



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 226 দিশপুৰ, শনিবাৰ, 19 মে', 2012, 29 ব'হাগ, 1934 (শক)
No. 226 Dispur, Saturday, 19th May, 2012, 29th Baisakha, 1934 (S.E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

NOTIFICATION

The 19th May, 2012

No. LGL. 64/2002/71.— The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XVI OF 2012

(Received the assent of the Governor on 14th May, 2012)

THE ASSAM GROUND WATER CONTROL AND REGULATION ACT, 2012

**AN
ACT**

to regulate and control the Development and Management of Ground Water in the State of Assam and matters connected therewith or incidental thereto.

Preamble

Whereas it is expedient to regulate and control the development and management of ground water in the State of Assam and the matters connected therewith or incidental thereto;

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

CHAPTER - I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Assam Ground Water Control and Regulation Act, 2012.
- (2) It extends to the whole of Assam.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint:

provided that different dates may be appointed for different areas of the State of Assam.

Definitions

2. In this Act, unless the context otherwise requires,
 - (a) "Act" means the Assam Ground Water (Control and Regulation) Act, 2012;
 - (b) "artificial recharge to ground water" means the process by which ground water reservoir is augmented at a rate exceeding that under natural condition of replenishment;
 - (c) "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. It shall also include water meant for consumption by livestock;
 - (d) "ground water" means the water that exists below the surface of the ground at any particular location;
 - (e) "prescribed" means prescribed by rules made under this Act;
 - (f) "rain water harvesting" is the technique for collection and storage of rainwater at surface or in sub-surface aquifer;
 - (g) "State Government" means the State Government of Assam;
 - (h) "State Authority" means the Assam State Ground Water Authority established under section 3 of this Act;

- (i) "Sink", with all its grammatical variations and cognate expressions in relation to a well, includes digging, drilling or boring of new wells or deepening and modification (of radials and galleries) of the existing wells;
- (j) "User of ground water" means the person or persons or an institution including a company or an establishment, whether Government or non-governmental who or which extract or use or sell ground water for any purpose including domestic use made either on a personal or community basis;
- (k) "Well" means a structure sunk for the search or extraction of ground water by a person or persons except by the authorized officials of the State or Central Government for carrying out scientific investigations, exploration, development, augmentation, conservation, protection or management of ground water and includes 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:

Provided that it will exclude a well of any variant used by person or persons drawing ground water by manual devices like hand pump or rope or bucket.

CHAPTER - II

Establishment of State Ground Water Authority and Zonal Ground Water Authorities.

3. (1) Constitution of the Assam State Ground Water Authority,-

- (i) 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 "the Assam State Ground Water Authority" to exercise the powers conferred on and to perform functions assigned to the State Authority under this Act.

(ii) The State Authority shall consist of the following:-

- | | | |
|--|-------|-----------------------------------|
| (a) Secretary to the Government of Assam, Irrigation Department | ----- | Ex-officio
Chairman |
| (b) Chief Engineer, Minor Irrigation, Assam | ----- | Ex-officio
Member |
| (c) Chief Engineer, Public Health Engineering Department, Assam | ----- | Ex-officio
Member |
| (d) Chief Engineer, Agriculture Department, Assam | ----- | Ex-officio
Member |
| (e) Director, Geology & Mining, Assam | ----- | Ex-officio
Member
Secretary |
| (f) A representative of the Guwahati Metropolitan Development Authority (GMDA) to be nominated by the GMDA | ----- | Member |

- | | | |
|--|-------|----------------------|
| (g) A representative of State Pollution Control Board to be nominated by the Board. | ----- | Member |
| (h) Chief Engineer, Guwahati Municipal Corporation | ----- | Ex-Officio
Member |
| (i) A representative of the Urban Development Department, Government of Assam, to be nominated by the Department | ----- | Member |
| (j) A representative of the Central Ground Water Board (CGWB), to be nominated by the Chairman, CGWB | ----- | Member |
| (k) 2 (Two) representatives of the public / industries etc. to be nominated by the State Government as Non-Governmental Member | ----- | Member |

(iii) The term of office and manner of filling the vacancies and other conditions of service of the nominated members shall be such as may be prescribed.

(iv) The Head Quarters of the State Authority shall be located in the office premises of the Irrigation Department, Chandmari, Guwahati-3 until separate arrangement is made and notified by the State Government.

(2) Constitution of Zonal Ground Water Authorities :-

- (i) The State Government shall, with effect from such date as may be specified, by notification in the Official Gazette, constitute Zonal Ground Water Authorities in respect of each area and jurisdiction of a Superintending Engineer of the Irrigation Department to exercise powers conferred on and to perform functions as assigned to it, by the State Authority under this Act.
- (ii) The Zonal Ground Water Authority shall consist of the following:-
- (a) The Superintending Engineer of the Irrigation Department of the respective area and jurisdiction shall be the Chairman of the Zonal Ground Water Authority. The respective Executive Engineer of the Public Health Engineering Department posted and working at the Head Quarters of the respective Superintending Engineer, Irrigation Department shall be the Member Secretary of the Zonal Ground Water Authority;
 - (b) 4 (Four) officials, on the recommendation of the State Authority, shall be nominated by the State Government to the Zonal Ground Water Authority;
 - (c) 2 (Two) persons shall be nominated by the State Government from amongst the Members of the Municipal Corporation or the Municipal Board functioning within the area and jurisdiction of the Zonal Ground Water Authority;

- (d) 2 (Two) non-officials to be nominated by the State Government to represent the Industries or Trade or of Public Interest which in the opinion of the State Government ought to be represented:

Provided that such members shall have no voting right.

Staff of the State Authority.

4. (1) In order to enable the State Authority to properly function or exercise the powers under the Act, the State Government may appoint such number of technical personnel and other staff as it may be considered necessary:

Provided that the officers and staff required by the State Authority will be provided, initially, by the Irrigation and other concerned departments.

- (2) The functions and other terms and conditions of service of the employees shall be such as may be prescribed:

Provided that the employees placed at the disposal of the State Authority by the Irrigation and/or other concerned department(s) shall draw their salaries and allowances from the respective parent department(s) and other terms and conditions of such employees shall be governed by the rules and regulations etc. applicable to them in the respective parent department(s).

Powers to notify areas for control and regulation of ground water development.

5. (1) The State Authority shall function under the overall control and supervision of the State Government.
- (2) If the State Authority is of the opinion that it is necessary or expedient in the public interest to control and /or regulate the extraction or the use or both of ground water in any form in any area it may advise the State Government to declare any such area to be a notified area for the purpose of this Act with effect from such date as may be specified therein. The declaration shall be notified in the Official Gazette:
- Provided that the date as specified in the notification shall not be earlier than three months from the date of publication of the said notification.
- (3) Every such notification shall, in addition to its publication in the Official Gazette, be published in not less than one daily regional language newspaper having wide circulation in the State, and also be served in such manner as the State Government may think fit and all or any of the following modes may be followed in effecting such services, namely:—

(a) by affixing a copy of the notification to some conspicuous part of the offices of the village Panchayats located in the said area;

(b) by proclaiming by beat of drum or by means of loudspeakers the contents of the notification in the said area;

(c) in such other manner as may be prescribed.

- (4) If in the opinion of the State Authority, the availability of ground water has improved in the notified area, it may advise the State Government to de-notify such area and the Government may do so according to the procedure provided under sub-section (2) of section 5 for notifying the area.
- (5) The State Authority shall also take steps to ensure that exploitation of ground water resources does not exceed the safe yield limit of the aquifers. Wherever there is mismatch, steps will be taken to ensure augmentation of ground water resources in addition to regulatory measures.
- (6) The State Authority shall maintain and upkeep the data-base on ground water related information.

Grant of permit to extract and use ground water in the notified area

6. (1) Any user of ground water as defined under sub-section (j) of section 2 desiring to sink a well in the notified area for any purpose either on personal or community basis as commercial / industrial user, shall apply to the State Authority in prescribed form of application for grant of a permit for this purpose, and shall not proceed with any activity connected with such sinking unless a permit has been granted by the State Authority:

Provided that the person or persons shall not have to obtain a permit if the well is proposed to be fitted with a hand operated manual pump or water is proposed to be withdrawn by manual devices.

- (2) (a) Every application under sub-section (1) shall be made in such form, shall contain such particulars and in such manner as may be prescribed.

(b) Each application should accompany an administrative fee of Rs. 100/- (Rupees One hundred) only in case of an individual in rural areas and Rs.200/- (Rupees Two hundred) only in case of an individual in urban areas. In case of application submitted by a Company, Society etc. the fee is Rs.1000/- (Rupees One thousand) only for rural areas and Rs.2000/- (Rupees Two thousand) only for urban areas. The fee is payable in favour of Assam State Ground Water Authority.

- (3) On receipt of an application under sub-section (1), the application shall be endorsed to an Investigating Officer who shall visit the site and shall after making necessary enquiry on the following points, submit a report with his recommendation to the State Authority:—

- (a) geology and geomorphology of the area;
- (b) observation of existing well, if any;
- (c) measurement of non-pumping water level in the surrounding area;
- (d) brief lithology of the area, if available;
- (e) spacing of Ground Water structures;
- (f) prospect of Ground Water availability;
- (g) feasibility for Ground Water Development;
- (h) Type of well (DTW, STW, Dug Well etc)

- (i) basement structure study in hard rock terrain;
(j) quality of Ground Water.
- (4) On the basis of the report received, the authorized officer of the State Authority shall either grant or refuse to grant a permit:
- Provided that no person shall be refused a permit unless he has been given a reasonable opportunity of being heard.
- (5) The decision regarding the grant or refusal of the permit shall be intimated by the State Authority to the applicant within a period of 45 (forty-five) days from the date of receipt of the application.
- (6) In granting or refusing a permit under sub-section (4), the State Authority shall have regard to —
- (a) the purpose or purposes for which the water is to be used;
(b) the existence of other competitive users;
(c) availability of ground water;
(d) quality of ground water with reference to use;
(e) spacing of ground water structures keeping in consideration the purpose for which the water is to be used;
(f) long term ground water level behaviour;
(g) any other factor relevant thereto.
- (7) The State Authority would enforce community centres like Hospitals, Educational Institutions, Industrial Complexes, Flat Complexes, Hotels etc. in the notified area to undertake measures for replenishment of ground water by artificial recharge structures like Roof Water Harvesting Structures etc.
- (8) The permit shall be in such form as may be prescribed.
7. (1) Every existing user of ground water in the State shall within a period of 120 (One hundred and twenty) days from the date of establishment of the State Authority shall apply to the State Authority for grant of a Certificate of Registration recognizing its existing use in such form and in such manner as may be prescribed:
- Provided that the State Authority may entertain any such application after the expiry of the said period of 120 (One hundred and twenty) days, if it is satisfied that the user was prevented by sufficient cause from filing application in time.
- (2) For grant of Certificate of Registration one standard form should be introduced for collecting an Administrative Fee of Rupees 100/- (Rupees One hundred) for an individual user in rural area and Rs. 200/- (Rupees Two hundred) for an individual user in urban area and Rs. 1000/- (Rupees One thousand) for a company or society in rural area and Rs. 2000/- (Rupees Two thousand) for a company or society in urban area.

Registration
of existing
users in
notified areas

- (3) The details to be furnished in an application under sub-section (1) shall include the following, namely:—
- (i) the description of the source of ground water, such as type of well and its exact location;
 - (ii) the lifting device used;
 - (iii) the quantity of ground water withdrawal and hours of operation per day;
 - (iv) the total period of use in each year;
 - (v) the purpose or purposes for which ground water is being extracted;
 - (vi) in case the requirement of ground water is for the purpose of drinking water, the approximate population to be served;
 - (vii) in the case of irrigation well, the location and extent of area irrigated;
 - (viii) in case of State, Municipal or Community run water supply schemes, the details of the services involved in addition to the quantities of ground water extracted, the diversion or the pumping points and their locations.
- (4) On receipt of an application under sub-section (1), if the State Authority is satisfied that it shall not be against the public interest to do so, it may grant, subject to such conditions and restrictions as may be specified, a Certificate of Registration authorizing the continued use of the water:
- Provided that no person shall be refused a Certificate of Registration unless he has been given an opportunity of being heard.
- (5) The decision regarding the grant or refusal of the Certificates of Registration shall be intimated by the State Authority to the applicant within a period of 60 (Sixty) days from the date of receipt of the application.
- (6) In granting or refusing a Certificate of Registration under sub-section (4) the State Authority shall have regard to —
- (a) the purpose or purposes for which the water is to be used;
 - (b) the existence of other competitive users;
 - (c) availability of ground water;
 - (d) quality of ground water with reference to use;
 - (e) spacing of ground water structures keeping in consideration the purpose for which water is to be used;
 - (f) long term ground water level behaviour;
 - (g) any other factor relevant thereto.
- (7) The Certificate of Registration shall be in such form as may be prescribed.
- (8) Pending the communication by the State Authority of the decision on an application under sub-section (1), every existing user of the ground water in the notified area shall be entitled to the continued use of the ground water in the same manner and to the same quantity as the user was entitled to on the date of his/her application.

- (9) If a registered Well becomes defunct, the fact should be immediately brought to the notice of the State Authority by the user of ground water.
- Registration of user of new wells in non notified area. 8. (1) All wells sunk in the State shall have to be registered including the areas not notified under section 5 of this Act, except those excluded under clause (k) of section 2 of the Act.
- (2) The clause under sub-section (9) of section 7 shall also be applicable.
- Registration of Drilling Agencies. 9. (1) Every rig owner shall register his/her machinery with the State Authority in such manner and/or on payment of such fees as may be prescribed.
- (2) Every rig owner or operator shall follow the instructions issued by the State Authority from time to time.
- Power to alter, amend or vary the terms of the Permit / Certificate of registration. 10. (1) At any time after a Permit or Certificate of Registration, as the case may be, has been granted, the State Authority may, for technical reasons, alter, amend or vary the terms of the Permit or Certificate of Registration, as the case may be, provided the user of ground water has been given an opportunity of being heard:
- Provided that before taking such action, the State Authority shall ensure that the standing crops are not damaged.
- (2) The State Authority may impose and realize Annual Water Rates from bulk as well as commercial and industrial users as decided by the State Government.
- Cancellation of Permit/Certificate of Rehabilitation or Licence. 11. If the State Authority is satisfied either on a reference made to it in this behalf or otherwise that:-
- (a) the Permit or Certificate of Registration or Licence granted under sub-section (4) of section 6 or sub-section (4) of section 7, as the case may be, is not based on facts;
- (b) the holder of the Permit or Certificate of Registration or Licence has without reasonable cause failed to comply with the conditions subject to which the Permit or Certificate of Registration or Licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder; or
- (c) a situation has arisen which warrants limiting of the use or extraction of ground water;
- then, without prejudice to any other penalty to which the holder of the Permit or of the Certificate of Registration or Licence may be liable under the Act, the State Authority may after giving the holder of the Permit, Certificate of Registration or Licence, an opportunity of being heard, cancel the Permit, Certificate of Registration or Licence, as the case may be.

Powers of the
Assam Ground
Water Authority.

12. (1) The State Authority or any person authorised by it in writing in this behalf, shall have power —

(a) to enter on any property (private or Government owned) with the right to investigate and make any measurements concerning the land or the water located on the surface or the underground;

(b) to inspect the well which has been or is being sunk and the soils and other materials excavated therefrom;

(c) to take specimens of such soils or other materials or of water extracted from such wells;

(d) to require by order in writing the persons sinking a well to keep and preserve in the prescribed manner specimens of soils or any materials excavated therefrom for such period not exceeding three months from the date of completion or abandonment of the work as may be specified by the Authority and thereupon such person shall comply with such requisition;

(e) to inspect and to take copies of the relevant records or documents and ask any question necessary for obtaining 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 etc.) required for carrying out the purposes of this Act;

(f) to direct the user of ground water to install water measuring device on any ground water abstraction structures:

Provided that where the user of ground water does not comply with the requisition issued to him/her within a period of 30 (thirty) days, the State Authority itself may install such water-measuring device and recover the cost from the defaulting user of ground water ;

(g) to seize any equipment/device utilized for illegal sinking and destroy the work executed fully or partly;

(h) to direct any user of ground water, who does not comply with the provisions of this Act and rules framed thereunder, to close down any water supply or destroy any hydraulic work found to be illegal according to the provisions of this Act and the rules framed thereunder:

Provided that where the user of ground water does not comply with the requisition issued to him within a period of 60 (sixty) days the State Authority itself may carry out the necessary work and recover the cost from the illegal user of ground water;

(i) 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 or use the ground water for a specified period not exceeding 30 (thirty) days;

(j) to exercise such other powers as may be necessary for carrying out the purposes of this Act or any rules made thereunder.

(2) The power conferred by sub-section (1) includes the power to break open the door of any premise where sinking, extraction and use of ground water may be going on:

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

(3) The provision of the Code of Criminal Procedure, 1973 (2 of 1974) shall so far as may apply 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 State Authority seizes any mechanical equipment/device under clause (g) of sub-section (1), it shall as soon as may be, inform a Magistrate and take his orders as to the custody thereof.

Service of orders etc.

13. (1) Every order under clause (d) of sub-section (1) of section 12 shall be served -

(a) by giving or tendering the order of notice or by sending it by post to the user for whom it is intended; or

(b) if such user cannot be found, by affixing the order of notice on some conspicuous part of his last known abode or place of business or by giving or tendering the order of notice to some adult member or servant of his family or by causing it to be affixed on some conspicuous part of the land or building in which the well is being sunk.

(2) Where the person on whom the order or a notice is to be served is a minor, service upon his guardian in the manner provided in sub-section (1) shall be deemed to be served upon the minor.

Bar to claim compensation.

14. No person shall be entitled to claim any damages or compensation from the Government for any loss sustained by him by virtue of any action taken under this Act.

- Delegation of powers and duties.
15. The State Authority may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in its order, be exercised or discharged also by any employee of the Authority specified in this behalf in the order.
- Members and employees of the State Authority to be public servants.
16. All members and employees of the State Authority shall, - when acting or purporting to act in pursuance of the provisions of this Act or of any rules made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.
- Protection of action taken in good faith.
17. No prosecution, suit or other legal proceeding shall be instituted against the Government, the State Authority or any other officer of the Government or any Member or other employees of the State Authority for anything done or intended to be done in good faith under this Act or the rules made thereunder.
- Cognizance and trial of offences.
18. (1) No prosecution for an offence under this Act shall be instituted except by or with the written consent of the State Authority or a person authorised in this behalf by the State Authority.
- (2) No court inferior to that of the Metropolitan Magistrate or a Judicial Magistrate, 1st Class shall try any offence under this Act.

CHAPTER - III

- Rain Water harvesting for ground water recharge.
19. The over exploitation of ground water due to ever increasing population, and other development activities have led to fall in the ground water table, drying up of wells, reduced sustainability of tube wells, environmental degradation etc. in many parts of the State. In order to improve the ground water situation in critical areas, it is, therefore, essential to adopt rainwater harvesting for ground water recharge. In urban areas, rainwater available from rooftops of buildings and other areas can be utilised gainfully for ground water recharge. Rainwater harvesting structures feasible in urban areas include recharge pits, trench, existing tube wells or open wells etc. In rural areas, ground water recharge be taken up considering watershed as a unit. The feasible recharge structures in rural areas include construction of Gully Plugs, Contour Bunding, Gabion Structure, Check Dam/Weir, Percolation tank, Recharge Shaft etc.

(1) To improve the ground water situation, the State Authority may identify the recharge worthy areas in the State and issue necessary guidelines for adoption of rainwater harvesting for ground water recharge in these areas. In rural area, watershed management to facilitate ground water recharge may be arranged through community participation. The State Authority may give appropriate directions to the concerned departments of the State Government to include rainwater harvesting in all development schemes falling under notified areas. In urban areas falling in notified areas, the State Authority may issue directions for constructing appropriate rainwater harvesting structures in all residential, commercial and other premises having an area of 100 Sq. metres or more in manner prescribed within the stipulated period, failing which the State Authority may get such rainwater harvesting structures constructed and recover the cost incurred along with a penalty as may be prescribed.

(2) Notwithstanding anything contained in the relevant laws, the Municipal Corporation or any other local authority, as the case may be, may impose stipulated conditions for providing rooftop rainwater harvesting structures in the building plan in an area of 100 Sq. metres or more, while according approval for construction. Permanent water and electricity connections shall be extended only after compliance of the directions given in this regard.

(3) The State Authority shall take steps for promotion of Mass Awareness and Training Programmes on Rain Water Harvesting and Artificial Recharge to Ground Water through Government Agencies / Non Government Organisations (NGOs) / Voluntary Organisations (VOs) / Educational Institutions / Industries / Individuals.

CHAPTER - IV

MISCELLANEOUS

- | | | |
|-------------------------------|-----|--|
| Power to remove difficulties. | 20. | <p>If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by order, do anything which appears to it to be necessary or expedient to remove the difficulty:</p> <p>Provided that no such order shall be made after the expiry of the period of 2 (two) years from the date of commencement of this Act.</p> |
| Offences. | 21. | <p>(1) For Non-Receipt of Information</p> <p>If any user of ground water -</p> <p>(a) contravenes or fails to comply with any of the provisions of this Act or any rules made thereunder in supplying information as prescribed; or</p> |

(b) obstructs the State Authority or any other person authorized by it to exercise any of the powers under this Act,

he shall be punishable -

(i) for the first offence with fines which may extend up to Rs. 200/- (Rupees Two Hundred only); and

(ii) for the second and subsequent offence, with fines which may extend up to Rs. 1,000/- (Rupees One Thousand only).

(2) For Illegal sinking/construction and/or use of wells.

If any user of ground water -

(a) contravenes or fails to comply with any of the provisions of this Act or any rule made thereunder; or

(b) obstructs the State Authority or any other person authorized by it to exercise any of the powers under this Act,

he shall be punishable -

(i) for the first offence with fines which may extend up to Rs. 1,000/- (Rupees One Thousand only); and

(ii) for the second and subsequent offence, with imprisonment for a term which may extend up to 6 (six) months or with fines which may extend up to Rs. 10,000/- (Rupees Ten Thousand only).

(3) Overdrawal of water than the permitted quantity.

If any user of ground water -

(a) draws water from the structure exceeding the permitted quantity; or

(b) obstructs the State Authority or any other person authorized by it to exercise any of the powers under this Act,

he shall be punishable -

(i) for the first offence with fines which may extend up to Rs. 1,000/- (Rupees One Thousand only); and

(ii) for the second and subsequent offence, with imprisonment for a term which may extend up to 6 (six) months or with fines which may extend up to Rs. 10,000/- (Rupees Ten Thousand only).

Compounding
of offences.

22.

Any offence under this Act may be compounded by the State Authority as prescribed, either before or after the institution of the proceedings subject to such conditions as may be prescribed.

- Offences by Companies. 23. (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 offence 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 also 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 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 body corporate and includes a firm or other association or individuals, and
- (b) “**Director**”, in relation to a firm, means a partner in the firm.
- Appeals 24. (1) Any person aggrieved by a decision or action of the State Authority under this Act may, within a period of thirty days from the date on which the action is taken or the decision is communicated to him/her and on payment of such fees as may be prescribed, prefer such an appeal to such appellate authority as may be specified by the State Government in this behalf:
- Provided that Appellate Authority may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time.
- (2) On receipt of an appeal under sub-section (1), the Appellate Authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible; preferably within 60 (sixty) days from the date of receipt of the appeal.
- Power to make rules. 25. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the forgoing power, such rules may provide for –

- (a) the term of office and manner of filling vacancies and other conditions of the service among the Members and Chairman of the State Authority.
 - (b) the functions and the terms and conditions of service of the employees of the State Authority.
 - (c) any other manner of affecting service of the notification under clause (c) of sub-section (3) of section 5.
 - (d) the form of application under sub-section (2) of section (6) and the particulars that may be furnished with these applications.
 - (e) the form of application under sub-section (1) of section 7.
 - (f) the form of the permit and Certificate of Registration under sub-section (8) of section 6 and sub-section (7) of section 7.
 - (g) the manner in which the specimens of soils or other materials shall be kept and preserved under clause (d) of sub-section (1) of section 12.
 - (h) specifying the Appellate Authority under sub-section (1) of section 24 and the fees to accompany the application for appeal.
 - (i) any other matter which is to be or may be prescribed.
- (3) Every rule made under this Section shall be laid, as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, Assam Legislative Assembly agrees in making any modification in the rules or the Assam Legislative Assembly agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be. However, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

MOHD. ABDUL HAQUE
Secretary to the Govt. of Assam,
Legislative Department, Dispur.