

**Maharashtra Water Resources And Regulatory Authority
(Amendment And Continuance) Act, 2011**

21 of 2011

[22 April 2011]

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PREAMBLE

An Act to amend the Maharashtra Water Resources Regulation Authority Act, 2005.

WHEREAS the Maharashtra Irrigation Act, 1976 (Mah. XXXVIII of 1976) regulates the supply of water for irrigation and non-irrigation purposes;

AND WHEREAS the State Legislature has, in the year 2005 enacted two separate Acts, viz. the Maharashtra Water Resources Regulatory Authority Act, 2005 (Mah. XVIII of 2005) and the Maharashtra Management of Irrigation Systems by Farmers Act, 2005 (Mah. XXIII of 2005);

AND WHEREAS the Maharashtra Water Resources Regulatory Authority Act, 2005 (Mah. XVIII of 2005) and also the Maharashtra Irrigation Act, 1976 (Mah. XXXVIII of 1976), provide for the regulation of water resources and determination of tariff by the authorities thereunder;

AND WHEREAS the said Maharashtra Water Resources Regulatory Authority Act, 2005 (Mah. XVIII of 2005) and does not repeal the

Maharashtra Irrigation Act, 1976 (Mah. XXXVIII of 1976),
AND WHEREAS the Government of Maharashtra has, in exercise of the powers conferred by section 3 of the Maharashtra Water Resources Regulatory Authority Act, 2005 (Mah. XVIII of 2005), established, with effect from the 8th June 2005, the Maharashtra Water Resources Regulatory Authority;
AND WHEREAS it was expedient to clarify the rules of the State Government and the Maharashtra Water Resources Regulatory Authority, in relation to the allocation of water;
AND WHEREAS the Governor of Maharashtra promulgated the Maharashtra Water Resources Regulatory Authority (Amendment) Ordinance, 2010 (Mah. Ord. XI of 2010) on the 17th September 2010 (hereinafter referred to as "the said Ordinance");
AND WHEREAS upon the re-assembly of the State Legislature on the 1st December 2010, a Bill for converting the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly as L.A. Bill No. LXXV of 2010, on the 1st December 2010;
AND WHEREAS the said Bill could not be passed by the State Legislature, as the session of the State Legislature was prorogued on the 16th December 2010;
AND WHEREAS as provided by article 213 (2) (a) of the Constitution of India, the said Ordinance would have ceased to operate after the 11th January 2011, the date on which the period of six weeks from the date of re-assembly of the State Legislature would have expired;
AND WHEREAS it was considered expedient to continue the operation of the provisions of the said Ordinance;
AND WHEREAS both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance, for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Water Resources Regulatory Authority (Amendment and Continuance) Ordinance, 2011 (Mah. Ord. II of 2011) on the 11th January 2011;
AND WHEREAS it is expedient to replace the Maharashtra Water Resources Regulatory Authority (Amendment and Continuance) Ordinance, 2011 (Mah. Ord. II of 2011) by an Act of State Legislature; it is hereby enacted in the Sixty-second Year of the Republic of India as follows:--

1. Short title and commencement :-

(1) This Act may be called the Maharashtra Water Resources and Regulatory Authority (Amendment and Continuance) Act, 2011.

(2) This section shall be deemed to have come into force on the 17th September 2010 and sections 2 to 6 shall be deemed to have come into force on the 8th June 2005.

2. Amendment of section 2 of Mah. XVIII of 2005 :-

In section 2 of the Maharashtra Water Resources and Regulatory Authority Act, 2005 (Mah. XVIII of 2005) (hereinafter referred to as "the principal Act"),--

(i) after clause (k). the following clause shall be inserted namely:---
"(k-1) "High Power Committee" means the committee constituted by the State Government under the Government Resolution, Irrigation Department, No. Misc.1001/(154-01)/I.M.:-- (P), dated the 21st January 2003;"

(ii) after clause (u), the following clause shall be inserted., namely:---

"(u-1) "sectoral allocation" means the allocation made in a water resources project by the State Government to the various Categories of Use;"

3. Amendment of section 11 of Mah. XVIII of 2005 :-

In section 11 of the principal Act,--

(1) for clause (a), the following clause shall be substituted, namely:--

"(a) to determine the criteria for the distribution of Entitlements by the River Basin Agencies, within each Category of Use, on such terms and conditions as may be prescribed, after sectoral allocation is made under section 16A;"

(2) clause (n) shall be deleted;

(3) for clause (o), the following clause shall be substituted, namely:--

"(o) to establish a system of enforcement of the Entitlements issued by the concerned River Basin Agency to various Categories of Use and its regulation, through measurement and monitoring, with a view to ensure that the actual use of water, both in quantity and type of use, are in compliance with the Entitlements issued;"

4. Amendment of section 14 of Mah. XVIII of 2005 :-

In section 14 of the principal Act, in sub-section (1), after the existing proviso, the following proviso shall be added, namely:---
"Provided further that, the Entitlement under this section shall be required only after the distribution of Entitlement has been determined and the criteria for issuance of Entitlement has been laid under section 11."

5. Insertion of section 16A in Mah. XVIII of 2005 :-

After section 16 of the principal Act, the following shall be inserted namely:---

"16A. Sectoral allocation by State Government:--

(1) Notwithstanding anything contained in section 11 or any other provisions of this Act or in any other law for the time being in force, the State Government shall determine the sectoral allocation:

Provided that, sectoral allocation so determined shall ordinarily be reviewed at such intervals of not less than three years:

Provided further that, after publication of the Maharashtra Water Resources Regulatory Authority (Amendment and Continuance) Act, 2011 (Mah. XXI of 2011), in the Official Gazette, the State Cabinet shall determine the sectoral allocation.

(2) After the sectoral allocation, as provided in sub-section (1) is determined, the Authority shall determine the criteria for the distribution of Entitlements under clause (a) of section 11."

6. Insertion of sections 31A, 31B and 31C in Mah. XVIII of 2005 :-

After section 31 of the principal Act, the following sections shall be inserted, namely:---

"31A. Entitlement to apply only after delineation:--
Notwithstanding anything contained in this Act or any other law for the time being in force, the term "Entitlement" shall apply only to such areas where compliance of all relevant provisions including delineation under the Maharashtra Management of Irrigation Systems by Farmers Act, 2005 (Mah. XXIII of 2005) is made.

Explanation.--In respect of the areas where the Maharashtra Management of Irrigation Systems by Farmers Act, 2005 (Mah. XXIII of 2005), has not become applicable, section 78 of that Act shall apply and be effective.

31B. Permission, allocation etc., to continue:-- Notwithstanding anything contained in this Act or in any other law for the time

being in force, or in any order, judgment or decree of any court, tribunal or authority, any person or Water User Entity to whom a permission, allocation, sanction, authorization or Entitlement of water has been granted by the High Power Committee or the River Basin Agency or the State Government, prior to the 17th September 2010, being the date of commencement of section 1 of the Maharashtra Water Resources Regulatory Authority (Amendment and Continuance) Act, 2011 (Mah. XXI of 2011), shall be deemed to have been granted, in accordance with the provisions of this Act and accordingly the same shall continue and no such person or Water User Entity shall be required to obtain fresh permission, allocation, sanction, authorization or Entitlement to draw water.

31C. Bar of certain suits or proceedings, etc:-- Notwithstanding anything contained in this Act or in any other law for the time being in force, a permission, allocation, sanction, authorization or Entitlement of water, granted by the High Power Committee or the River Basin Agency or the State Government prior to the 17th September 2010, being the date of commencement of section 1 of the Maharashtra Water Resources Regulatory Authority (Amendment and Continuance) Act, 2011 (Mah. XXI of 2011), shall be valid and shall be deemed always to have been valid and accordingly no suit, prosecution or any other legal proceedings shall lie, challenging such permission, allocation, sanction, authorization or Entitlement to draw water, before any court, tribunal or other authority and no such suit, prosecution or other legal proceedings shall lie or continue on the ground that any permission, allocation, sanction, authorization or Entitlement, as required under this Act, has not been obtained."

7. Repeal of Mah. Ord. II of 2011 and saving :-

(1) The Maharashtra Water Resources Regulatory Authority (Amendment and Continuance) Ordinance, 2011 (Mah. Ord. II of 2011), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by the Act.