or system of collection and storage of rainwater, at micro watershed scale, including roof-top harvesting, for future use or for recharge of groundwater;
 - o) 'Sustenance agriculture' means agriculture as a means of sustaining life, including nourishment;
 - p) 'Water for life' means the basic safe water requirements for realising the fundamental right to life of each human being, including drinking, cooking, bathing, sanitation, personal hygiene and related personal or domestic uses, with an additional requirement for women for their special needs; and includes water required for domestic livestock;
 - q) 'Well' means any structure sunk for the search or extraction of groundwater, including open wells, dug wells, bore wells, dug-cum-bore wells, tube wells, filter points, collector wells, infiltration galleries, recharge wells, disposal well or any of their combinations or variations.
- (2) Terms not defined in this Act have the meaning assigned to them under other laws.

3. OBJECTIVES -

- (3) The objectives of this Act are to ensure that groundwater is protected, conserved, regulated and managed in a sustainable manner so as to:
- a) Ensure the realisation of the fundamental right to life through the provision of water for life;
 - b) Meet basic human needs, food security, livelihoods, livestock and ecosystem life needs;
 - c) Promote sustainable groundwater use in the public interest, based on the long-term protection of available resources;
 - d) Ensure that the protection, conservation, regulation and management of groundwater is integrated with the protection, conservation, regulation and management of surface water to ensure conjunctive use;
 - e) Ensure the implementation of the principle of subsidiarity;
 - f) Protect ecosystems and their biological diversity;
 - g) Reduce and prevent pollution and degradation of groundwater;
 - h) Ensure that present and future generations have access to sufficient quantity and quality of groundwater for life; and
 - i) Ensure protection against gender discrimination and past inequalities in access to groundwater.

CHAPTER II – RIGHT TO WATER FOR LIFE

4. RIGHT TO WATER FOR LIFE-

- (1) Every person has a right to sufficient quantity of safe water for life within easy reach of the household regardless of, among others, caste, creed, religion, community, class, gender, age, disability, economic status, land ownership and place of residence:

Provided that the quantity of safe water for life shall be determined by the appropriate government

- (2) Nobody should use groundwater in such a way that it adversely impacts the realisation of any other person's fundamental right to safe water for life.
- (3) Every drinking water agency supplying groundwater shall comply with the Bureau of Indian Standards specifications on water quality:

Provided that the Block Groundwater Information and Monitoring Cell or Municipal Groundwater Information and Monitoring Cell shall monitor compliance with these standards;

Provided further that information of these guidelines and standards shall be provided to groundwater committees and local elected bodies at village, block, district, and municipal level, and to water supply agencies by the State Groundwater Agency, through the district and block level groundwater information and monitoring cells.

- (4) Where water for life is not provided by any drinking water supply agency, and people depend on groundwater for their water for life requirements, it shall be the duty of the Block Groundwater Information and Monitoring Cell, the District Groundwater Information and Monitoring Cell and the State Groundwater Agency to provide information on water quality in accordance with the Bureau of Indian Standards specifications and to suggest appropriate measures to be undertaken at local level for quality improvement to the local appropriate government:

Provided that the appropriate government shall take the suggested measures without unreasonable delay, which shall in no case be more than twelve months.

- (5) The state's responsibility for ensuring every person's right to safe water for life shall remain even when water service provision is delegated to a private agency and in case of such handing over, the right of citizens to safe water for life and the duty of the state to provide the same shall remain in force:

Provided that such a delegation of water service provision to a private agency will, in no event, constitute the privatisation of water.

CHAPTER III – BASIC PRINCIPLES

5. NON-DISCRIMINATION AND EQUITY -

- (1) Every person shall have access to groundwater without any discrimination, including among others, caste, creed, religion, community, class, gender, age, disability, economic status, land ownership and place of residence.
- (2) The appropriate government shall ensure equitable distribution and access to groundwater strictly in compliance with priorities prescribed under section 10 of this Act.
- (3) The appropriate government shall ensure the sustainable use of available groundwater without compromising the needs of future generations.

6. SUBSIDIARITY AND DECENTRALISATION -

- (1) Conservation, use and regulation of groundwater shall be based on the principle of subsidiarity.
- (2) The constitutional provisions for decentralisation of powers and functions in urban and rural areas shall be the basic organising principle for conservation, protection, regulation and management of groundwater.
- (3) Different conservation, protection, regulation and management measures may be used in different parts of the state in accordance with the availability of groundwater in a specific aquifer and the nature and type of groundwater catchments.

7. PROTECTION, PRECAUTION AND PRIOR ASSESSMENT -

- (1) Groundwater resources (aquifers) shall be protected from such activities that impact the equity of access and sustainability of the resource.
- (2) Precautionary steps shall be taken by the appropriate government at all levels and by every user of groundwater to protect it from depletion, deterioration, biological and chemical pollution, as well as to prevent and/or reduce adverse impacts on the environment, especially river flows due to the use of groundwater.
- (3) Effective schemes and measures shall be formulated and implemented to conserve, replenish, recharge and manage groundwater in an equitable and sustainable manner. The appropriate government and supporting institutions shall apply the precautionary principle and the polluter pays principle for all measures to conserve, replenish or recharge groundwater.
- (4) Any use of groundwater, surface water or land and forest resources or activity in relation to these resources, which is likely to have significant negative impacts on local sources of groundwater shall be subjected to an environmental and social impact assessment, as defined at section 23 of this Act, and protective, preventive and precautionary measures shall be implemented accordingly.

8. INTEGRATED APPROACH -

The protection, conservation, regulation and management of groundwater shall be undertaken in such a way that it is integrated with the protection, conservation, regulation and management of surface water resources.

CHAPTER IV –LEGAL STATUS AND GROUNDWATER USE

9. LEGAL STATUS OF GROUNDWATER -

- (1) Groundwater, as a common pool resource, is the common heritage of the people held in public trust, for the use of all, subject to reasonable restrictions to protect the fundamental right to water for life. In its natural state, groundwater is not amenable to ownership by the state, communities or persons.
- (2) The state at all levels is the public trustee of groundwater.
- (3) Without limiting sub-section (2), the appropriate government is responsible for ensuring that groundwater is allocated and used equitably in the public interest, while promoting environmental values.
- (4) The appropriate government shall ensure that the use of groundwater by any person on their own land does not deprive other persons of their right to groundwater for life, in case these persons are dependent for their right to groundwater for life on the same aquifer.

10. GROUNDWATER USE PRIORITISATION -

- (1). The first priority and charge on groundwater shall be meeting the right to water for life, followed by allocation for achieving food security, supporting sustenance agriculture, sustainable livelihoods and eco-system needs.
- (2). Inter se allocations of groundwater among these priorities, other than water for life, shall be as determined by the appropriate Government, with reference to local circumstances such as local climate, land and soil characteristics, water availability, water quality, prevalent activities and livelihoods, and the land-uses indicated by those circumstances.
- (3). Available groundwater, after meeting the above priorities, should be allocated for other uses, in a manner to promote its conservation and efficient use:

Provided that these uses of groundwater are consistent with the objective of sustaining aquifers and ecosystems indispensable to the long-term maintenance of the resource.

CHAPTER V – GROUNDWATER PROTECTION ZONES AND GROUNDWATER SECURITY PLANS BASED ON A DYNAMIC RESOURCES ASSESSMENT

11. DEMARCATION OF GROUNDWATER PROTECTION ZONES -

- (1) The State Groundwater Agency in consultation with the appropriate government and local communities shall demarcate groundwater protection zones, under the procedure specified in Schedule 1, in order to:
 - a) Protect the appropriate areas (especially recharge zones) of the aquifer from threats such as physical deterioration, including loss of exposed surface area, change in land-use pattern and causation of chemical and other pollution;
 - b) Protect the natural identity of the aquifer and the needs of groundwater dependent ecosystems;

- c) Protect vulnerable areas that require special attention and regulation, including areas affected by contaminants, and especially those with presence of arsenic and fluoride in groundwater and areas where groundwater has suffered saline water ingress and areas affected by other such contaminations of both geogenic (natural) and anthropogenic (human-induced) nature;
- d) Provide for sufficient quantity and safe quality water required to meet the water for life needs according to the status of groundwater resources under periodic dynamic resources assessments; and
- e) Provide for groundwater for livelihoods

(2) Groundwater protection zones will be based on the latest dynamic resources assessments conducted by the Central Ground Water Board (CGWB) and state governments.

(3) The demarcation of groundwater protection zones shall take into account all the following factors:

- a) Existing uses and users of the aquifer;
- b) Existing groundwater uses and users in the recharge area(s);
- c) Availability and quality of groundwater in the aquifer;
- d) Social, environmental and economic implications of the demarcation;
- e) The need for the demarcation of such recharge areas into groundwater protection zones in terms of their capacity or need to solve groundwater depletion and/or contamination; and
- f) Availability or existence of other options or alternative measures.

12. REGULATION OF GROUNDWATER PROTECTION ZONES -

- (1) The appropriate government shall take all possible measures to conserve and protect groundwater protection zones, in particular in the context of groundwater security plans.
- (2) The notification of Groundwater Protection Zones shall be decided by the State Groundwater Agency, based on inputs of the Regional Directorates of the CGWB.
- (3) Wherever an area has been notified as a Groundwater Protection Zone, appropriate measures regarding regulation on the extraction and use of groundwater, rules regarding afforestation and deforestation, landuse changes including wetlands, prohibition of waste disposal, waste water recycling, quality standards for discharge of effluents, regulation of mining leases will be adopted and enforced.
- (4) Groundwater Protection Zones may also include more specific measures, as may be appropriate, such as distance (from structures created or activities taken up to augment and/or protect recharge, including percolation tanks, recharge ponds, and social fencing of natural recharge areas) to new wells, pumping regulation for existing wells as well as other regulatory protocols, depending upon hydrogeological and socio-economic conditions.

13. PREPARATION OF GROUNDWATER SECURITY PLANS

- (1) The appropriate government shall prepare and oversee the implementation of a Groundwater Security Plan to be based on progressively available groundwater resources / aquifer information in consultation with elected local bodies and in consultation and coordination with information and monitoring cells and supporting institutions.
- (2) The objectives of the Groundwater Security Plan shall be:
 - a. attainment of sufficient quantity of safe water for life and sustainable livelihoods by every person
 - b. ensuring water security even in times of emergencies like droughts, floods etc
 - c. measures to preserve and improve the quality of ground water
- (3) The Groundwater Security Plan shall be prepared at the lowest possible administrative level, taking into account the fact that where an aquifer does not fall under the jurisdiction of a single gram panchayat, block, district, or municipality, the plan must integrate inputs at all the levels of the authority under whose jurisdiction the whole aquifer falls:
- (4) A groundwater security plan shall be prepared for every watershed or administrative unit (and aquifers wherever possible), falling partly or entirely under a groundwater protection zone defined in section 11 of this Act and where an aquifer does not fall under any groundwater protection zone, the appropriate government may determine necessary measures to be taken, including the preparation and the implementation of groundwater security plans.

14. ADOPTION AND VALIDITY OF GROUNDWATER SECURITY PLANS

- (1) The Groundwater Security Plan will be formally adopted and notified by the appropriate Government.
- (2) The Groundwater Security Plan shall be binding from the date of notification until a new security plan comes into existence and is notified.
- (3) The Groundwater Security Plan shall be valid for a period of five years from the date on which it becomes binding. It shall be revalidated or amended after every five years:

Provided that where compelling reasons, such as significant hydrological changes or drought, warrant it, revision or amendment may be made before the expiry of five years.

CHAPTER VI – INSTITUTIONAL FRAMEWORK

15. GRAM PANCHAYAT GROUNDWATER SUB-COMMITTEE -

- (1) Every Gram Panchayat shall constitute a Groundwater Sub-Committee as part of the Village Water and Sanitation Committee vested with all the functions and powers required to protect and manage groundwater resources under this Act

(2) The functions of the Groundwater Sub-Committee shall include:

- a) Determination, in accordance with section 4 of this Act, of the minimum quantity of water for life to be supplied from groundwater and/or surface water depending on their respective availability;
- b) Preparation of the Panchayat Groundwater Security Plan and presentation of the same to the Gram Sabha for approval within six months of the constitution of the Committee:

Provided that the Panchayat Groundwater Security Plan shall ensure that no user of groundwater shall jeopardise the access of anyone to their right to water for life or use of water for food security, sustenance agriculture, sustainable livelihoods and eco-system needs

Provided further that the Gram Panchayat Village Water and Sanitation Committee shall ensure, while preparing the Plan, that it complements and is integrated with other water-related plans, such as drinking water security plans that may be required under other laws or government schemes.

- c) Registration of all wells and other water sources such as springs within the gram panchayat boundaries;
- d) Collection of information from all sources including persons or agencies engaged in activities, such as drilling of tube wells, construction of open wells and construction of spring-tanks and to discharge this function the Groundwater Sub-Committee shall obtain a log from the drilling agencies;
- e) Recommending the granting of authorisations under section 20 of this Act on the basis of prior informed consent of the Gram Sabha;

Provided that in cases where authorisation is required across more than one GP, the recommendation for grant of authorisation shall be provided by all the concerned GPs; and

- f) Carrying out any other functions, as may be prescribed in rules.

16. BLOCK PANCHAYAT GROUNDWATER MANAGEMENT-

- (1) Every Block Panchayat shall include the mandate of groundwater management as part of all its existing water-related committees. The Block Panchayat shall ensure:
 - a) Consolidation of gram panchayat groundwater security plans into a Block Groundwater Security Plan on a milli-watershed and macro-watershed basis;
 - b) Coordination of the planning process between panchayats sharing aquifers where the aquifer boundary does not correspond with boundaries of a single panchayat. In the case of local aquifers, the same would apply to watersheds shared by panchayats, especially watersheds that include multiple aquifers.
 - c) Monitoring and supervising implementation of gram panchayat groundwater security plans and ensuring sufficient inclusion of groundwater management protocols in such plans;
 - d) Advising and recommending changes and modifications of gram panchayat groundwater security plans;
 - e) Ensuring that the groundwater security plan of a gram panchayat does not restrict the options of another gram panchayat and has minimum interference with such options;
 - f) Determining groundwater protection zones spanning more than one gram panchayat within the territory of the block and adopting norms for their management and regulation; and

- g) Ensuring in times of groundwater scarcity that groundwater security plans do not come in the way of the sharing of available groundwater among gram panchayats in the block.

17. MUNICIPAL WATER MANAGEMENT COMMITTEE -

- (1) Every Municipality/Municipal Corporation shall form a Municipal Water Management Committee that will include groundwater management as an integral component.
- (2) The Municipal Water Management Committee shall work in close coordination with other water-related institutions within the municipality, in particular with the institution providing water and sewerage services, if any.
- (3) The functions of the Municipal Water Management Committee shall include:
 - a) Determination, in accordance with section 4, of the minimum quantity of water for life to be supplied from groundwater and/or surface water depending on their respective availability;
 - b) Preparation of the Municipal Groundwater Security Plan and presentation of the same to the Municipality/Municipal Corporation for approval;
 - c) Facilitating the implementation of the Municipal Groundwater Security Plan;
 - d) Determining groundwater protection zones within the territory of the Municipality/Municipal Corporation and adopting norms for their management and regulation;
 - e) Registration of all wells and other sources such as springs within the Municipality/Municipal Corporation boundaries used for commercial activities;
 - f) Registration of all wells and other water sources such as springs within the Municipality/Municipal Corporation boundaries found in areas declared as groundwater protection zones;
 - g) Collection of information from all sources including persons or agencies engaged in activities, such as drilling of tubewells and construction of open wells, and to discharge this function, it shall obtain a log from drilling agencies;
 - h) All such data to be put in public domain.
 - i) Recommending the granting of authorisations under section 20 of this Act on the basis of prior informed consent; and
 - j) Carrying out any other functions, as may be prescribed in rules.

18. DISTRICT GROUNDWATER COUNCIL

- (1) Every district shall form a District Groundwater Council called by its local distinct name, consisting of one representatives from Panchayat and municipal groundwater management committees. These Councils would also include representative from State Agriculture Department. The District Magistrate/District Collector will preside over the committee.
- (2) The functions of the District Groundwater Council shall include:

- a) Consolidation of panchayat and municipal plans into a District Groundwater Security Plan, on a macro-watershed basis and presentation of the same to the District Panchayat for approval;
- b) Facilitating the implementation of the District Groundwater Security Plan;
- c) Coordination of the preparation of groundwater security plans between panchayats and municipalities sharing aquifers where their boundaries do not correspond with the boundaries of a single panchayat or Municipality/Municipal Corporation, as the case may be;
- d) Reconciling the groundwater security plans of the panchayats and municipalities within the district;
- e) Determining groundwater protection zones spanning more than one block and/or municipality within the territory of the district and adopting norms for their management and regulation;
- f) Take appropriate measures to foster the transfer of groundwater to panchayats and municipalities whose groundwater availability is insufficient to meet primary groundwater uses;
- g) Monitoring the implementation of panchayat and municipal groundwater security plans and maintaining a record of the measures adopted for this purpose;
- h) Conducting awareness enhancement programmes;
- i) Conducting capacity building programmes;
- j) Coordinating measures taken at the panchayat and Municipality/Municipal Corporation level;
- k) Registering drilling agencies that must provide it with full details of the drilling activities planned and undertaken;
- l) Granting of authorisations under section 20 of this Act on the basis of prior informed consent;
- m) Ensuring that conservation and use measures adopted in rural and urban areas do not contradict each other; and
- n) Carrying out any other functions, as may be prescribed.

19. STATE GROUNDWATER ADVISORY COUNCIL

- (1) The State Government shall, by notification, establish, with effect from such date as may be specified in the notification, a Council at the State level to be known as the State Groundwater Advisory Council to exercise the powers conferred on, and to perform the functions and duties assigned to, it under this Act.
- (2) Where a State Groundwater Authority exists, it shall act as State Groundwater Advisory Council. Where a State Water Authority exists, it will have a fair representation of the State Groundwater Advisory Council. In either case, the State Government shall set up a Council comprising of:

Ex-officio Members

- a) One representative of the Central Groundwater Board;

- b) One representative of the State Groundwater Agency;
- c) Member Secretary of the State Pollution Control Board;
- d) An officer not below the rank of Chief Engineer of the Irrigation or Water Resources Department;
- e) An officer not below the rank of Joint Secretary of the Department of Panchayats and Rural Development;
- f) An officer not below the rank of Chief Engineer of the Public Health and Engineering Department or State Water and Sanitation Mission;
- g) An officer not below the rank of Joint Secretary of the Department of Industries;

Other Members with a tenure of two years

- h) Representatives from gram panchayat groundwater committees;
 - i) Representatives from municipal groundwater management committees;
 - j) Representatives from district groundwater councils;
 - k) Representative from State Town & Regional Planning Agency; and
 - l) Independent experts having experience in hydrogeology, ecology or social science and who have longstanding experience of working on groundwater management in the State.
- (3) The State Groundwater Advisory Council shall be supported by the State Groundwater Department, the Water Department in the absence of the former or any other department dealing with water resources.
- (4) The State Government shall nominate representatives and experts mentioned in paragraphs (h) to (l) of sub-section (2), ensuring geographical representation, as well as adequate representation of scheduled castes, scheduled tribes, backward classes and women.
- (5) The State Groundwater Advisory Council shall meet at least twice a year and at such place as the Chairperson of the Council may determine and the Council shall follow such procedure as may be prescribed in rules.

20. FUNCTIONS OF THE STATE GROUNDWATER ADVISORY COUNCIL

- (1) The State Groundwater Advisory Council shall provide advice and support to all groundwater bodies constituted under this Act.
- (2) The State Groundwater Advisory Council shall perform the following functions:
- a) Preparing an Integrated State Groundwater Security Plan on the basis of district groundwater security plans;
 - b) Facilitating the implementation of the Integrated State Groundwater Security Plan;
 - c) Endorsing and notifying groundwater security plans or the groundwater components within the large water security plans;
 - d) Ensuring that the conservation and use measures adopted in rural and urban areas do not contradict each other;
 - e) Determining groundwater protection zones spanning more than one district within the territory of the state and adopting norms for their management and regulation;

- f) Maintaining and monitoring a database on the implementation of block and gram panchayat groundwater security plans;
- g) Advising and recommending to district councils and municipalities changes and modifications in district and municipal groundwater security plans;
- h) Conducting awareness enhancement programmes at the district, block and village levels;
- i) Conducting capacity building programmes at the district and block levels;
- j) Collecting information from groundwater based source creation activities, such as drilling of tube wells or construction of dug wells, with the help of gram panchayat groundwater committees;
- k) Implementing state-wide programs to incentivize the use of recycled water, considering hydrogeological, social and economic conditions; and
- l) Carrying out any other functions, as may be prescribed in rules.

CHAPTER VII – DUTIES OF GROUNDWATER USERS, WATER HARVESTING, RECHARGE, RECYCLING AND REUSE, PREVENTION OF WATERLOGGING

21. DUTIES AND LIABILITY OF GROUNDWATER USERS

- (1) Every user of groundwater shall ensure that:
 - a) Groundwater is used in an economical and efficient way, is not wasted, depleted or contaminated and no substance that pollutes groundwater is directly discharged on or into the ground;
 - b) Groundwater is conserved through appropriate agricultural and industrial practices, including by giving priority to using recycled water;
 - c) Measures are taken to replenish or recharge groundwater, including in recharge zones, for instance, through afforestation and reforestation;
 - (d) Water equipment is maintained in good condition to avoid waste, and ensure the prevention of clogging and the depletion of groundwater source; and
 - e) Rules regarding groundwater protection zones are followed.

- (2) Whoever uses and manages surface water and land resources in a way that is inconsistent with the Groundwater Security Plan shall phase out such activities within a period of 5 years of coming into force of this Act.
- (3) The release of any effluent that contaminates groundwater resources either temporarily or permanently shall be stopped forthwith.
- (4) Whoever contravenes the provisions of this Act by polluting or contaminating groundwater or encroaching flood plains, wetlands or water bodies shall be strictly liable for any groundwater pollution they cause and shall be responsible for the cost of its remediation

22. WATER HARVESTING, GROUNDWATER RECHARGE AND CATCHMENT CONSERVATION

- (1) The appropriate government shall encourage rainwater harvesting and catchment conservation as per geological conditions. It shall undertake all possible steps in integrated natural resources conservation, use and regulation for the augmentation of groundwater resources within its jurisdiction, through integration and convergence of all natural resources related developmental schemes and projects.
- (2) Notwithstanding anything contained in any other law for the time being in force, the gram panchayat groundwater committee or municipal water management committee as the case may be, may impose stipulated conditions for providing rooftop rainwater harvesting structures in the building plan of an area of 100 m² or more. Such stipulations shall be binding on concerned government agencies sanctioning or approving building plans. A building number, a tax assessment, and permanent water and electricity connections shall be extended only after compliance of the directions given in this regard.
- (3) Catchment conservation shall include appropriate groundwater conservation and recharge structures depending on the nature of the terrain/soil and condition/geology of the area.

23. RECYCLING AND RE-USE OF GROUNDWATER

The appropriate government shall encourage recycling and, in particular, foster re-use of water for non-potable urban, industrial, and agricultural use, as well as augmentation of potable water supplies through indirect reuse.

Provided that industrial, commercial and large residential establishments withdrawing water above a determined threshold shall be mandated to recycle water for purposes as may be suitable. Appropriate government shall design monitoring and incentive mechanisms to enforce such mandates.

24. PREVENTION AND MITIGATION OF WATERLOGGING

- (1) The appropriate government shall discourage and prevent such activities that are likely to lead to potential waterlogging of land. It shall undertake all possible regulation for the protection of land against waterlogging within its jurisdiction.
- (2) The Gram Panchayat Groundwater Committee or Municipal Water Management Committee, as the case may be, may impose stipulated conditions for regulating activities in waterlogged areas that lead to worsening of the waterlogging condition. The gram panchayat/Municipality/Municipal Corporation, in consultation with the District Groundwater Information and Monitoring Cell, shall take steps to mitigate waterlogging through proper interventions related to soil treatment and land drainage.
- (3) Waterlogging mitigation measures shall be adopted by using appropriate processes and technologies, in due consultation with appropriate information and monitoring cells.

CHAPTER VIII – GROUNDWATER FOR LIVELIHOODS AND IRRIGATION

25. GROUNDWATER FOR LIVELIHOODS AND IRRIGATION -

- (1) Every person is entitled to use groundwater for meeting livelihood needs, so long as such use does not adversely impact the right to water for life of any other person. The livelihood pattern and the resultant needs should be incorporated in groundwater security plans.
- (2) The Groundwater Security Plan shall take into account the availability of water through surface water projects and provide for groundwater for the livelihood needs through an integrated approach:

Provided that in case of severe drought or where the area has been declared a Groundwater Protection Zone, limits may be imposed for restricting water use by the appropriate government.
- (3) Major or medium irrigation projects using groundwater shall be based on an authorisation system allocated by the appropriate government in consonance with the groundwater security plan. The procedure for issuing authorisations shall be the same as that outlined in Chapter IX.
- (4) Major or medium irrigation projects using groundwater may be subject to paying a water rate to the panchayat, as determined by the Gram Panchayat Groundwater Committee, to be used for groundwater conservation and augmentation activities.
- (5) In any area that has been declared a Groundwater Protection Zone and where water intensive cash crops are grown, an undertaking shall be obtained for a change from water-intensive crops and such undertaking must be incorporated in the authorisation.
- (6) In the command areas of irrigation systems where water user associations have been established under the law, the said water user associations may levy and collect from the farmer or any other person using groundwater such fees, as they may deem appropriate.

CHAPTER IX – AUTHORISATION FOR GROUNDWATER ABSTRACTION, PRICING AND REGULATION OF MINING

26. AUTHORISATION TO ABSTRACT GROUNDWATER

- (1) No one shall abstract groundwater for industrial use or infrastructure projects without an authorisation issued by the appropriate government as specified in schedule 2 on the basis of a social and environment impact assessment and as defined in this chapter:

Explanation: Industrial use includes, but is not restricted to groundwater extracting industries, bottling plants and other commercial activities and agencies – government or private – responsible for water supply using groundwater.

- (2) Bulk supply of water for life through groundwater shall be in accordance with the provisions of the Groundwater Security Plan in the concerned area. Other uses of groundwater for life shall be monitored but not subject to an authorisation.
- (3) Authorisations for industrial, commercial or other bulk uses of groundwater shall be granted in a Groundwater Protection Zone only if such uses are in conformity with the provisions of the Groundwater Security Plan. Industries with high intensity of water use should not be located in regions prone to water

stress or in drought prone regions. Similarly, industries with potential to affect water quality should not be located in regions that are vulnerable to groundwater contamination.

- (4) The procedure for applying for authorization shall be prescribed in rules.

27. PRICING OF INDUSTRIAL AND BULK USE OF GROUNDWATER

- (1) Industrial or bulk groundwater use shall be priced and a water rate, as prescribed by the appropriate government shall be charged.

Provided that the base rate for industrial and bulk groundwater use should be determined by the State Groundwater agency, and additional flexible component should be applied to reflect scarcity conditions, proneness to pollution and groundwater use prioritization at municipal / block levels.

Provided further that the water rate should be subject to periodic review and revision as per revalidation of the Groundwater Security Plans

- (2) Funds collected under this section shall be used for groundwater conservation and augmentation activities.
- (3) The groundwater rate charged under sub-section (1) is in addition to the water cess that may be paid under the Water (Prevention and Control of Pollution) Cess Act, 1977.
- (4) An annual water audit will be conducted in cases where the annual bulk water usage exceeds a prescribed limit decided by the Act. This audit will be conducted for filing annual water returns by each such bulk user to the State. The State may decide an appropriate course of action to reduce the water footprint of such bulk water users.

28. REGULATION OF MINING

- (1) Any entity planning reconnaissance, prospecting, general exploration, detailed exploration or mining in respect of any major or minor minerals, including sand mining, shall prepare and file a prospecting plan with the appropriate government of the area concerned, indicating steps proposed to be taken for the protection of surface and groundwater to minimise the adverse effect of prospecting operations on groundwater and the environment in general.

- (2) Mine drainage water stored at surface tailing pond shall be monitored periodically for quality to proactively prevent underground seepage of toxic wastewater; in the event of concentration of toxic chemicals over a prescribed limit, appropriate treatment and management measures should be taken by the mining entity.

- (3) Any entity preparing and filing a prospecting plan under sub-section (1) and any person having undertaken mining operations for a major or minor mineral shall take immediate measures, as prescribed by the appropriate government of the area concerned, to restore, as far as possible, water regimes and the ecosystem in general in the areas in which prospecting or mining operations have been conducted.

- (4) Any entity undertaking mining activities shall support groundwater enrichment activities in their watershed and provide drinking water from their own sources to nearby habitations in case of emergency in the manner prescribed by the appropriate government.

**CHAPTER X – SOCIAL AND ENVIRONMENT IMPACT ASSESSMENT,
TRANSPARENCY AND ACCOUNTABILITY**

29. SOCIAL AND ENVIRONMENTAL IMPACT ASSESSMENT AND PUBLIC CONSULTATION

(1) It shall be duty of the appropriate government to conduct social and environment impact assessments for projects and for public consultation on those as specified under Schedule III:

Provided that in order to carry out this obligation, the appropriate government shall enlist the help of information and monitoring cells and supporting institutions, as well as any other agencies which the appropriate government may think fit, as and when required;

Provided further that in no case the promoter of the project, which is subjected to the social and environment impact assessments, shall be involved in this process.

(2) The social and environment impact assessment shall include, but not restricted to, assessment of short-term and cumulative impacts and specifically:

- a) Impacts on right to water for life;
- b) Impacts on drinking water sources, including public drinking water supply systems in the concerned area and beyond, and its socio-economic impacts;
- c) Impacts on quality and quantity of groundwater in the concerned area and beyond;
- d) Impacts on agricultural production and its socio-economic impacts;
- e) Impacts on livestock and other living beings;
- f) Impacts on the ecosystem;
- g) Impact on wetlands;
- h) Impact on landuse.

(3). Information on the social and environment impact assessment of projects including Social Audit reports under Section 32 shall be placed on internet for access by public.

30. DUTY TO ESTABLISH TRANSPARENCY SYSTEMS

(1) It shall be the duty of the appropriate government at all levels to create an effective, appropriate and citizen-friendly transparency regime for the present Act.

(2) Access to information as defined in this Act shall extend to all persons.

(3) The minimum content, periodicity, and other details of the information to be put out proactively shall be specified by Rules.

(4) The transparency regime for provision of information to any person shall include, but shall not be restricted to:

- a) Proactive mandatory disclosure;
- b) Inspection of all documents and offices;
- c) Making accessible the copies of documents, records and samples of material; and
- d) Ensuring the transparency of the decision-making processes.

- (5) All requests for information within a district shall be fulfilled within seven days and those outside the district within 15 days:

Provided that any request for information not complied with within the time period specified shall be considered a deemed refusal.

31. DUTIES OF PROACTIVE DISCLOSURE

- (1) The appropriate government at all levels shall proactively disclose information.
- (2) It shall be the duty of the appropriate government to disseminate the records in such a manner that a layperson can understand the information easily. This obligation shall also include the dissemination of information in a consolidated and summarized form, wherever appropriate.

32. SOCIAL AUDITS

- (1) Social audits of activities undertaken in pursuance with this Act shall be conducted in every twelve months.
- (2) It shall be the obligation of the gram sabha or municipality/ municipal corporation, as the case may be, to conduct social audits, as required above, of activities undertaken in pursuance of this Act within the gram panchayat or municipality:
- Provided that this mandatory social audit may be linked to social audits required under other laws or government schemes and guidelines.
- (3) The relevant authorities shall make available all relevant documents including the tender documents, bills, vouchers, copies of sanction orders and other connected papers to the Gram Sabha or Ward Sabha for the purpose of conducting the social audit.
- (4) The findings of the audit shall be read out in the gram or municipality/ municipal corporation and shall also be circulated to the State Groundwater Advisory Council and, as appropriate, to the District Groundwater Council or Municipal Groundwater Committee.
- (5) The appropriate government shall encourage independent audits, carried out by civil society or citizens' groups.
- (6) All social audits shall be universal and open, allowing for ongoing social audit (concurrent) as well as post facto social audits.
- (7) The Groundwater Grievance Redressal Officer shall take necessary action on the findings of all social audits, including directions to initiate criminal prosecution.
- (8) The Groundwater Grievance Redressal Officer may impose a fine and/or award compensation on the basis of the findings of the social audit, within a reasonable time period and in any case not later than six months.

CHAPTER XI – OFFENCES, PENALTIES AND LIABILITY

33. OFFENCES AND PENALTIES

- (1) Whoever does any activity, which prejudicially affects the quality of groundwater or availability thereof shall be punished with imprisonment, which may extend to one year and six months or with a fine, not less than one lakh rupees or with both.
- (2) If a user convicted under sub-section (1) repeats the offence, such user shall be punished with a fine for an amount double the maximum prescribed under sub-section (1) in addition to imprisonment that may be prescribed under sub-section (1) and if such a user holds a valid authorisation granted under this Act, such authorisation shall be cancelled with immediate effect.
- (3) Any supplier of water who supplies or causes to be supplied groundwater which fails to meet the quality standard prescribed under law shall be punished with a fine not less than One lakh rupees.
- (4) Whoever extracts or causes to be extracted groundwater from a groundwater protection zone and fails to comply with instructions or directions given by the appropriate government under this Act or specified by the Rules shall be punished with imprisonment which shall not be less than six months and which may extend to three years and with a fine which may extend to ten lakhs.
- (5) Whoever, being an owner of a building liable to be fitted with mechanisms for harvesting rainwater for recharging groundwater as per the requirements under this Act, fails to do so, shall be punished with a fine, not less than One lakh rupees.

Provided that in addition to the penalty imposed on her or him, she or he shall be required by the Groundwater Grievance Redressal Officer to comply with the requirements of law within a stipulated time.

Provided further that in case of failure on the part of the owner of the building, the appropriate government shall take steps to install or restore such mechanisms and the expenditure incurred for this shall be collected from the owner as arrears of land revenue or as a judgment debt realisable through execution proceedings initiated before the Groundwater Grievance Redressal Officer.

- (6) Whoever contravenes any of the provisions of this Act or fails to comply with any order or direction given under this Act or its Rules, for which no penalty has been elsewhere prescribed in this Act, shall be punishable with imprisonment, which may extend to three months or with fine, not less than One lakh rupees or with both.
- (7) If an offence punishable under this Act is committed at any time by a company, every person who is in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence and the company shall be deemed to be responsible including criminally liable for the offence, and shall be personally liable under the Act.

Provided that where any offence under this Act has been committed by a company and it is proved that the commission of the offence is with the consent and connivance or 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 be deemed to be responsible for that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purpose of this section:

‘Company’ means any body corporate and includes a firm or other association of individuals; and

‘Director’ in relation to a firm means the partner in the firm.

34. CIVIL AND ADMINISTRATIVE REMEDIES

- (1) Whoever violates the Groundwater Security Plan prepared and implemented under this Act shall be liable to be sued and any act done or any omission to do an act in violation of the Groundwater Security Plan shall be an actionable wrong.
- (2) The appropriate government at the level in which the Groundwater Security Plan is drawn up and monitored shall be the body responsible for initiating and continuing the legal action against the violators.
- (3) The appropriate government shall designate an officer who shall initiate the legal proceedings against the violators of the Groundwater Security Plan.
- (4) An application to remedy/rectify the violation shall be preferred before the Groundwater Grievance Redressal Officer having jurisdiction over the area from where the dispute arose.
- (5) The appropriate government may give directions to any person to remedy any violation of rules and regulations or provisions of this Act. It may also impose fines for the violations, remittance of which shall be a condition for restoration of the authorisation cancelled or suspended.
- (6) Nothing under this provision shall bar the exercise of the power of cancellation, suspension, and modification of the authorisation granted by the appropriate government by way of an administrative order for violation of the conditions of the authorisation.
- (7) Any person aggrieved by the administrative directions issued against her or him by the appropriate government may raise a dispute under this Act.
- (8) Any individual, group, community, or non-governmental organization, can file a petition before the Groundwater Grievance Redressal Officer seeking remedy against the violation of the Groundwater Security Plan.
- (9) No action shall be initiated by any person, other than the designated officer, under this section unless he had served thirty days’ notice to the concerned authorities for initiation of legal action:
Provided that the Groundwater Grievance Redressal Officer may allow the initiation of legal action without serving the above said notice if she or he is satisfied regarding the urgency of the matter or if she or he is convinced that no purpose is going to be served by issuing such a notice.
- (10) The Groundwater Grievance Redressal Officer can issue an injunction against the perpetrator of the violation, or issue a mandatory injunction to compel positive actions to remedy the situation or direct the violator to pay compensation for the violation.
- (11) Industrial or commercial users shall be strictly liable for substantial harm to groundwater quantitatively and qualitatively and for the degradation of the land as well as damage caused to public health:
Explanation: Inherently hazardous uses of groundwater include but are not limited to the direct pumping and/or release of potential hazardous effluents into aquifers, extraction of groundwater beyond the specified authorisation accorded to an industry, and activities destroying the recharge capabilities of areas notified as Groundwater Protection Zones.
- (12) The Groundwater Grievance Redressal Officer may provide for restitution of property damaged and for restitution of the environment for such area or areas or compensation to

victims who suffered health hazards or faces threat to health as well as for the damages caused to the environment as she or he may think fit.

- (13) The Groundwater Grievance Redressal Officer may impose a fine for violations of the Groundwater Security Plan or any other provisions of this Act and such fine shall not exceed the amount prescribed as fine under the penal provisions under this Act.
- (14) The Groundwater Grievance Redressal Officer may cancel the authorisation granted in cases of violation of the Groundwater Security Plan or conditions of the authorisation or suspend it for a specific period in addition to any other order she or he may pass in a petition for rectification of the Groundwater Security Plan violation.
- (15) The Decision of the Groundwater Grievance Redressal Officer shall be binding on all parties to the complaint.
- (16) No Action shall be initiated before the Groundwater Grievance Redressal Officer unless it is certified that all appropriate measures to settle the dispute by mediation and conciliation have failed. The manner in which the certificate of failure of mediation and conciliation is to be issued and authenticated shall be provided by Rules.
- (17) Nothing contained in this provision shall limit the power of the Groundwater Grievance Redressal Officer to entertain any complaint or application without prior notice being given to the appropriate government for taking action or without the failure report of the conciliation and mediation if she or he is satisfied that the case requires urgent actions to be taken or that it will not serve any purpose to wait for the completion of the prerequisites mentioned earlier.

35. COGNIZANCE OF OFFENCES

- (1) Offences under this Act shall be cognizable and triable by a magistrate of first class or by any other judicial forum created/empowered in this behalf.
- (2) The magistrate may take cognizance of the offence either suomoto or on a complaint filed by the appropriate government.
- (3) Any person interested in the matter on her or his personal behalf can initiate prosecution of any person who commits any offence under this Act.

Provided that before initiating the prosecution, the person interested shall give a one-month notice to the appropriate government intimating her or his intention to initiate prosecution:

Provided further that it shall be within the power of the court to allow the person interested in the matter to initiate prosecution against anyone who violated the provisions of this Act without serving the notice mentioned above if the court is satisfied that the matter is of urgent nature or that no useful purpose is going to be served by issuing the above-mentioned notice.

36. COMPOUNDING OF OFFENCES

- (1) Offences prescribed under this chapter, except under Section 33 sub-section (4) may be compounded by the appropriate government with the permission of the court.
- (2) On compounding the offences, the conditions laid down under rules for the imposition of fees for compounding shall be complied with.

CHAPTER XII – DISPUTE RESOLUTION

37. DISPUTE RESOLUTION AVOIDANCE, MEDIATION AND CONCILIATION

- (1) Every dispute under this Act shall be referred to be settled by mediation or conciliation at the appropriate level, by mediators and conciliators.
- (2) Every Panchayat Groundwater Committee or Ward Groundwater Committee shall make available by consensus a list of persons of repute and integrity to act as conciliators and mediators, to be published by the District Panchayat and further in order to facilitate the process of mediation and conciliation the state shall publish a list of persons available for acting as mediators and conciliators in every local area.
- (3) The settlement reached under this process shall be final and binding and shall be authenticated by the process prescribed under Rules.
- (4) Any dispute, which fails to be resolved under the mediation and conciliation shall be referred to the court for adjudication with a statement of failure report.
- (5) In case of any grievance of no reference of dispute for adjudication on failure of mediation and conciliation, the aggrieved party may approach the court for permission to file suit for adjudication of the dispute.

38. APPOINTMENT OF GROUNDWATER GRIEVANCE REDRESSAL OFFICER

- (1) The State Government shall appoint in every block a Block Groundwater Grievance Redressal Officer and in every municipality a Municipal Groundwater Grievance Redressal Officer.
- (2) The manner of selection, appointment and conditions of service shall be fixed by Rules formulated by the State Government in this behalf.
- (3) No one shall be appointed as Groundwater Grievance Redressal Officer unless she or he has experience and qualification in the field of law or hydrogeology or science and technology or social service or management or water policy or human rights or public administration.
- (4) Every Groundwater Grievance Redressal Officer shall hold office for a term of five years. The Groundwater Grievance Redressal Officer shall be eligible for re-selection for a second term, and shall not be eligible for any further terms.

39. DISQUALIFICATION FOR APPOINTMENT AS A GROUNDWATER GRIEVANCE REDRESSAL OFFICER

- (1) The Groundwater Grievance Redressal Officer shall not be eligible for appointment if she or he:
 - a) Is a public servant or a non-official holding any office of profit under the government at the time of appointment;
 - b) Has been convicted and sentenced to imprisonment for an offence involving moral turpitude or corruption under the Prevention of Corruption Act, 1988;
 - c) Has been suspended, removed or dismissed from the service of the government or a body corporate owned or controlled by the government; or

- d) Has, in the opinion of the appropriate government, such financial or other interest as is likely to affect prejudicially the discharge of his or her functions as a Groundwater Grievance Redressal Officer.

(2) The Groundwater Grievance Redressal Officer shall not hold any post under the government or any office of profit receiving remuneration from the state exchequer during the period in which she or he holds the post.

40. NYAYA MITRA TO ASSIST GROUNDWATER GRIEVANCE REDRESSAL OFFICER

- (1) In every district, there shall be a Nyaya Mitra to assist the Groundwater Grievance Redressal Officer in the discharge of her or his duties.
- (2) No one shall be appointed as a Nyaya Mitra unless she or he holds a bachelor's degree in law, with eligibility to enrol as a lawyer, from a recognised institution or university.
- (3) The manner of selection, terms of appointment and remuneration of the Nyaya Mitra shall be as prescribed by Rules.

41. JURISDICTION AND POWERS OF GROUNDWATER GRIEVANCE REDRESSAL OFFICER

- (1) The Groundwater Grievance Redressal Officer shall have jurisdiction over all complaints arising under this Act, within the territorial jurisdiction for which she or he is appointed.
- (2) For the purposes of this section, the Groundwater Grievance Redressal Officer shall have the same powers and obligations as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:
 - a) The summoning and enforcing attendance of any defendant or witness and examining the witness on oath;
 - b) The discovery and production of any document or other material object as evidence;
 - c) The reception of evidence on affidavits;
 - d) The requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
 - e) Issuing of any commission for the examination of any witness; and
 - f) Any other matter, which may be prescribed.
- (3) The Groundwater Grievance Redressal Officer shall pronounce his or her decision in public immediately after finishing the hearing or at any subsequent time, not exceeding fourteen days.
- (4) The Decision of the Groundwater Grievance Redressal Officer shall be binding on all parties to the complaint.
- (5) Copies of the decision shall be given to the parties immediately free of cost and a copy shall be sent to the concerned Gram Panchayat Groundwater Committee or Ward Groundwater Committee.

42. APPEALS

- (1) Appeals from the decisions of the Block Groundwater Grievance Redressal Officer can be preferred to the Gram Nyayalaya set up under Section 3 of the Gram Nyayalayas Act, 2008.
- (2) Appeals from the decisions of the Municipal Groundwater Grievance Redressal Officer shall lie before the sub-court.

CHAPTER XIII – MISCELLANEOUS

43. POWERS OF THE APPROPRIATE GOVERNMENT TO REMOVE WELLS DUG IN CONTRAVENTION OF THE ACT

- (1) The appropriate government may require any person who has sunk or is sinking a well or who has extracted or is extracting water in contravention of any of the provisions of this Act, by notice in writing to stop such extraction within the time specified in the notice, being not less than fifteen days, and require the owner or the person in possession of the well to close or seal off the well at his expense and in such manner as it may specify in such order.
- (2) If the person on whom a notice under sub-section (1) has been served does not stop such extraction or stop such extraction but does not close or seal off the well to the satisfaction of the appropriate government within the time specified in the notice, the appropriate government may enter the land and close or seal off the well.
- (3) The cost incurred by the appropriate government under sub-section (2) shall be recoverable as an arrear of land revenue from the person on whom a notice under sub-section (1) has been served.

44. POWER OF THE APPROPRIATE GOVERNMENT TO CALL FOR INFORMATION

The Appropriate government shall have the power to call for any information from any department of the State Government or any other person, which is required by it in the exercise of its powers and the performance of its duties and functions under this Act or the rules, regulations and bye-laws made thereunder, and such department or person shall be bound to furnish such information.

45. PRE-EXISTING RIGHTS

1. Pre-existing rights will continue to be valid for a period of one year from the date of commencement of this Act, after which the rights and entitlements shall be as per the provisions of this Act

2. No compensation is due for any legal or other rights that become extinguished as a result of this legislation.

46. FUNDS COLLECTED UNDER THIS ACT -

Any fees, cess, penalties or grants received from the government or money received from any other source by way of gift or otherwise shall be set apart in a separate account and shall be used to further the objectives of this Act.

47. PROTECTION OF ACTION TAKEN IN GOOD FAITH

No suit, prosecution or other legal proceeding shall lie against the Government or any officer or other employee of the Government or any authority constituted under this Act or any member, officer or other employee of such authority in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

48. DRILLING AGENCIES

- (1) Drilling agencies shall be registered with the District Groundwater Council.
- (2) Drilling agencies shall provide the appropriate government with full details of the drilling activities planned and undertaken.
- (3) Drilling agencies shall have a hydrogeologist possessing the prescribed qualifications on their payroll.

49. EFFECT OF THIS ACT ON OTHER LAWS -

Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall have precedence and overriding effect.

50. POWER OF THE STATE GOVERNMENT TO MAKE RULES

- (1) The State Government may, by notification, make rules to carry out the provisions of this Act.
- (2) Every Rule made under this Act shall be laid before the state legislature during its next session.

51. POWER OF LOCAL AUTHORITIES TO MAKE BYELAWS

- (1) Consistent with the Rules made by the State Government under this Act, local authorities may, by notification, make byelaws to carry out the provisions of this Act.
- (2) Every byelaw made by local authorities under this Act shall to be sent for approval and endorsement by the State Legislature. The byelaws will take effect after such endorsement is made by the State Legislature.

52. POWER TO MAKE REGULATIONS

Subject to the provisions of this Act and its Rules, the State Government may make regulations to carry out the purposes of this Act.

53. 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 in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

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

SCHEDULE I

DEMARCATIION OF GROUNDWATER PROTECTION ZONES

(SEE SECTION 11)

1. PROCEDURE FOR DEMARCATIION AND NOTIFICATION OF GROUNDWATER PROTECTION ZONES

1. The State Groundwater Agency shall, in consultation with the appropriate government and local communities, demarcate natural or artificial recharge areas of an aquifer or aquifers as groundwater protection zones based on the categories – safe, semi-critical, critical and overexploited – with reference to the latest assessment by CGWB.
2. The State Groundwater Agency may also consult any other institution or agency to assist with the demarcation of groundwater protection zones.
3. The State Groundwater Agency may call for technical data and evidence from information and monitoring cells, supporting institutions or any other agencies mandated or obliged under law to maintain such technical data and evidence. The State Groundwater Agency may also approach central agencies such as the Central Groundwater Board and Central Water Commission for this purpose.
4. In addition to compliance with the provisions of Chapter 10 concerning public consultation and transparency, the proposals for demarcation and declaration of each groundwater protection zone shall be notified to the public and the appropriate institution by a preliminary notice in the Gazette and in at least two local language newspapers having circulation in the area concerned.
5. The State Groundwater Agency shall submit proposals for demarcation and declaration of each groundwater protection zone to the appropriate government/ institutions – namely gram sabhas, gram panchayats, block panchayats, district panchayats, municipal authorities and the State Government as the case may be – falling within the geographical limits of each of zone, for discussion and approval, with or without modification.
6. If the appropriate government institution feels that the proposal of the State Groundwater Agency needs revision or is invalid, it shall file a representation before the State Groundwater Agency within 30 days from the formal submission of the proposal under sub-section (5) of this section. Consultations will then be held with the State Groundwater Agency to come to a final decision within 45 days of the filing of the representation:

Provided that if an amicable final decision is not possible the matter shall be decided by arbitration and the arbitrator shall be appointed by the State Government, preferably the Water Resources Regulatory Authority, if such Authority exists in the respective States.
7. Objections, if any, against the proposed declaration of any area as a groundwater protection zone, shall be made before the appropriate government within a period of 60 days from the date of publication of the notice.
8. Any person preferring the objection shall provide the grounds of objection, supported, where possible, by technical data and evidence.

9. The technical data, requested for filing objections, shall be made available to such persons immediately.
10. If any delay is caused in providing the requested data/information, the period allowed for filing objection shall be extended in proportion to the delay.
11. The objections shall be considered by the appropriate government, which, with the consultation of both parties (the State Government and the objecting party) shall arrive at the final decision.
12. The final decision shall be binding on both parties.
13. The appropriate government shall notify its decision within a period of 45 days from the formal submission of the objection.
14. If no objections or representations referred to in sub-sections (6) and (7) have been filed within the period referred to in that sub-section, the appropriate government shall declare the demarcated area to be a groundwater protection zone.
15. Where a proposal to identify a groundwater protection zone has been approved, the State Groundwater Agency shall notify the groundwater protection zone in the Gazette.
16. The notification issued under sub-section (9) above shall be reviewed periodically.
17. The review shall be due on completion of three years and shall be done before the expiry of five years from the date of notification.
18. On expiry of the above-mentioned period, a fresh review shall be conducted based on a new assessment of the aquifer.
19. All the steps prescribed above shall be completed within a period of six months from the date of preparation of the proposal by the State Groundwater Agency.

SCHEDULE II GROUNDWATER AUTHORISATIONS

(SEE SECTION 26)

1. TERMS AND CONDITIONS OF THE AUTHORISATIONS

1. The authorisation may be granted with terms and conditions as prescribed by the appropriate government, taking into account the different groundwater requirements of different industries and the specific processes used and such terms and conditions may include but are not restricted to:
 - a) The maximum quantity of water that may be extracted;
 - b) Precautions to prevent contamination of groundwater by mandating existing pollution control standards and measures;
 - c) Details of conservation measures, including rainwater harvesting, to be taken;
 - d) Groundwater recharging measures;
 - e) Recycling a prescribed proportion of the extracted groundwater;
 - f) Treating wastewater to bring it to prescribed standards before it is discharged; and

- g) Adopting and practising the most water efficient practices and technology.
- 2. The authorisation shall be in accordance with the groundwater security plan in force in the area and with water use prioritisation outlined at section 11 of this Act.
- 3. The authorisation granted for a specified purpose shall not be used for any purpose other than that for which it has been granted.
- 4. The authorisation holder shall be prohibited from selling, by whatever name or form, groundwater extracted under the authorisation to someone else for commercial use and/or gain.
- (5) Overuse of the water allocated in the authorisation shall be an offence under chapter 11 of this Act. Saving water out of water allocated in the authorisation shall be rewarded as prescribed in rules.

2. CANCELLATION, TRANSFER AND VALIDITY OF AUTHORISATIONS

1. Non-compliance with the terms and conditions of the authorisation constitutes a ground for cancelling the authorisation and compliance shall be monitored by the authority that granted the authorisation, including the District Groundwater Council and State Groundwater Advisory Council:

Provided that the authority having granted the authorisation shall give the authorisation holder an opportunity to be heard before cancelling any authorisation.

2. Authorisations issued under this section shall be inalienable. However, authorisations granted to a natural person shall be inherited by his or her legal heirs and shall continue to be valid for the remaining period as long as the legal heirs continue the activities done by the deceased authorisation holder. Further, on transfer of the property for the benefit for which the authorisation was granted, the authorisation shall continue to be valid so long as the nature of the activity continues unaltered by the new owner.
3. The authorisation shall be valid for a period fixed under the authorisation. The period of validity for the authorisation shall in no case exceed five years. However as far as possible the period fixed for the validity of authorisation shall be for a minimum period of one year. The appropriate government may suspend the authorisation for a limited period in situations of emergency and/or request the authorisation holder to provide water for life from their own sources to nearby habitations in such cases of emergency.
4. Once the validity of the authorisation has expired, continuation of the authorisation shall require a fresh application by the authorisation holder complying with all the conditions of an original application.

SCHEDULE III

SOCIAL AND ENVIRONMENTAL IMPACT ASSESSMENT AND PUBLIC CONSULTATION

(SEE SECTION 29)

1. PROCEDURE FOR SOCIAL AND ENVIRONMENTAL IMPACT ASSESSMENT AND PUBLIC CONSULTATION

- (1) Where a public hearing is required under this Act, it shall be convened by the appropriate government, in the area where a project is proposed to be implemented:

Provided that the appropriate government shall provide 60 days pre-hearing notice regarding the conduct of public hearing;

Provided further that the above said notice shall be given through gram or block panchayat offices and/or municipal offices and publication of such notice shall also be made in at least two local language newspapers having circulation in the concerned area.

- (2) The date of the public hearing under sub-section (3) shall be fixed more than 60 days after the date of publication of the social and environment impact assessment report by the appropriate government.
- (3) The social and environment impact assessment report shall be subjected to examination by an expert group constituted for this purpose and the appropriate government shall ensure the conduct of such examination:

Provided that the expert group constituted under this sub-section shall consist of two non-official scientists, an independent expert on groundwater and an independent environmental expert.

- (4) The expert group shall give their recommendation to the appropriate government within 30 days after receiving the copy of the social and environment impact assessment report and report of the public hearing.
- (5) The requirements of this section are in addition to any other requirements, which may be stipulated by any other law in force.

2. DUTIES OF PROACTIVE DISCLOSURE

1. Proactive disclosure shall include, but is not be restricted to:
- a) Reading aloud essential information as per prescribed format and manner specified by the Rules;
 - b) Hanging or putting up information on notice boards at the gram panchayat, block, and district levels and the establishment of painted wall boards at prescribed locations and in the prescribed format and manner specified by the Rules;

- c) Publishing of information through newspaper advertisements, press releases, or the printing of leaflets and reports and by making announcements through the audio-visual media, such as, community radio, radio and television; and
- d) Availability of key records on the Internet. There shall be free and open access to the websites related to this Act where, as much of the information as prescribed, including summaries and consolidated information, shall be uploaded regularly.

STATEMENT OF OBJECTS AND REASONS

Groundwater is the backbone of India's agricultural sector, as also of drinking water security in urban and rural areas. Groundwater resources service more than 80 percent of India's drinking water needs. Groundwater is also important for the industrial sector in large measure and, if left unregulated, may lead to serious inter-user and inter-sectoral conflicts, some signs of which are already visible. A serious groundwater crisis prevails currently in India due to excessive overdraft and groundwater contamination covering nearly 60 percent of all districts in India and posing a risk to drinking water security of the population. In addition to overdraft and biological and chemical contamination, excess groundwater and waterlogging is also a serious problem in many regions, impacting livelihood security of large sections of society.

The acute problems relating to groundwater warrant a change in perspective and approach in its use and management. It is necessary to acknowledge the hydrogeological characteristics of groundwater and its integral link to land, vegetation and surface water resources, and perceive it as a 'resource' rather than merely as a 'source'.

In acknowledgement of the ubiquity of groundwater and its importance to all sections of society, it is necessary to recognize it as a common pool resource and adopt an aquifer-based participatory approach to its management.

The existing legal framework derived from common law principles and judicial interpretation that recognizes private property rights in water is inappropriate for the emerging status, conflicts and dynamics of groundwater. It is this legal framework that sanctifies unlimited capture of groundwater by a person owning the land over which the groundwater sources are located. Such groundwater capture poses the danger of depriving large numbers of people of their fundamental right to water for life.

In recent decisions, superior courts in India have affirmed the common pool nature of groundwater and have recognized the need to govern this resource under the concept of 'public trust'. Further, existing groundwater law principles and legislation fail to incorporate the many legal principles that have emerged in the rapid development of environmental law.

It is imperative to recognise groundwater as a natural resource vital to life, livelihood and environment, and to change the existing legal status of groundwater. Respect for established fundamental rights and application of accepted norms and principles of environmental law is another key change needed to respond to the contemporary challenges. Most importantly, regulation and improvement of groundwater is inevitable to ensure safe and adequate drinking water for everyone and thereby for the realisation of the right to water for life. Given the highly decentralised way in which groundwater is being used, the regulatory and institutional framework needs to apply the principle of decentralisation and participation effectively.

Article 4 of the International Law Commission Draft Articles on Groundwater (2008) also states that "Aquifer States shall utilize trans-boundary aquifers or aquifer systems according to the principle of equitable and reasonable utilization".

The Government of India has earlier attempted to recommend a statutory framework to regulate groundwater. The latest version of the existing model bill is the Model Bill to Regulate and Control the Development and Management of Groundwater, 2005. This model bill has failed to take notice of recent legal developments, such as the 73rd and 74th amendments to the Constitution of India vesting powers to Panchayats and Municipalities in the management of water that includes

groundwater. In addition, it has not been widely adopted by states and even where it has, it has not been effectively implemented.

A new legal framework with norms, principles, procedures and institutions suitable to address contemporary and imminent challenges is therefore required.

The overall objectives of the Model Bill are thus to ensure the qualitative and quantitative sustainability of groundwater resources, equity in groundwater use, not just among users but across uses as well, and efficiency in the use of groundwater as a common pool resource, through an appropriate institutional structure and participatory processes.

To achieve the above objectives, therefore, the Model Groundwater (Sustainable Management) Act, 2016 is hereby enacted.