

**THE NAGALAND GROUNDWATER (REGULATION AND CONTROL OF
DEVELOPMENT AND MANAGEMENT) ACT, 2020.**

Nagaland Act No.6 of 2022

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CHAPTER I

PRELIMINARY

1. Short title, Extent and Commencement

- (1) This Act may be called the Nagaland Groundwater (Regulation and Control of Development and Management) Act, 2020.
- (2) It extends to the whole of the State of Nagaland
- (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Objective

The objectives of this Act are to ensure that groundwater is protected, conserved and regulated so as to:

- (a) Meet basic human needs and livestock needs.
- (b) Promote sustainable groundwater use in the public interest, based on a long-term protection of available resources.
- (c) Ensure that the protection, conservation and regulation of groundwater is integrated with the protection, conservation and regulation of surface water to ensure conjunctive use of surface water and groundwater.
- (d) Ensure the implementation of the principle of subsidiarity.
- (e) Protect ecosystems and their biological diversity.
- (f) Reduce and prevent pollution and degradation of groundwater.
- (g) Ensure that present and future generations have access to sufficient quantity and quality of basic water.

3. Definitions

In this Act unless the context otherwise requires: -

- (a) "Act" means the Nagaland Groundwater Regulation Act, 2020.
- (b) "Appellate Authority" means the Nodal Department that is Directorate of Geology & Mining established under section 3 of the Act.
- (c) "Artificial recharge to groundwater" means the process by which groundwater reservoir is augmented beyond the natural condition of replenishment.
- (d) "Aquifer" is a geological formation that stores and transmits water.
- (e) "Drinking water" means water for consumption or use by human population for drinking and for other domestic purposes, which shall include consumption or use of water for cooking, bathing, washing, cleansing and other day to day activities and shall include water meant for consumption by the livestock.

- (f) **"Exploitation limit"** means such limit where the estimated annual groundwater extraction is more than 85% (eighty-five percent) of the estimated average annual groundwater recharge.
- (g) **"Government" or "State Government"** means Government of Nagaland.
- (h) **"Department"** means the department of Geology and Mining, Nagaland.
- (i) **"Groundwater"** means the water which exists below the ground surface in the zone of saturation and can be extracted through wells or any other means or emerges as springs and base flows in streams and rivers.
- (j) **"Notified area"** means the area notified under section 7 (3) of this Act.
- (k) **"Official Gazette"** means the Nagaland Gazette.
- (l) **"Prescribed"** means prescribed by rules made under this Act.
- (m) **"Rain water harvesting"** is the process of collection and storage of rain water at surface or in sub surface aquifer.
- (n) **"Royalty"** means the royalty payable to the State Government under section 16 of this Act.
- (o) **"Sink"** with all its grammatical variations and cognate expression in relation to a well includes any digging, drilling or boring of new wells or deepening of the existing wells.
- (p) **"State"** means the State of Nagaland.
- (q) **"User of groundwater"** means a person or an institution including a company or an industry or an establishment, whether Government or not, who or which use groundwater for any purpose excluding domestic use.
- (r) **"Well"** means a structure sunk for the search or extraction of groundwater by any person, except by the authorized officials of the State or Central government, for carrying out scientific investigations, exploration, development, augmentation, conservation, protection or management of groundwater and shall include open well, dug well, bore well, dug-cum-bore well, tube well, filter point, collector well, infiltration gallery, recharge well, disposal well, or any of their combinations or variations for extraction of groundwater.
- (s) **"Source of water"** means the water which exists in the nallahs, wells, rivulets, rivers, lakes, ponds, bore wells, tube wells, canals, springs, etc.
- (t) **"Conservation"** means to conserve forest, catchment areas, springs sources and any other structures that augment groundwater aquifers for sustainable hydrological cycle.
- (u) **"Permit"** means the permit for extraction and use of groundwater granted under section 9 of the Act.
- (v) **"Safe yield"** means the amount of water which may be abstracted from an aquifer at a rate that will not reduce the supply to such an extent that it would not be recharged to the original level by the annual natural recharging process of that locality and, as such, rendering such abstraction harmful to the aquifer, quality of the water or environment.

CHAPTER II

CONSTITUTION OF THE AUTHORITY

4. Establishment of Authority

- (1) The State Government shall, by notification in the official Gazette, establish, with effect from such date as may be specified in the notification, an Authority to be known as "**Nagaland Groundwater Authority**".
- (2) The Authority shall consist of the following members, namely: -
 - (i) Commissioner & Secretary/Secretary, Geology & Mining: Chairman
 - (ii) Director, Geology and Mining: Member Secretary
 - (iii) Chief Engineer, Deptt. of Water Resources: Member
 - (iv) Chief Engineer, Public Health Engineering Deptt.: Member
 - (v) Director, Deptt. of Soil and Water Conservation: Member
 - (vi) Director, Deptt. Of Municipal Affairs: Member
 - (vii) Regional Director, Central Ground Water Board: Member
 - (viii) Joint Director (G), Geology & Mining: Co-opted Member
- (3) The Members of the Authority shall by designation represent as representative of the Department.

5. Staff of the Authority

- (1) The Government shall for the purpose of enabling the Authority to efficiently perform its functions or exercise its powers under the Act, provide such number of technical and other staff as it may consider necessary.
- (2) The powers and duties and the terms and conditions of service of such employees shall be such, as may be prescribed.
- (3) The officers, technical personnel and staffs of the Authority under sub-section (1) shall be constituted from the existing *Groundwater Cell* of the Directorate of Geology & Mining, Dimapur.

6. Term of Office and Conditions of Service

The term of office and service conditions of the staff of Authority under sub-section (3) of Section 5 shall be guided by the Service Rule, 2005 of the Department of Geology and Mining.

7. Power to notify areas to regulate and control the development and management of Groundwater

- (1) The Authority shall function under the overall control and supervision of the State Government.
- (2) If the Authority after consultation with the experts is of the opinion that it is necessary or expedient in the public interest to control and or regulate the extraction of groundwater in any form in any area, it shall advise the State Government to declare any such area to be *notified area* for the purposes of this Act.

- (3) The State Government after examining the advice of the Authority, received under sub-section (2), and after making such further enquiry, as it may deem fit, may by notification, declare such area or part thereof to be the *notified area*, with effect from such date, as may be specified therein, provided that the State Government may suo motu by notification declare its intention to notify any area to be the *notified area* under this section, if deemed necessary.
- (4) Every such notification issued under Sub-section (3) shall, in addition to its publication in the official Gazette, be published in not less than two daily newspapers having wide circulation in the State and shall also be served by affixing a copy of the notification at the offices of the Village/Ward/Colony Councils located in the said area and at some conspicuous places of the locality.
- (5) The persons likely to be affected by the notification issued under sub-section (4), may file objections or suggestions within 30 (thirty days) from the date of publication to the State Government which shall be decided by it within thirty days, after public hearing and thereafter, final notification shall be issued within thirty days.
- (6) If in the opinion of the Authority, the availability of the groundwater has improved in *notified area*, it may advise the State Government to denotify such area, and the State Government may in the like manner, denotify such area.
- (7) The Authority shall take steps to ensure that exploitation of groundwater resources does not exceed the natural replenishment to the aquifers and wherever, there is mismatch, steps shall be taken to ensure augmentation of groundwater resources in addition to regulatory measures.

8. Authority to maintain data base on groundwater

The Authority shall maintain and update the data base on groundwater resources of the State.

9. Grant of Permit to extract and use groundwater

- (1) Any user of groundwater desiring, to sink a well within notified area, for any purpose shall, on payment of such fee as may be prescribed, apply to the Authority for grant of a permit, and shall not proceed with any activity connected with such sinking unless a permit has been granted by the Authority.
- (2) Every application made under sub-section (1) shall be in such form and contain such particulars as may be prescribed.
- (3) The Authority shall consider the application made under sub-section (1) and if satisfied, may grant a permit, in such form as may be prescribed subject to such conditions and restrictions as may be specified, within 60 (sixty days) from the date of receipt of the application.

Provided that, while considering the application, the Authority shall give first priority for drinking water needs in preference to other needs.

Provided further that no permit shall be refused without affording an opportunity of being heard.

- (4) The decision regarding grant or refusal of the permit shall be intimated by the Authority to the applicant within a period of (30) thirty days from the date of decision.
- (5) In granting or refusing a permit under sub-section (3), the Authority shall have regard to:
 - (a) Hydrogeology and geomorphology of the area.
 - (b) The purpose or purposes for which water is to be used.
 - (c) The existence of other competitive users.
 - (d) The availability of water/aquifer zones.
 - (e) Prospect of groundwater.
 - (f) Feasibility for groundwater development.
 - (g) Quality & quantity of groundwater to be drawn with reference to proposed usage.
 - (h) Spacing of groundwater structures keeping in view its conservation and sustainability.
 - (i) Minimum distance of 200 (two hundred) meters in case of shallow well and 300 (three hundred) meters in case of tube well from the existing source of water supply scheme or irrigation scheme, as the case may be.
 - (j) No permit shall be given for water intensive crops like paddy, sugarcane, banana and heavy industries in notified areas.
 - (k) Long term groundwater level behavior.
 - (l) Any other factor relevant thereto.

10. Registration of existing users of groundwater in notified areas

- (1) Every existing user of groundwater in a notified area shall, within a period of 2 (two) months from the date of establishment of the Authority shall, make an application on such form containing such particulars and fees, as may be prescribed, to the Authority for the grant of certificate of registration recognizing its existing use.

Provided that the Authority may entertain any such application after the expiry of the said period of (60) sixty days, if it is satisfied that the user was prevented by sufficient cause from filing application in time.

- (2) On receipt of an application under sub-section (1), if the Authority is satisfied that it shall not be against the public interest to do so, it shall grant, subject to such conditions and restrictions as may be specified therein, a certificate of registration in such form as may be prescribed authorizing continued use of groundwater:

Provided that while considering the application, the Authority shall give first priority for drinking water needs in preference to other needs.

- Provided further that no user of groundwater shall be refused a certificate of registration without being given an opportunity of being heard.
- (3) The decision regarding grant or refusal of the certificate of registration shall be intimated by the Authority to the applicant within a period of (30) thirty days from the date of decision.
- (4) In granting or refusing a certificate of registration under sub-section (2), the Authority shall have regard to :-
- (a) The purpose or purposes for which water is to be used.
 - (b) The existence of other competitive users.
 - (c) The availability of water.
 - (d) Quality of groundwater with reference to its usage.
 - (e) Spacing of groundwater abstraction structures keeping in view the purpose for which water is to be used.
 - (f) Long term groundwater level behavior.
 - (g) Any other factor relevant thereto.
- (5) Every existing user of groundwater in a *notified area* during pendency of decision of the Authority under sub-section (2) shall be entitled to the continued use of the groundwater in the same manner and to the same quantity as he was entitled prior to the date of application
- (6) If a registered well becomes defunct, this shall be immediately brought to the notice of the Authority by the user of groundwater and such well may be used for groundwater recharging if in the opinion of the Authority it is found fit.

11. Registration of user of existing/new wells in non-notified areas

- (1) All wells sunk in the State shall have to be registered including the areas notified under section 7 of this Act, except those excluded under clause (r) of section 3 of this Act.
- (2) The clause under sub-section (6) of section 10 shall also be applicable.

12. Registration of Drilling Agencies

Every Rig owner including the manual hand boring party operating in the State shall register his equipment and machinery with the Authority in such manner and on payment of such fee as may be prescribed and shall follow the instructions issued by the Authority.

13. Power to alter, amend or vary the terms of the permit or certificate of registration

At any time after a permit or certificate of registration has been granted, the Authority may, for reasons to be recorded in writing, alter, amend or vary the terms of the permit or certificate of registration, as the case may be.

Provided that no change shall be made in the permit or certificate of registration, as the case may be, unless the user of groundwater is afforded an opportunity of being heard.

14. Cancellation of Permit/ Certificate of Registration

If the authority is satisfied either on a reference made to it in this behalf or otherwise that:-

- (1) the Permit or Certificate of registration granted, under sub-section (3) of section 9 or sub-section (2) of section 10 as the case may be, is not based on facts, or
- (2) the holder of the permit or certificate of registration has without reasonable cause failed to comply with the conditions subject to which the permit or certificate of registration has been granted or has contravened any of the provisions of this Act or the rules made there under, or
- (3) a situation has arisen which warrants limiting the use or extraction of groundwater, then without prejudice to any other penalty to which the holder of the permit or of the certificate of registration may be liable under this Act, the Authority may after giving the holder of the permit or certificate of registration, an opportunity of being heard, cancel the permit or certificate or registration, as the case may be.

15. Powers of the Authority

- (1) The Authority or any person authorized under section 23 of this Act in this behalf shall have the following powers, namely;
 - (a) To inspect the well, which has been or is being sunk and the soils and other materials excavated there from.
 - (b) To take specimens of such soils or other materials or of water extracted from such wells.
 - (c) To require, by order, in writing the person sinking a well to keep and preserve in the prescribed manner specimens of soil or any material excavated there from for such period not exceeding 3 (three months) from the date of completion or abandonment of such work, as may be specified by the Authority and there upon such person shall comply with such order.
 - (d) To inspect and to take copies of the relevant record or documents and seek any information including diameter or depth of the well which is being or

has been sunk; the level at which the water is or was struck and subsequently restored/ rested, the types of strata encountered in the sinking of the well and the quality of the water struck, required for carrying out the purposes of this Act.

- (e) To seize any equipment or device utilized for illegal sinking and destroy the work executed fully or partly.
- (f) To require, by order any user of groundwater who does not comply with the provisions of this Act or the rules made there under to close down any water supply or destroy any hydraulic work found to be in contravention of the provisions of this Act or the rules made there under.

Provided that where the user of groundwater does not comply with such order within a period of 60 (sixty) days from the date of issue of the same, the Authority or any person authorized in this behalf may carry out the necessary work and recover the cost from such user of groundwater.

- (g) To enter and search with such assistance, if any, as it considers necessary, any place in which it has reason to believe that offence under this Act has been or is being committed and order, in writing, the person who has been or is committing the offence, not to extract groundwater for a specified period not exceeding 30 (thirty) days.
 - (h) To direct an appropriate body to assess exploitation limit of groundwater in different areas and submit periodic report for consideration of the Authority.
 - (i) To exercise such other powers as may be necessary for carrying out the purposes of this Act or the rules made there under.
- (2) The power conferred by this section includes the power to break open the door of any premises where sinking, extraction and use of groundwater may be going on.

Provided that the power to break open the door shall be exercised only if the owner or any other person in occupation of the premises present therein, refuses to open the door on being called to do so.

- (3) The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be applied to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 93 of the said Code.
- (4) Where the Authority or any person authorized by it seizes any mechanical equipment or device under clause (e) of sub-section (1) it shall, as soon as may be, inform a Magistrate having jurisdiction and take his orders as to the custody thereof.

CHAPTER III

FUND AND ACCOUNTS

16. Royalty in respect of use of Groundwater

Every user of groundwater in a notified area shall pay to the State Government a royalty for extraction of groundwater at such rates and in such manner as may be prescribed:

- (1) Provided that a user of groundwater who irrigates less than 1 (one) hectare of land, whether owned or leased or both, shall be exempted from payment of royalty under this section.
- (2) The State Government may, assign such proportion of the royalty, as may be prescribed for development of groundwater resources.

17. Fund of the Authority

- (1) The Authority shall have and maintain a separate fund called the *Nagaland Groundwater Authority fund* to which shall be credited:
 - (a) such sums as may be placed at the disposal of the Authority from time to time by way of grant or loan or otherwise by the Government. However, the grants released by the Government shall be utilized in the year in which it is released.
 - (b) grants and loans received from the Central Government;
 - (c) loans raised with prior concurrence of the Government by the Authority from
 - (d) the financial agencies.
 - (e) the proceeds of any fees, charges and fines levied.
 - (f) such other sums by the Authority from any other source.
 - (g) all the new appointments in the establishment of the Authority, where temporary or permanent with appropriate scale of pay and purchase of new vehicles shall be made with the concurrence of the Government.
 - (h) the Authority may impose appropriate charges on the quantum of groundwater extracted for industrial, commercial and entertainment purposes with the approval of the Government in such manner as may be prescribed.
- (2) The fund shall be applied for the purpose of this Act in such manner as may be prescribed.
- (3) The fund shall be kept in such deposit and drawn in such manner as may be prescribed.

18. Accounts and Audit

- (1) The Authority shall maintain a true and proper account and other relevant records and prepare annual statements of accounts in such form as may be prescribed.
- (2) The accounts of the Authority shall be subject to audit annually by the Controller of State Accounts. A copy of annual statement of accounts together with a copy of the report of the audit shall be forwarded annually to the Government.

19. Annual Report

The authority shall prepare every year a report of its activities during the year and submit the report to the Government in such form and on or before such date as may be prescribed and the government shall cause the same to be laid before each house of the State Legislature.

CHAPTER IV**GROUNDWATER RECHARGE AND RAIN WATER HARVESTING****20. Groundwater recharge and conservation through Rain water harvesting**

- (1) The Authority may, in order to improve the groundwater situation, identify the areas to recharge groundwater and issue guidelines for adoption of Rain water harvesting for groundwater recharge in such areas.
- (2) The Authority may, issue directions to the concerned departments of the State Government, to include Rain water harvesting in all developmental schemes within *notified areas* and non-notified areas.
- (3) The Authority may, in urban areas, issue directions, in such manner as may be prescribed, for construction of Rain water harvesting structures in residential, commercial and other premises having plinth area of 100 square meters or above and in the event of failure to comply with the directions so issued, such rain water harvesting structures shall be constructed by the Authority and the cost there on shall be recovered along with such penalty in such manner as may be prescribed.
- (4) The Authority may, issue directions to the Municipal Council or any other Local Authority, as the case may be, to impose stipulated conditions for providing roof top rain water harvesting structures in building plans with plinth area of 100 square meters or above.
- (5) The Authority shall take steps for promotion of Mass Awareness and Training Programmes, on Rain Water Harvesting and Artificial Recharge of Groundwater through Government Agencies/Non-Government Organizations, Educational Institutions/Industries/Individuals.

MISCELLANEOUS

21. Installation of measuring devices & Monitoring

- (1) Every user of groundwater in a *notified area and non-notified areas* shall install water measuring device on groundwater abstraction structure within a period of 30 (thirty) days from the date of registration under section 9 or 10, as the case may be.

Provided that where the user of groundwater does not comply with the provisions of this section within a period of 30 (thirty) days, the Authority or any person authorized in this behalf may install such water-measuring device and recover the cost from the defaulting user of groundwater.

- (2) The Authority shall monitor wells in notified and non-notified areas to keep track of the usage of groundwater and initiate necessary remedial measures.
- (3) The Authority shall monitor water levels periodically from NHNS (National Hydrographic Network Stations) for long term planning and management.

22. Service of orders etc.

- (1) Every order or notice made under this Act shall be served in the following manner, namely: -
- (a) By giving or tendering copy of the order or the notice by sending it by post to the user of groundwater, if such user of groundwater cannot be found, by giving or tendering the copy of such order or notice to any adult member of his family or his servant.
- (b) If the service of such order or notice cannot be effected under clause (a), by affixing the copy of such order or notice on some conspicuous place of his last known residence or place of business or on any part of the land or building in which the well is being sunk.
- (2) Where the person on whom an order or a notice is to be served is a minor, service of such order or notice upon his guardian in the manner provided in sub-section (1), shall be deemed to be served upon the minor.

23. Delegation of powers and duties

The State Government may, by general or special order in writing, direct that all or any of the powers and duties which may be exercised or discharged by the Authority shall, in such circumstances and under such conditions, if any, as may be specified in its order, be exercised by any person specified in such order.

24. Members and employees of the Authority to be public servants

All members and employees of the Authority shall when acting or purporting to Act in pursuance of the provisions of this Act or the rules made thereunder be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

25. Protection of action taken in good faith

No prosecution, suit or other legal proceedings shall be instituted against any officer/official of the Government or any member or other employee of the Authority for anything done or intended to be done in good faith, under this Act, or the rules made thereunder.

26. Cognizance and trial of offences

- (1) No prosecution for an offence under this Act shall be instituted except on a written complaint of the Authority or a person authorized in this behalf by the State Government.
- (2) No court inferior to that of a Magistrate of the I (first) class shall try any offence under this Act.

27. Offences and penalties

- (1) If any user of groundwater fails to supply information required under the provisions of this Act or the rules made thereunder or obstructs the Authority or any other person authorized by the State Government to exercise any of the powers under this Act. He shall be punished for the first offence with fine of ₹1000 (rupees one thousand) and for the second and subsequent offence with fine which may extend to ₹2000 (rupees two thousand) or more.
- (2) If any user of groundwater sink, constructs or uses well in contravention of the provisions of this Act or the rules made thereunder, he shall be punished for the first offence with imprisonment for a term which may extend to 3 (three) months or with fine which may extend to ₹5000 (five thousand rupees), or with both and for the second and subsequent offence, with imprisonment for a term, which may extend to 6 (six) months, or with fine which may extend to ₹10,000 (ten thousand rupees) or with both.

28. Compounding of offences

Whenever an offence under this Act has been committed, such an offence may, at any time before or after the institution of proceedings, be compounded by the Authority, or any other officer authorized by the State Government after accepting by way of compensation thereof, a sum of money that exceeding such amount as may be prescribed, and such composition shall have the effect of discharging such person of the offence and no further proceedings shall be taken or continued against him in respect of the offence so compounded.

29. Offences by companies

- (1) Whenever an offence under this Act has been committed by a Company, every person who at the time of the commission of the offence was in charge of, or was responsible to the Company for the conduct of the business of the Company, shall be deemed to be guilty of the offences and shall be liable to be proceeded against and punished accordingly.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the Company, such Director, Manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly: provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Explanation- For the purpose of this section-

- (a) "Company" means any corporate body and includes a firm or other association of individuals, and
- (b) "Director" in relation to a firm, means a partner in the firm.

30. Appeals

- (1) Any person aggrieved by an order of the officer exercising powers delegated under this Act may, within a period of 30 (thirty) days from the date of such order, on payment of such fees as may be prescribed, prefer an appeal to the State Government:

Provided that the State Government may entertain an appeal after the expiry of the said period of 30 (thirty) days, if satisfied that the applicant was prevented by sufficient cause from filing the appeals within time.

- (2) On receipt of an appeal under sub-section (1) the State Government shall after giving the appellant an opportunity of being heard, dispose off the appeal as expeditiously as possible but not later than 6 (six) months and the decision of the State Government shall be final.

31. Powers to make rules

- (1) The State Government may, by notification in the official Gazette, after previous publication, make rules for carrying out the purposes of this Act.
- (2) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, and if before the expiry of the session in which it is so laid or the session immediately following, the Assembly agrees in making any modifications in the rules or the Assembly agrees that the rules should not