

Draft Himachal Pradesh Water Regulatory Authority Act, 2011
[H.P. Act No. -- of 2011]

An act to provide for the establishment of the Himachal Pradesh Water Regulatory Authority to regulate water resources within the State, facilitate and ensure judicious, equitable and sustainable management, allocation and optimal utilization of water resources for environmentally, economically sustainable development of the State, fix the rates for water use for agriculture, industrial, drinking, power and other purposes and cess on lands benefited by flood protection and drainage works from the owners of lands benefited through appropriate regulatory instruments according to State Water Policy and matters connected therewith or incidental thereto

It is hereby enacted in the --- Year of the Republic of India as follows:-

Preliminary:- No doubt Himachal Pradesh has been bestowed with natural beauty, perennial rivers, snow clad mountains, yet water scarcity and deteriorating water quality due to human intervention and developmental activities which is likely to get more pronounced with increasing population and changing life style of the people. Water is a basic human need and one of the most crucial elements in development planning. The planning of this limited resource has to be guided by development perceptions of the State which would inter alia account for geographical conditions, hydrological status (surface and under ground water), water allocation priorities and other specific needs. It is incumbent on the State to put the limited and scarce water resources in most economical, efficient and sustainable use to promote its optimal use for drinking water, agro and non-agro industries, irrigation, hydro-power, ecology, navigation and other uses as per the priorities fixed in State Water Policy from time to time. It is the duty of the State Government to monitor that the underground aquifers are sustained and the river water is exploited keeping in the view the ecological balance of the river systems. It is also the responsibility of the State to maintain both quantity and quality of the water with suitable measures required to be taken with best of technology and management practices available in working out equitable and sustainable distribution of water. The State is also responsible to establish a water tariff system and fix criteria for water charges with a view to ensuring proper administration, operation and maintenance of water transportation systems for the use and consumption of water.

In order to ensure proper utilization of natural water resources of the State, it is high time to make a law which provide for the establishment of the Himachal Pradesh Water Regulatory authority to regulate the water resources within the State. Facilitate and ensure judicious equitable and sustainable management, allocation and optimal utilization of water resources for environmentally, economically sustainable development of the State, fix the rates for water use for agriculture, industrial, drinking, power and other purposes and cess on land/property benefited by flood protection and drainage works from the beneficiaries of lands benefited through appropriate regulatory instruments according to State Water Policy 2005.

The Himachal Pradesh Water Regulatory Authority Bill, 2011 is introduced accordingly.

1. Short title, extent and commencement.-(1) This Act may be called the

Himachal Pradesh Water Regulatory Authority Act, 2011.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force from the date of their publication in the Rajpatra, himachal Pradesh.

(4) The provisions of this Act shall apply notwithstanding anything to the contrary Contained in the Northern India Canal and Drainage Act, 1873 or the Himachal Pradesh Water Supply Act, 1968 with up to date amendments, Himachal Pradesh Ground Water (Regulation & Control of Development and Management) Act. or in any other law for the time being in force.

2. Definitions.-In this Act unless the context otherwise requires,-

(a) “Area of Operation” means the entire geographical area of Himachal Pradesh in which water is managed and supplied to different use sectors by public or private agency or the area which is benefited by flood protection and drainage works;

(b) “Authority” means the Himachal Pradesh Water Regulatory Authority.

(c) “Basin” means the area of land around a river from which streams run down into it;

(d) “Bulk Water Entitlement” means the volumetric authorization given by the Authority to a share of water resources produced by a project, river system or storage facility, for a specific period of time as specifically provided in the order granting the entitlement;

(e) “category of uses” means classification of use of water for different purposes such as drinking and domestic, industrial or commercial, irrigation, power, agriculture and environmental, etc., and includes such other purposes as may be prescribed;

(f) “Cess” means an amount to be charged on lands benefited by flood protection and drainage works from owners/lease holders i.e. beneficiaries of such lands;

(g) “Chairperson” means the Chairperson of the Authority ;

(h) “Authority ” means the Himachal Pradesh Water Management and Regulatory Authority established under Section 3;

(i) “Entitlement” means any authorization by the Authority to use the water for the specified purpose under this Act;

- (j) “Groundwater” means the water, which exists in an aquifer below the surface of the ground at any particular location, regardless of the geological structure in which it is stationary or moving and includes all groundwater reservoirs;
- (k) “Ground Water entitlement” means an individual or bulk water entitlement to a volumetric quantity of water to be extracted from a tubewell, borewell or other well or by any other means of extraction of ground water, or a group or field or wells duly and legally permitted, registered and constructed in accordance with standards prescribed by the Ground Water Authority of Himachal Pradesh ;
- (l) “Individual Water Entitlement” means any authorization by the Authority to use the water for specified purpose under this Act other than bulk water entitlement;
- (m) “Integrated State Water Plan” means a water plan for use of both surface and ground water duly approved by the Authority;
- (n) “License” means license granted by the Authority in such manner as may be prescribed;
- (o) “Licensee” means an individual/organization which maintains the water supply system, supplies water and collects the water tariff; or which owns tube well/diesel pumping set or uses groundwater for any purpose including domestic use by exploiting groundwater;
- (p) “Irrigation Project” means a project constructed to provide irrigation facilities to the land situated in the command area in accordance with the project reports and orders in this regard, as revised from time to time.
- (q) “Member” means a Member of the Authority;
- (r) “Notified area” means a unit/Panchayat/Sub-division falling under over exploited or critical category;
- (s) “Prescribed Authority” means any authority at various levels within the water resources management system that has been duly authorized by the Authority to determine and declare, on an annual or seasonal basis, the quota or amount of water available within a system for use as an allocated percentage of the entitlements duly issued by the Authority;
- (t) “Project level entity” means a group of all water user entities from a common supply source within a water resources project;
- (u) “Quota” means a volumetric quantity of water made available to an entitlement holder, which is derived by multiplying an entitlement by annual or seasonal allocation percentage;
- (v) “regulation” means regulations made by the Authority under this Act;
- (w) “Selection Committee” means a selection committee constituted under Section 6 of Chapter II;

- (x) “Sewerage” means a system of collection of waste water from a community from its houses, institutions, industry and public places, the pumping treatment and disposal of such waste water, its effluent sludge, gas and other end products;
- (y) “Stage Water Policy” means the State Water Policy-2005 as amended from time to time;
- (z) “SWaRA and SWaRDAC” means the State Water Resources Agency and the State Water Resources Data and Analysis Centre respectively that would work as technical secretariat to the Authority;
- (aa) “Tariff” means a specific charge or set of charges applicable for providing water supply;
- (ab) “Utility” means any water user entity such as agency, company, person, director etc. responsible for the management, treatment and distribution of water to drinking, agriculture, horticulture, domestic, industries municipal/rural water supplies and for any other purpose as may be notified by the Authority;
- (ac) “User of groundwater” means the person or persons of an institution including a company or an establishment, whether government or private who or which own or use groundwater for any purpose including domestic use made either on a personal or community basis;
- (ad) “Volumetric” means measurement of water on the basis of volume as per the norms of the Bureau of Indian Standard.
- (ae) “Water” means all surface and sub-surface water accruing in rivers or any part of a river, stream, lake, natural collection of water in acquifers or natural drainage channel, water recycled after treatment of sewage and industrial waste etc., that is to say water supplies and sewerage, irrigation and canals drainage and embankments, water storage and water power or, water in all states (solid, liquid or vapour) in storage or in flux within hydrologic cycle, that is necessary for a sustainable quality of life, as well as for sustaining the natural environment;
- (af) “Water User Entity” means any Water User entity including Water Users' Association, utility, Industrial Users' Association or any other group or individual which is authorized by the Authority to receive and utilize a water entitlement;
- (ag) “Water availability” means availability of surface or ground water for use for a period or season or year which is rechargeable;
- (ah) “Water Quality” means accessed water which is safe for consumption for the purpose for which it is supplied as per norms set by Bureau of Indian Standards.

CHAPTER II

ESTABLISHMENT OF AUTHORITY

3. Establishment of Authority-(1) The State Government shall within three months from the date of commencement of this Act, by notification, establish a Authority to be known as the Himachal Pradesh Water regulatory Authority Authority to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Authority shall be a body corporate.

(3) The head office of the Authority shall be at Shimla.

(4) The authority shall consist of a Chairperson and such number of Members not exceeding three members as may be notified by the State Government.

(5) The Chairperson and the Members of the authority shall be appointed by the State Government on the recommendation of the selection committee referred to in Section 6.

4. Qualification for appointment of Chairperson and other Members of the authority.-(1) Only such person shall be appointed as the Chairperson or a Member who processes the qualifications mentioned hereunder:-

(a) *Chairperson.*-The Chairperson shall be a person having bachelor's degree of any recognized university/institute with administrative experience of not less than 25 years, and must have held the post of Chief Secretary of the State Government or the Secretary to the Government of India or any post equivalent thereto and has experience of departments related to water resources;

(b) *Members-*

(i) One Member shall be expert in the field of water resources having bachelor's degree in civil/mechanical engineering of any recognized university/institute and having experience of at least 25 years of service in the field of irrigation/water resources and having served as Chief Engineer or any post equivalent thereto.

(ii) One Member shall be an expert from the field of water resources economy having master's degree in economics/commerce/MBA with finance/accountancy. He must have at least 25 years of experience, having worked as a professor in a reputed Institute of management or as a whole time director in a financial institution specified under Section 4-A of the Companies Act, 1956 or as a whole time director in a Scheduled Bank within the meaning of the Reserve Bank of India Act, 1934 or have a substantial professional background of finance, regulation, tariff structuring etc.

(iii) One Member shall be an expert in the field of drinking water and waste water management having bachelor's degree in civil/mechanical/public health/environmental engineering of any

recognized university/institute. He must have at least 25 years experience having worked in the field of urban/rural water supply/drainage/sewerage and waste water management and having served as Chief Engineer or any post equivalent thereto with particular experience in ground water development for water supply and large water treatment plants or major & medium irrigation projects.

- (2) The Chairperson or any Member of the authority shall not hold any other office during his/her tenure as such
- (3) The Chairperson shall be the Chief Executive Officer of the authority.
- (4) Where the Chairperson is unable to discharge his functions owing to absence, illness, death, resignation or any other cause or where any vacancy occurs in the office of the Chairperson, senior most Member nominated by the Chairperson on his behalf and, in the absence of such nomination or where there is no Chairperson any member chosen by the Members present among themselves, shall exercise the powers and discharge the duties of the Chairperson.

5. Disqualification for being the Chairperson or a member.-A person shall be disqualified for appointment as the Chairperson or a Member, if he:-

- (a) has been adjudged as insolvent; or
- (b) has become physically or mentally incapable of acting; or
- (c) has been convicted and sentenced to imprisonment for any offence involving moral turpitude; or
- (d) has acquired such financial or other interest as is likely to affect his functions as the Chairperson or a Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or
- (f) is a Member of Parliament, or of any State Legislature or any local authority or is a candidate for election thereto; or
- (g) is an active member of a political party or holds a post therein.

6. Constitution and function of the Selection Committee.-(1) The State Government shall, by notification, constitute a selection committee, for the purposes of making appointments of the Chairperson and Members under sub-section (5) of Section 3. The Committee shall consist of:-

- (a) the Chief Secretary, Government of Himachal Pradesh: ex officio President;
- (b) the Chairman, Central Water Authority or his nominee who shall be the member of the Central Water Authority ; ex officio Member;

- (c) the Principal Secretary to the Government of Himachal Pradesh in the Finance Department: ex officio Member;
- (e) the Principal Secretary to the Government of Himachal Pradesh in Irrigation Department: ex officio Member-Secretary.
- (2) The State Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal and six months before the superannuation or end of tenure of the Chairperson or the Member, make a reference to the selection committee for filling up of the vacancy.
- (3) The selection committee while making selection of the Chairperson and the Members, shall have due regard to performance record, ability, integrity, character, qualifications and experience of the person proposed to be selected as Chairperson or other Member as the case may be.
- (4) The selection committee shall finalize the selection of the Members within two months from the date on which the reference is made to it.
- (5) The selection committee shall recommend a panel of two names for every vacancy referred to it.
- (6) A person who is considered for selection as the Chairperson or a Member shall notify to the selection committee:-
- (a) of any office, employment or consultancy agreement or arrangement which the person or his relative has in his own name or in any firm, association of persons or body corporate, owned or otherwise controlled by any of them carrying on any of the following business:
- (i) diversion of surface water, distribution of water, extraction of ground water or supply of water;
- (ii) manufacture, sale, lease, hire or otherwise supply of or dealing in machinery, plant equipment, apparatus or fittings related to water industry;
- (iii) any entity providing any professional services to any of the businesses referred to in clause (i) and (ii) above.
- (b) such other details and information as may be prescribed by the selection committee.
- (7) The details received from the persons referred to in sub-section (6) shall be placed for consideration of the selection committee at the time of selection and recommendation of the person for appointment as the Chairperson or a Member.
- (8) The Chairperson and each Member shall, before taking charge of the office, divest himself from the interest in the businesses mentioned in sub-section (6) as a condition of his or her appointment.
- (9) If a person to be appointed as the Chairperson or a Member holds any office under the State or Central Government or any public sector corporation or any government body or is gainfully employed or engaged in service by any other

person, government authorities, public or private sector or otherwise, he shall submit his resignation or take voluntary retirement from that service before joining the Authority .

- (10) So long as a person holds the office of the Chairperson or a Member and for a period of two years after he ceases to be the Chairperson or a Member for any reason whatsoever, he shall not acquire, hold or maintain directly or indirectly any office, employment or consultancy arrangement or any financial interest in any of the businesses mentioned in sub-section (6) and if he acquires any such interest involuntarily or by way of succession or testamentary disposition he will divest himself of the interest within a period of three months of such interest being acquired.
- (11) Before recommending any person, the selection committee shall satisfy itself that such person does not have any financial or other interest as referred to in subsection (6) which is likely to affect prejudicially his functions as the Chairperson or a Member.
- (12) All decisions of the selection committee shall be by a majority.
- (13) The procedure for selection and appointment of the Chairperson and the members shall be such as may be prescribed.
- (14) No appointment of the Chairperson or a Member shall be invalid merely by reason of any vacancy in the selection committee.

7. Terms of office and conditions of service of the Chairpersons and the

Members.-(1) The Chairperson or a Member shall hold office for a term of five years from the date he enters upon his office.

Provided that, the Chairperson or a Member may be re-appointed but not for more than two consecutive terms:

Provided further that the Chairperson or a Member shall not hold office after he has attained the age of sixty five years.

- (2) The Chairperson or any Member may relinquish his office at any time, by giving in writing to the Governor a notice of one month or may be removed from his office in accordance with the provisions of Section 8.
- (3) The Chairperson shall, before entering upon his office, make and subscribe an oath of office and secrecy before the Governor or any other person nominate by him and every member before the Chairperson in such form as may be prescribed.
- (4) The salary and allowances payable to, and other terms and conditions of service of the Chairperson or the Members shall be such as may be prescribed.
- (5) The salary, allowances and other conditions of services of the Chairperson or the Members shall not be varied to their disadvantage after appointment.
- (6) The Chairperson or a Member ceasing to hold office as such shall not,-

- (a) be eligible for further employment under the State Government for a period of two years from the date he ceases to hold such office except with the permission of Government;
- (b) accept any commercial employment for a period of two years from the date he ceases to hold such offices; and
- (c) represent any person before the Authority in any manner.

Explanation.-For the purposes of this sub-section-

- (i) "Employment under the State Government" includes employment under a local body or any other authority within the territory of India under the control of any State Government or under any corporation or society owned or controlled by State Government.
- (ii) "Commercial Employment" means employment in any capacity under, or agency of, a person engaged in commercial, industrial or financial business in the water resources related industry and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an advisor or a consultant.

8. Removal of the Chairperson or a Member.-(1) Subject to the provisions of sub-section(2), Chairperson or any Member shall only be removed from his office by the State Government on the ground of proved misbehavior after the panel of three enquiry officers appointed from the officers equivalent to Secretary to the Government for this purpose on reference being made to them by the State Government, has, on enquiry, held by the panel and in consultation with the leader of opposition reported that the Chairperson or the Member ought on any such ground to be removed.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, by order, remove a member from his office if he has incurred any of the disqualifications mentioned in Section 5.

(3) Notwithstanding anything contained in sub-section (2), the chairperson or a member shall be removed from his office on the ground specified in clause (b), clause (d) or clause (e) of Section 5 unless the enquiry officer on a reference being made to him in this behalf by the State Government, has on an inquiry, held by him in accordance with the procedure specified in this behalf, by the Chief Justice or such judge, reported that the member ought on such grounds to be removed.

(4) The State Government shall pass suitable order in accordance with the report referred to in sub-section (1) or sub-section (3), as the case may be, and the final decision of the State Government shall be communicated to the Chairperson or other Member concerned within a period of 30 days of receipt of such report.

9. Power of State Government to depute officers and employees to the Authority and their service conditions.-(1) The authority may appoint a Secretary to exercise and perform such duties, under the control of the Chairperson, as may be specified by regulations.

- (2) The Authority shall obtain necessary inputs from State Water Board that would work as technical secretariat to the Authority. The Authority may appoint such number of officers and employees as it considers necessary for the performance of its duties and functions.
- (3) The salaries and allowances payable to and other conditions of service of the Secretary, officers and other employees of the Authority shall be such as may be determined by regulations.
- (4) Save as otherwise provided in this section, the terms and conditions of services of employees on deputation to the Authority shall not be less advantageous than those applicable to them immediately before deputation and shall not be varied to their disadvantage.
- (5) The State Government shall appoint any Government officer or employee on deputation to the Authority on the proposal made by the Authority in this regard.
- (6) The period of deputation of any such officer or employee to the Authority shall be three years except when any such person is required to be repatriated on the grounds, such as promotion, reversion, termination or superannuation or any other reason of deputation, he shall stand repatriated to service under the State Government:

Provided that, during the period of such deputation all matters relating to the pay, leave, allowances, retirement, pension, provident fund and other conditions of service of the employees on deputation shall be regulated by the Himachal Pradesh Civil Services Rules 1965 or such other rules as may, from time to time, be made by the State Government.
- (7) No Officer or employ on deputation to the Authority shall be entitled to any deputation allowance.
- (8) The salaries and allowances of officer or employees on deputation to the Authority shall be paid by the Authority.
- (9) The Authority may appoint consultants required to assist the Authority in the discharge of its functions on such terms and conditions as may be determined by regulations.

10. Proceedings of the Authority.-(1) The Authority shall meet at such time and place within the State as the Chairperson may think fit and shall observe such rules of procedure in transaction of business at its meetings (including the quorum as its meetings) as may be determined by regulations.

- (2) The Chairperson or if he is unable to attend a meeting of the Authority, a member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from among themselves, shall preside at the meeting.
- (3) All matters which come up before the Authority shall be decided by a majority of votes of the Members present and voting and in the event of an equality of votes,

the Chairperson or person presiding shall have the right to exercise a second or casting vote.

- (4) All decisions, directions and orders of the Authority shall be in writing supported by reasons and shall be available for inspection by any person and copies of the same shall also be made available in such manner as the Authority may determine.
- (5) The Authority shall regulate its own procedure.
- (6) All orders and decisions of the Authority shall be authenticated by the Secretary or any other officer of the Authority duly authorized by the Secretary in this behalf.

11. Vacancies etc., not to invalidate act or proceedings.-No act or proceedings of the Authority shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Authority.

CHAPTER III

POWERS, FUNCTIONS AND DUTIES OF THE AUTHORITY

12. Powers and functions of the Authority.- The Authority shall exercise the following powers and perform the following functions, namely:-

- (a) to approve the Integrated State Water Plan developed by State Water Resources Agency/ Deptt. to ensure sustainable management of water resources within the parameters laid down by State Water Policy 2005 as amended from time to time;
- (b) to determine the allocation and distribution of entitlements for various category of use of water at utility, project level and also between various water user entity within the parameters laid down by the H.P. State Water Policy 2005 on such terms and conditions as may be prescribed for such a distribution;
- (c) to lay down the criteria for modifications in the entitlements for the diversion, storage and use of surface and ground water of the State;
- (d) to review and accord clearance to new water resources projects proposed at the river basin/sub-basin level by the concerned entity ensuring that the proposal is in conformity with Integrated State Water Plan specially with respect to the water allocation of each entity, that is economically, hydro-geologically and environmentally viable;
- (e) to establish a system of enforcement, monitoring and measurement of the entitlements for the use of water to ensure that the actual use of water, both in quantity and type of use are in compliance with the entitlements as issued by the Authority ;
- (f) to monitor conservation of environment and facilitate the development of a framework for the preservation and protection of the quality of surface and ground water resources as per established norms and standards;
- (g) to withdraw the entitlement or take any action as deemed necessary in case any water user entity pollutes or causes to pollute any surface or ground water source

of water and thereby infringes the maintenance of established norms and standards for water quality;

- (h) to impose penalty on any organization or agency, whether Government or private; any individual or a group of individuals who changes, alters or cause to change or alter the status of any surface or groundwater resources without the specific sanction or approval of the Authority ;
- (i) to periodically review the entitlement as and when considered necessary;
- (j) to register and monitor bulk water entitlement by the Authority or its duly authorized representatives;
- (k) to promote competition, efficiency and economy in the activities of the water and wastewater sector to minimize wastage of water;
- (l) to promote better water management techniques;
- (m) to enforce rain water harvesting to augment ground water recharge;
- (n) to fix and regulate a water tariff system and charges for the use of water after due consideration to all costs including administration, operation, maintenance, depreciation and subsidies;
- (o) to review and revise the tariff/water charges periodically;
- (p) to charge the water CESS from every Independent Power Producer (IPP). Who is involved in the construction of Hydro-Electric Project in the state.
- (q) to prioritisation of water allocation should be strictly as per the state water policy 2005.
- ® to encourage the masses/users about re-cycling and re-use of water.
- (s) to impose the complete ban on encroachment on water bodies, wetlands, water courses and reclamation of such water bodies, wet lands and water courses.
- (t) to promote the water conservation consciousness through education, awareness building, regulation, incentives and disincentives.
- (u) to prepare the master plan for flood prone areas with a view to control floods and provide protection.
- (v) to establish an incentive network for flood forecasting for giving timely warning to the people likely to be affected.
- (w) to promote suitable cost measures to minimize the erosion of land by streams.
- (x) to monitoring of water resource projects to identify bottleneck and adopt timely remedial measures through water management board.

- (y) to evaluate of a system for evaluating the socio-economic and environmental impact of projects.
- (z) to encouragement of research particularly in the fields of hydro-meteorology, assessment of water resources, snow and lake hydrology, ground water hydrology and recharge, water harvesting, evaporation and seepage losses, economic designs for water resources projects, crops and cropping systems, sedimentation of reservoirs, safety and longevity of water related structures, river morphology and hydraulics, better water management practices and improvements in operational technology in development and management.
- (aa) to determine and fix the rate of cess to be charged from owner of lands benefited by flood protection and drainage works implemented under new projects;
- (ab) to enforce the decisions or orders issued under this Act by a suitable agency authorized by the Authority or empower to any existing agency for this purpose;
- (ac) to aid and advise the State Government on any matter referred to the Authority by the State Government.

13. General policies of the Authority -(1) The Authority shall work within the framework of the H.P. State Water Policy 2005.

- (2) The Authority shall promote and monitor sound water conservation and management practices throughout the State in accordance with H.P. State Water Policy 2005 through the implementing agencies in the State (such as IPH, Tourism, Agriculture & Rural Development Deptts.).
- (3) The Authority shall support and aid the enhancement and preservation of water quality within the State in close coordination with the relevant State agencies/stakeholders.

14. Powers of the Authority .-(1) The Authority shall, while performing its adjudicatory functions under this Act, have all powers of a civil court trying a suit in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court;
- (e) issuing Authority s for the examination of witnesses and documents;
and
- (f) such other matters as may be prescribed.

(2) Any person or class of persons or agency or utility shall:-

- (a) produce before an officer of the Authority such books accounts or other documents relating to any matter concerning water transference, distribution and consumption of water, which may be required by the Authority for the purpose of this Act; and
 - (b) furnish to any officer so specified such information in his possession, power or control as may be required by the Authority for the purposes of discharge of its functions under this Act.
- (3) Where, during any inquiry or proceedings under this Act, the Authority has any ground to believe that any books or documents of, or relating to, any unit or person to which such inquiry is being made or proceeding relates, or which the owner of such unit may be required to produce in such inquiry or proceeding, are being, or may be, destroyed, by a written order, authorize any officer of the Authority to exercise powers of entry, search and seizure as may be exercised by an Inspector under Sections 240 and 240-A of the Companies Act, 1956.
- (4) The Authority may, in the discharge of its functions, consult persons or group of persons affected or likely to be affected by the decisions of the Authority.
- (5) Every person to whom a notice may be issued under this Act by the Authority shall furnish such information, details, books accounts and other documents, as may be specified in such notice.

15. Powers to issue directions.-The State Government may from time to time issue directions not inconsistent with this Act.

16. Water supply and overall performance standards.-The Authority may from time to time,-

- (a) determine such standards of overall performance in respect of water supply services and promotion of the efficient use of water by consumers, as in its opinion, are economical and ought to be achieved by such licensees, and different standards may be determined for different licensees; and
- (b) publish the standards so determined in such form and in such manner as the Authority may consider proper.

17. Information with respect to levels of performance.-(1) On or before such date in each year as may be specified by the Authority , every licensee shall furnish to the Authority the level of performance achieved by the licensee for each standard determined under Section 16.

- (2) The Authority may publish, for general information, the information received by it under sub-section (1), which it feels necessary.

18. Restriction on disclosure of information.-(1) Save as otherwise provided in this Act, information in respect of any person or business which, has been furnished to, or obtained by, the Authority under this Act shall be treated as

classified and shall not be disclosed by the Authority , without the consent of the concerned person or the person in-charge of the business:

Provided that such information may be disclosed to the Central Government, the State Government, Accountant-General of the State or a person who requires it in connection with the discharge of statutory duties.

- (2) The restriction contained in sub-section (1) shall not apply to the information related to tariff.
- (3) Information in possession of the Authority shall be kept confidential and may be furnished to any person or agency only with the permission of the Authority .

CHAPTER IV

ARBITRATION, OFFENCES AND PENALTIES

19. Arbitration.-Any dispute or differences arising between licensees or users in respect of matters specified in sub-section (2) of Section 35 may be referred to the Authority for arbitration. The Authority may proceed to act as Arbitrator or nominate an Arbitrator to adjudicate and settle the dispute. The Arbitrator shall follow the procedure as laid down in Arbitration and Conciliation Act, 1996.

20. Offences and penalties.-(1) Whoever:-

(a) in contravention of the provisions of this Act, the rules or the regulations made under this Act, engages in the business of distribution or supply of water or

(b) refuses or fails without reasonable cause to comply with, or give effect to, any direction, order or requirement made under this Act; shall be guilty of an offence under this Act.

(2) Any person guilty of an offence under clause (a) of sub-section (1), shall be punished with imprisonment which may extend to one year or with fine which may extend to rupees one lakh, or with both, and a further penalty which may extend to rupees twenty thousand for each day after the first offence during which the offence continues.

(3) Any person guilty of an offence under clause (b) of sub-section (1) shall be punished with imprisonment which may extend to six months or with fine which may extend to rupees one lakh, or with both, and a further penalty which may extend to rupees five thousand for each day after the first offence during which the offence continues.

21. Offences by utility.-(1) If the person committing an offence under this Act is a utility, the utility as well as every person in charge of, and responsible to, the utility for the conduct of its business at the time of the Authority of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that no such person shall be liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the Authority of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a utility, and it is proved that the offence has been committed with the consent or connivance of, or that the Authority of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the utility, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

22. Composition of offences.-(1) The Authority may, for reasons to be recorded in writing, accept from any person who has committed or is reasonably suspected of having committed an offence punishable under this Act, a sum of money not exceeding rupees one lakh by way of composition fee and compound the offence.

(2) On the composition of any offence under sub-section (1) no proceeding shall be taken or continued against the person concerned in respect of such offence, and if any proceedings in respect of that offence have already been instituted against him in any court, the composition shall have the effect of his acquittal.

23. Cognizance of offences.-(1) No court shall take cognizance of any offence under this Act except on a complaint in writing of an officer authorized in this behalf by the Authority .

(2) An offence under this Act shall be triable by a court not lower in rank than that of the Additional Chief Judicial Magistrate having jurisdiction.

24. Penalties and proceedings not to prejudice other actions.-All proceedings and actions against a person under this Act shall be in addition to, and not in derogation of any proceedings or action under any other law for the time being in force.

APPEALS

Appeals to State Govt:-

(a) any person aggrieved by an order made by the Authority, may prefer an appeal to the Principal Secretary (Irrigation and Public Health Department) to the GoHP under section 21(1)(2) of the act.

(b) the appeal shall be filed on payment of rupees five hundred only.

(c) The appeal to the state Govt. filed under section 21(1)(2) of the Act shall be duly verified and supported by an affidavit and shall be accompanied by:

- i) Copy of the order appealed against; and
- ii) A photocopy of receipt of payment of fee.

CHAPTER V

ACCOUNTS, AUDIT AND REPORT

- 25. Grants by the State Government to the Authority .-**(1) The State Government shall after due appropriation made by the State Legislature by law in this behalf, pay to the Authority by way of grants such sums of money as the State Government may think fit for being utilized for the purposes of this Act: Provided that expenditure in respect of salaries and allowances of the Chairperson and other Members shall be charged on the Consolidated Fund of the State.
- (2) The Authority may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1) and may also charge fee towards expenditure of the Authority .
- 26. Accounts and audit.-**(1) The Authority shall maintain proper accounts and other relevant records and shall cause to be prepared an annual statement of accounts in such form as may be prescribed by the Government in consultation with Accountant-General.
- (2) The accounts of the Authority shall be audited by the Accountant-General, Himachal Pradesh, or any officer authorized by him in this behalf at such intervals as may be specified by Government and any expenditure incurred in connection with such audit shall be payable by the Authority to the Accountant-General.
- (3) The copies of annual statement of accounts of the Authority together with the audit report thereon shall be forwarded to the State Government.
- (4) A copy of the annual statement of accounts of the Authority together with the audit report thereon received by the State Government under sub-section (3) shall be laid before each House of the State Legislature.
- 27. Annual report of the Authority .-**(1) The Authority shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and copies thereof shall be forwarded to the State Government.
- (2) The State Government shall cause the annual report to be laid, as soon as may be, after it is received, before each House of the State Legislature.

CHAPTER VI

MISCELLANEOUS

- 28. Amount recoverable as arrears of land revenue.**-Any amount payable under this Act, except an amount payable under this chapter may, on a certificate of the Secretary of the Authority , be recovered as arrears of land revenue,
- 29. Application of fines and charges.**-The Authority while imposing any fine or charges under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the cost of the proceedings to a party.
- 30. Protection of action taken in good faith.**-No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of the provisions of this Act or the rules or the regulations or the orders made thereunder.
- 31. Bar of Jurisdiction.**-No order or proceeding made under this Act shall be appealable except as provided in this Act and no civil court shall have jurisdiction in respect of any matter which the Authority or any other authority is empowered by or under this Act to decide.
- 32. Proceedings before the Authority to be judicial proceedings.**-All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of Sections 193, 219 and 228 of the Indian Penal Code and the Authority shall be deemed to be a civil court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.
- 33. Chairperson, Members and staff of the Authority to be public servants.**- The Chairperson, Members and other employees of the Authority shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.
- 34. Power to make rules.**-(1) The State Government may, by notification, make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the power contained in subsection (1), such rules may provide for all or any of the following matters, namely:-
- (a) the procedure to be adopted by the selection committee for selection and appointment of the Chairperson and the Members;
- (b) the form and manner in which the accounts of the Authority shall be maintained; and
- (c) any other matter which is required to be, or may be, prescribed.
- 35. Power to make regulations.**-(1) The Authority may make regulations not inconsistent with this Act or the rules made thereunder for the efficient performance of its functions under this Act.

(2) In particular, and without prejudice to the generality of the provisions of subsection(1), such regulations may provide for all or any of the following matters, namely:-

- (a) The administration of the affairs of the Authority in the exercise of its functions;
- (b) Determination of the functions to be assigned to licensees and other persons involved in the purchase, distribution or supply of water, the manner in which such functions shall be discharged and the procedures to be adopted and enforced in regard to the operation and maintenance of water supply system;
- (c) The procedure and the conditions for the grant of licenses, the particulars and documents to be made available by the persons applying for licenses, the standards and general conditions subject to which the license shall be granted, the grant of exemptions from the requirement of a license, the revocation and amendment of licenses and the effect thereof and all matters related thereto;
- (d) The duties, powers, rights and obligations of licensees;
- (e) The particulars to be furnished, and the form and manner for furnishing information, particulars, documents, accounts and books by the persons involved in the water distribution and supply or use of water;
- (f) The terms and conditions and the procedure for determination of revenues and tariffs;
- (g) The determination of the standards of performance of the persons involved in the distribution or supply of water in the State;
- (h) The fees and charges payable by the licensee and the consumer or water;
- (i) The amount of fines and penalties to be imposed for violation of the provisions of this Act including the method and manner of imposition of fines and penalties and collected of the same;
- (j) Any other matter which is required to be, or may be, provided by regulations.

36. Power to remove difficulties.-(1) If any difficulty arises in giving effect to the provisions of this Act, by reasons of anything contained in this Act, or any other enactment for the time being in force, the State Government may, as the occasion requires, by order direct that this Act shall, during a period not exceeding twelve months after the date of such order have effect subject to such adaptations, whether by way of modifications, addition or omission, as it may deem to be necessary and expedient.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.