

MADHYA PRADESH ACT
NO. 28 OF 2013

THE MADHYA PRADESH JAL VINIYAMAN
ADHINIYAM, 2013

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MADHYA PRADESH ACT
No. 28 OF 2013

MADHYA PRADESH JAL VINIYAMAN ADHINIYAM, 2013.

[Received the assent of the Governor on the 12th August, 2013; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)", dated the 13th August, 2013.]

An Act to provide for the constitution of the Madhya Pradesh Jal Viniyamak Ayog for the State to advise the Government on matters relating to water tariff, efficiency of water use and for other purposes.

Be it enacted by the Madhya Pradesh Legislature in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1.(1) This Act may be called the Madhya Pradesh Jal Viniyaman Adhiniyam, 2013.

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

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

(4) Notwithstanding anything to the contrary contained in the Madhya Pradesh Irrigation Act, 1931 (No.3 of 1931), the Madhya Pradesh Sinchai Prabandhan Me Krishkon Ki Bhagidari Adhiniyam, 1999 (No.23 of 1999), the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956), the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961), the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993(No. 1 of 1994) and in any other law for the time being in force, the provisions of this Act shall apply with regard to fixation of water tariff.

2.(1) In this Act, unless the context otherwise requires,—

- (a) "Chairperson" means the Chairperson of the Commission;
- (b) "Commission" means the Madhya Pradesh Jal Viniyamak Ayog established under sub-section (1) of Section 3;
- (c) "Government" means the Government of Madhya Pradesh;
- (d) "Member" means a member of the Commission;
- (e) "prescribed" means prescribed by the rules or regulations made under this Act;
- (f) "regulations" means regulations made by the Commission under this Act;
- (g) "Selection Committee" means a Selection Committee constituted under Section 5;
- (h) "Service Provider" means a person duly vested with the authority to render any or all of the following services for :—
 - (i) maintenance and operation of water supply system;
 - (ii) distribution of water;
 - (iii) collection of water charges and revenue related to water; and
 - (iv) any other service entrusted by the Government;
- (i) "tariff" means a specific charge or set of charges applicable for water supply.

(2) The words and expressions used herein and not defined but defined in the Madhya Pradesh Irrigation Act, 1931 (No. 3 of 1931), the Madhya Pradesh Sinchai Prabandhan Me Krishkon Ki Bhagidari Adhiniyam, 1999 (No. 23 of 1999), the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956), the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961) and the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (No. 1 of 1994), shall have the same meanings as have been assigned to them in respective Acts.

Short title, extent, commencement and application.

Definitions.

CHAPTER II

MADHYA PRADESH JAL VINIYAMAK AYOG

Establishment and incorporation of Commission.

3. (1) The Government shall, by notification in the official Gazette, establish a Commission to be known as the Madhya Pradesh Jal Viniyamak Ayog. The Commission shall exercise such powers and perform such functions and duties as have been assigned to it, under this Act.

(2) The Commission shall consist of a full time Chairperson and two full time Members.

(3) The Chairperson and the Members of the Commission shall be appointed by the Government on the recommendation of the Selection Committee constituted under section 5.

(4) The headquarters of the Commission shall be at Bhopal.

Appointment of Chairperson and Members.

4. (1) The qualification of Chairperson and Members of the Commission shall be as follows:—

(a) the Chairperson shall be a person who has been an officer not below the rank of Principal Secretary to the Government and has experience of policy formulation and administration in water resources sector;

(b) one Member shall be a person having a degree in Civil Engineering and having experience of at least 20 years in water resources sector, including two years as Chief Engineer in any Government;

(c) one Member shall be a person having expertise in the field of urban administration and development having experience of at least three years in water resources sector.

(2) The Chairperson and Members of the Commission shall not hold any other office of profit.

Constitution and functions of Selection Committee.

5. (1) The Chairperson and Members of the Commission shall be appointed by the Government from a panel of names recommended by a Selection Committee comprising of :—

- | | | |
|-------|---|--------------|
| (i) | Chief Secretary | -Chairperson |
| (ii) | Agriculture Production Commissioner | -Member |
| (iii) | Secretary in charge of the Urban Administration and Development Department. | -Member |
| (iv) | Secretary in charge of the Public Health Engineering Department. | -Member |
| (v) | Secretary in charge of the Water Resources Department - | Convener. |

(2) The Selection Committee shall recommend to the Government a panel of at least two names for each of the vacancies.

Term of office of Chairperson and members.

6. (1) The Chairperson and Members of the Commission shall hold office for a period of three years and shall be eligible for reappointment.

(2) The Chairperson or a Member shall cease to hold office on attaining the age of 65 years.

Remuneration of Chairperson and Members.

7. (1) The Chairperson and Members of the Commission shall be paid such remuneration as may be prescribed.

(2) The remuneration and other conditions of service of the Chairperson and Members of the Commission shall not be varied to their disadvantage after appointment.

8. (1) Notwithstanding anything contained in Section 6, the Chairperson and the Members of the Commission may relinquish office by giving a notice of one month, in writing, to the Government.

Conditions of service.

(2) The Chairperson or a Member of the Commission shall :—

- (a) not be eligible for further employment under the Government for a period of two years from the date he ceases to hold such office;
- (b) not accept any commercial employment for a period of two years from the date he ceases to hold such office.

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

- (i) “Employment under the Government” includes employment under any local or other authority within the territory of Madhya Pradesh or under the control of the Government or under any corporation or society owned or controlled by the Government.
- (ii) “Commercial employment” means employment in any capacity including under an agency or person engaged in trading, commercial, industrial or financial business in such sector over which the Commission has or had jurisdiction.

9. (1) No person shall be qualified for appointment or to remain in office as Chairperson or a Member, if he :—

Qualification for being a Chairperson and Member of the Commission.

- (a) is of unsound mind or has become physically incapable of performing his duties;
- (b) is an undischarged insolvent;
- (c) has been convicted of an offence involving moral turpitude;
- (d) has such financial or other interest as is likely to affect prejudicially his functions as Chairperson or Member of the Commission;
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest;
- (f) disregards Government directions under this Act.

(2) The Government may remove the Chairperson or a Member after an inquiry held as per procedure prescribed.

(3) The Government may, during the period of such inquiry as specified in sub-section (2), suspend the Chairperson or the Member.

10. (1) The Government shall appoint a person as Secretary to the Commission.

Officers and employees of Commission.

(2) The administrative setup of the Commission shall be as approved by the Government.

(3) The Commission may appoint, on contract or deputation, the officers and employees as per approved setup.

(4) The Government shall provide an annual grant for the functioning of the Commission.

Proceedings of Commission.

11. (1) The Commission shall meet and hold its meetings at its headquarters at Bhopal.
- (2) The Chairperson and a Member shall constitute the quorum for meetings of the Commission.
- (3) In the event of temporary absence of the Chairperson, the Government may nominate one of the Members to chair the meetings of the Commission.
- (4) The Commission shall take decisions by majority.
- (5) All orders and decisions of the Commission shall be issued by the Secretary to the Commission.

Vacancies, etc., not to invalidate act or proceeding.

12. No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of any vacancy in the Commission.

CHAPTER III**FUNCTIONS, DUTIES AND POWERS OF THE COMMISSION****Functions and duties of Commission.**

13. Subject to the provisions of this Act, the Commission shall perform and discharge the following functions and duties, namely:—

- (a) to recommend to the Government once in two years, a water tariff system for use of water from the source such as any river, stream or drainage channel, natural lake or collection of water in reservoir; and for use of sub-surface water in the area as notified by the Government for :
- (i) agriculture sector;
- (ii) purposes including drinking and domestic, industrial, power generation and commercial;
- (b) to determine and recommend the tariff once in two years, for supply of water by a service provider taking into consideration capital and operational expenditure as prescribed for :—
- (i) area within a municipal limit;
- (ii) non-municipal area as notified by the Government from time to time;
- (c) to recommend to the Government from time to time measures for promoting water use efficiency in irrigation, drinking and domestic, industrial water supply;
- (d) to perform any other functions and duties assigned to the Commission by the Government.

Powers of the Commission.

14. (1) The Commission shall, for the purpose of any inquiry or proceedings under this Act, have the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters :—

- (a) summoning and enforcing of attendance of any service provider or his representative and examination on oath;

- (b) discovery and production of any document or other material object producible as evidence;
- (c) receipt of evidence on affidavits;
- (d) requisition of any public record from any office;
- (e) review of its decisions, directions and orders; and
- (f) any other matters which may be assigned to the Commission by the Government.

(2) The Commission may from time to time appoint consultants or experts required to assist the Commission in the discharge of its functions. The terms and conditions of appointment of consultants or experts shall be such as may be prescribed.

(3) In the discharge of its functions the Commission shall be entitled to consult from time to time, such persons or classes of persons who may be affected or are likely to be affected by the decisions of the Commission.

(4) The Commission may levy such fee and charges as may be prescribed.

15. The Commission shall work within the framework of the State Water Policy and policy directives issued by the Government from time to time.

General policies of the Commission.

CHAPTER IV ACCOUNTS, AUDIT AND REPORT

16. The Government may, provide such grants and advances to the Commission as it may deem necessary for the performance of its functions and discharge of its duties under this Act and all grants and advances so made shall be on such terms and conditions as the Government may determine.

Grants and advances to Commission.

17. (1) The Commission shall prepare in such form and at such time in each financial year as may be prescribed, its budget for the next financial year and forward it to the Government.

Budget of the Commission.

(2) All revenue receipts of the Commission shall be deposited in the Consolidated Fund of the Government.

18. The Commission shall maintain proper accounts and other relevant records and shall prepare an annual statement of accounts in such form and in such manner as may be prescribed. A copy of the statement of accounts of the Commission shall be laid on the table of Vidhan Sabha.

Accounts of the Commission.

19. (1) The Commission shall prepare once in every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and shall submit the same to the Government.

Annual report of Commission.

(2) A copy of the report received under sub-section (1) shall be laid within six months, after it is received, on the table of Vidhan Sabha.

CHAPTER V MISCELLANEOUS

20. (1) The Government shall have the power to issue policy directions to the Commission on matters concerning water in the State.

General powers of the Government.

(2) If any question arises as to whether any such direction to a matter of policy involves public interest, the decision of the Government thereon shall be final.

Chairperson, Members, Officers and other staff of Commission to be public servants.

21. The Chairperson, Members, Officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or rules or regulations made thereunder, to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (No. 45 of 1860).

Protection of action taken in good faith.

22. No suit, prosecution or any other legal proceeding shall lie against the Government, Commission, Chairperson, Members and Officers including employees of the Commission for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or rules or regulations made thereunder.

Power to make rules

23. (1) The Government may, by notification in the official Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, on the table of Vidhan Sabha.

Power of Commission to make regulations.

24. The Commission with the prior approval of the Government may make regulations consistent with this Act and the rules made there-under, for discharge of its duties.

Power to remove difficulties.

25. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made before Vidhan Sabha.

Bar of jurisdiction

26. No order or proceedings made under this Act shall be appealable and no civil court shall have jurisdiction in respect of any matter which the Commission or any other authority is empowered by or under this Act to decide.

CHAPTER VI SAVINGS

Savings.

27. (1) Notwithstanding anything contained in this Act, the powers, rights and functions laid down in the Madhya Pradesh Irrigation Act, 1931 (No. 3 of 1931), the Madhya Pradesh Sinchai Prabandhan Me Krishkon Ki Bhagidari Adhinyam, 1999 (No. 23 of 1999), the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956), the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961), the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhinyam, 1993 (No. 1 of 1994), and in any other law for the time being in force, or rules framed thereunder shall remain unaffected and shall continue to be in force.

(2) All actions taken by any person or authority under the Acts mentioned in sub-section (1) prior to the commencement of this Act, shall be valid and enforceable notwithstanding the modifications to the said Acts made by this Act in regard to fixation of water tariff.

Repeal and Savings.

28. (1) The Madhya Pradesh Jal Viniyaman Adhyadesh, 2013 (No. 2 of 2013) is hereby repealed.

(2) Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.