

WATER RESOURCES ACT, 2049

Date of Royal Seal and publication in Nepal Gazette : 17 December, 1992(2049/9/2)

An Act Made to Provide for the Management of Water Resources

Preamble

Whereas, it is expedient to make arrangements for the rational utilization, conservation, management and development of the water resources that are available in the Kingdom of Nepal in the form of surface water, underground water or in whatsoever form, and

Whereas, it is expedient to make timely legal arrangement for determining beneficial uses of water resources, preventing environmental and other hazardous effects thereof and also for keeping water resources free from pollution.

Now therefore, be it enacted by the parliament in twenty first year of the reign of His Majesty King Birendra Bir Bikram Shah Dev.

1. Short Title and Commencement :

1. This Act may be called "Water Resources Act, 2049 (1992).
2. This Act shall come into force on such date as His Majesty's Government may, by a notification published in the Nepal gazette, appoint.

2. Definition :

Unless the subject or the context otherwise requires, in the Act-

- a. "Water Resources" means the water that is available in the kingdom of Nepal in the form of surface water, underground water or in whatsoever form.
- b. "Beneficial Uses" means rational uses of the water resources within the available means and resources.
- c. "License" means a person or a corporate body which has obtained the license to use water resources pursuant to Section 8.
- d. "Users Association" means Water Users Association consisted pursuant to section 5.
- e. "Prescribed" or "as prescribed" means prescribed or as prescribed in the rules made under this Act.

3. Ownership of water Resources :

The ownership of the water resources available in the Kingdom of Nepal shall be vested in the kingdom of Nepal.

4. Utilization of Water Resources :

1. No person shall be entitled to utilize the water resources without obtaining a license under this Act.

2. Notwithstanding anything written in sub-section(1), no license shall be required for the following uses of water resources.

- a. For one's own drinking and other domestic use on an individual or collective basis,
- b. For the irrigation of one's own land on an individual or collective basis,
- c. For the purpose of running water-mill or water grinder as cottage industry,
- d. For the use of boat on personal basis for local transportation,
- e. For the use, as prescribed, of the water resources confined to a land by the owner of such land.

3.A person or a corporate body making use water resources shall make its beneficial use without causing damage to other.

5. Constitution of Water Users Association :

1.Persons willing to make use of water resources for collective benefits on an institutional basis may form a water Users Association as prescribed.

2.The Water Users Association , constituted pursuant before the prescribed officer or authority.

6. Water Users association to be a Corporate Body :

1.Users Association shall be an autonomous and corporate body having perpetual succession.

2.Users Association shall have a seperate seal of its own for the purpose of its all business.

3.Users Association may, as a person, have the right to acquire, enjoy, sell, dispose or arrange by any means of movable and immovable property.

4.Users Association may sue as a person or be sued against it.

7. Priority Order on the Utilization of Water Resources :

1.While utilizing water resources following priority order shall, in general, be followed :

a.Drinking water and domestic uses;

b.Irrigation;

c.Agricultural Uses such as animal husbandry and Fisheries;

d.Hydroelectricity;

e.Cottage Industry, industrial enterprises and mining uses,

f.Navigation;

g.Recreational uses;

h.Other use.

2.If a dispute arises while utilizing water resources, the prescribed committee shall, on the basis of priority order as set out in Sub-section(1), the beneficial use or misuse made of the water resources in accordance with sub-section(3) of Section 4 and also by conducting other necessary enquiries, decide as to whether or not or in what manner such use could be made.

3.The decision made by the prescribed committee pursuant to sub-station(2) shall be valid to all concerned.

4.The procedure of the committee, as prescribed pursuant to sub-section (2), while deciding on matters mentioned on that sub-section, shall be as prescribed.

8. Provisions of License :

1.A person or a corporate body, who desires to conduct survey or to utilize water resources, shall be required to submit an application to the prescribed officer or authority along with the economic, technical and environmental study report and with other prescribed particulars.

Provided that such study report shall not be required to be appended while applying for the license to conduct the survey of water resources.

2.On receipt of an application pursuant to sub-section(1), the prescribed officer or authority shall conduct or cause to conduct necessary enquiries and issue a license to the applicant by prescribing necessary terms according to the format as prescribed within 30 days of the receipt of such application in the case of license for conducting survey of water resources and within 120 days in the case of license for the

utilization of water resources in accordance with the priority order as set out in sub-section (1) of Section 7.

3. A person or a corporate body, who is utilizing water resources prior to the commencement of this Act, shall be required to submit an application along with the prescribed particulars to the prescribed officer or authority within one year from the date of the commencement of this Act except otherwise provided in sub-section (2) of Section 4.

4. On receipt of an application pursuant to sub-section (3), the prescribed officer or authority, after conducting necessary enquiries, shall issue a license according to the format as prescribed, within 60 days of the receipt of such application.

5. The licensee shall have to pay charge or annual fee utilizing water resources as prescribed to His Majesty's Government.

6. In case a licensee wishes to sell or otherwise transfer its license, it shall be required to obtain the approval from the prescribed officer or authority.

9. Utilization of Water Resources for Hydro-electricity :

1. Notwithstanding anything written in Section *, the license relating to the survey of water resources and its utilization for the generation of hydro-electricity shall be governed by the prevailing laws.

2. With regard to the generation of hydro-electricity, other matters relating to the utilization of water resources shall be in accordance with this Act.

10. His Majesty's Government may Utilize or develop Water Resources :

1. Nothing mentioned in this Act shall be deemed to have prevented His Majesty's Government from utilizing or developing water resources on its own. 2. His Majesty's Government may, for purpose of extensive public uses, acquire and develop water resources and the land, building, equipment and structures relating thereto utilized by any person under this Act.

Explanation : For the purpose of this Act, " Extensive Public Use " means the use which does not cause substantial adverse effect to the existing use and serves benefits to larger population than the existing population benefited from it.

3. His Majesty's Government shall pay compensation as prescribed, to the concerned person for the land, building, equipment or structures relating to the utilization of the water resources taken over by it pursuant to sub-section (2).

4. The amount of compensation payable pursuant to sub- section (3) shall be determined on the basis of the, current price (after deducting wear, tear and depreciation) of the land, building, equipment and structures owned by His Majesty's Government.

Water Resources Development Project may be Turned-over :

1. His Majesty's Government may, on terms and conditions as are necessary, turn-over to the users association any water resources project developed pursuant to sub-section (1) or (2) of Section 10 after its completion.

2. A concerned users association shall have the ownership over the project turned-over to it pursuant to sub- section

(1) and the concerned users association shall operate such project as if it has got licence under this Act.

12. Contract may be Entered into for the Utilization of Water Resources :

Notwithstanding anything written elsewhere in this Act, His Majesty's Government may, subject to the prevailing law, enter into a contract with any national or foreign company, corporate body or person to develop or cause to develop, utilize and extend the services of any water resources on such terms and conditions as mentioned in such contract.

13. Power to Fix the Terms and Conditions of the Use of Service and to Realize the Service Charge :

1. The licensee may make available services generated out of the use of water resources developed on its own to any other person on the basis of mutual terms and conditions and realize the charge in consideration of such services rendered to them.

2. In case where, the services generated out of the use of water resources developed by His Majesty's Government is made available to any other person, the service charge may be fixed as prescribed, and may be realized in consideration of services rendered to them.

14. Services may be Stopped :

The services to such person may be stopped who, is in default of payment of the charge for the utilization of services or utilizes the services unauthoritatively or misuses the services or acts in contravention of the terms and conditions.

15. To Enter Into Others' Premises :

If His Majesty Government or the licensee requires to enter into anyone premises in connection with the survey or utilization of water resources, the employee of His Majesty's Government or the licensee may enter into such premises only after giving a prior notice to the concerned person. In case any loss or damage is caused due to such entry, His Majesty's Government or the Licensee shall pay compensation, as prescribed for such loss or damage.

Provided that such employee may, without giving prior notice, enter into the concerned premises to rescue from any accident or if there is a reasonable ground to suspect that water resources is being unauthoritatively used or misused in such premises.

16. Utilization and Acquisition of Other's Land and House :

1. If it is required that the land or house of any person be used or acquired for the purpose of performing any of the following function, the licensee may submit an application to His Majesty's Government :-

- a. For the construction of a dam or barrage,
- b. For the construction of a canal, ditch or tunnel,
- c. For the construction of a water tank on the surface or underground or for laying pipe,
- d. For the construction of ponds or installation of a water distributing centre,
- e. For performing any other necessary work related to the development of water resources.

2. On receipt of an application pursuant to sub-section (1), His Majesty's Government may, after conducting necessary enquiries into the matter, make available such land or house in the same manner as it makes available to any corporate body under the prevailing laws.

3. If a construction work relating to the development and utilization of water resources has been performed by His Majesty's Government may prohibit to use the premises of a house or land located in the area where such construction work is performed or the premises of a house or land located in the prescribed distance from such place of construction by any other person for any specified purpose, His Majesty's

Government or the licensee shall pay compensation, as prescribed, to the concerned person for such damage or loss caused due to such prohibition.

17. Security of Structure Related to the Utilization of Water Resources :

1. His Majesty's Government may make necessary arrangement for the security of any structure related arrangement for the security of any structure related to the utilization of water resources, on the request of licensee or by itself, if it deems it necessary to provide such security.

2. If security arrangement is made pursuant to sub-section(1) on the request of the licensee, all the expenses incurred for such security shall be borne by the licensee.

18. Fixing of Quality Standard of Water Resources :

1. His Majesty's Government may, by a notification published in the Nepal Gazette, fix the necessary quality standard of water resources for various uses.

2. While making use of water resources, the quality standard as prescribed pursuant to sub-section(1) shall be maintained.

19. Water Resources not to be Polluted :

1. His Majesty's Government may, by a notification published in the Nepal Gazette, prescribe the pollution tolerance limit for water resources.

2. No one shall pollute water resources by way of using or putting any litter, industrial wastes, poison, chemical or toxicant to the effect that the pollution tolerance limit of the water resources as prescribed pursuant to sub-section(1) is exceeded.

3. The prescribed officer may, as required, examine or cause to examine to determine as to whether or not the water resource has been polluted or the quality standard as prescribed to sub-section(1) of section 18 has been maintained.

20. Not to cause Substantial Adverse Effect on Environment :

While utilizing water resources, it shall be done so in such a manner that no substantial adverse effect be made on environment by way of soil erosion, flood, landslide or similar other cause.

License may be Cancelled :

1. If the licensee performs any act contrary to this Act or rules made under this act, the prescribed officer may issue an order to the concerned licensee by prescribing necessary improvements to be made on such activity within the specified period.

2. If the licensee makes no improvement within the prescribed period pursuant to sub-section(1), the prescribed officer may cancel the license of such person.

3. Prior to the cancellation of license pursuant to sub-section (2), the prescribed officer shall give the licensee a reasonable opportunity to explain his innocence.

22 Penalties :

1. The prescribed officer may impose a fine up to an amount of five thousand rupees to any person who acts in contravention of this Act or rules made under this act and realize compensation also for such damage from such person if damage is caused to anybody due to such act .

2.The prescribed officer may impose a fine upto five thousand rupees and cause to close such activity if any person utilize the water resources without obtaining the license which is required to be obtained under this act or without observing the terms and conditions set forth in the license.

3.If a person steals or misuse or uses unauthoritatively the services developed out of the water resources pursuant to this Act, such person may be punished with a fine at par with the value of the services and the value of such services shall be realized from such person by the prescribed officer.

4.If any person causes adverse effect, demolishes, destroys or causes harm otherwise with malafide intention to any source of drinking water,dam,canal or any structure related to the utilization of water resources or any structure related to the utilization of water resources or any other structure realted to the same or induces to do the said acts or attempt to do so, such person may be punished with a fine at par with the value of such damages from such person.

23. Appeal :

Any person who is not satisfied on the decision of the compensation pursuant to Section 10,15 or 16 or the decision of the cancellation of license pursuant to Section 21 or an order of the punishment issued by the prescribed officer pursuant to sub-section(1),(2) or(3)or Section 22, an appeal against such decision or order may lie in an appellate court within a period of thirty five days.

24. Power to make Rules :

1.His Majesty's Government may frame rules in order to carry out the objectives of this Act.

2.Without prejudice to the generality of the powers conferred by sub-section (1), His Majesty's Government may frame rules, in particular, on the following subjects:

a.Matters relating to drinking water, irrigation, navigation, industrial and recreational uses and matters related to similar uses of water resources.

b.Matters relating to conservation of water resources and the control of flood and soil erosion.

c.Matters realting to the conservation of environment.

d.Matters realting to fee, charges etc. payable to is Majesty's Government for the utilization of any service related to water resources.

e.Matters relating to the pollution prevention of water resources.

f.Methods of various uses of water resources.

g.Matters relating to the setting of standards of services, generated from the utilization of water resources.

h.Matters realting to accident caused by the utilization of water resources and enquiries into such matter and matters relating to compensation thereto.

i.Matters relating to users association and other matters related to users including protection and facilities to be provided to the users.

j.Other necessary matters relating to the development and utilization of the water resources.

25. Repeal and Savings :

1.The canal, Electricity and Related Water Resources Act, 2024 is hereby repealed.

2.Any act performed under the canal, Electricity and Related Water Resources Act, 2024 and rules and order made under the said Act prior to the commencement of this Act, shall be deemed to have been performed under this Act.