

Government of the People's Republic of Bangladesh
Ministry of Water Resources
Water Resources Planning Organization
Asian Development Bank

Draft Bangladesh Water Act

October 2008

PROCESS DEVELOPMENT FOR PREPARING AND IMPLEMENTING INTEGRATED
WATER RESOURCES MANAGEMENT

REGIONAL TECHNICAL ASSISTANCE (RETA) SUPPORTING INTEGRATED
WATER RESOURCES MANAGEMENT (BANGLADESH)

WARPO
পানি সম্পদ পরিকল্পনা সংস্থা



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Draft Bangladesh Water Act

October, 2008

AN ACT TO GIVE EFFECT TO BANGLADESH WATER POLICY FOR INTEGRATED MANAGEMENT, DEVELOPMENT, UTILIZATION AND PROTECTION OF THE WATER RESOURCES.

WHEREAS it is expedient to make a law to consolidate and supplement the existing laws to regulate the water resources of Bangladesh in order to facilitate and ensure integrated, equitable and sustainable management, development, and utilisation of water resources and their conservation and protection and matters connected therewith or incidental thereto,

IT IS HEREBY ENACTED as follows:

CHAPTER I PRELIMINARY

1. Short Title and Commencement: (1) This Act may be called the Bangladesh Water Act, 2008.

(2) It extends to the whole of Bangladesh and if the government so requires, it may apply to different areas on different dates.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different sections of this Act.

(4) In this Act, unless the contrary intention appears, a reference to the Act includes any rules made under the Act.

2. Definitions: (1) In this Act unless the context otherwise requires:-

- (a) "Act" means the Bangladesh Water Act, 2008;
- (b) "Appropriation of waters" is the acquisition of rights over the use of waters or the taking or diverting of waters from a natural source in any manner and for any purpose allowed by law.
- (c) "Aquifer" means an underground geological formation which has structures or textures that hold water which can be exploited.
- (d) "Baor" means oxbow shaped lakes left behind by changing water course which has gradually shifted its course over time,
- (e) "Beneficial use" means the application of water without waste to a use that is socially valuable and consistent with sustainable development, including any economically productive use.
- (f) "Beel" means natural depressions or saucer shaped areas subjected to flooding by rain or river water which may or may not hold water throughout the year.
- (g) "Bore" means any bore, hole, well, excavation or other opening in the ground or any naturally existing or artificially constructed or improved underground cavity which could be used, is used or may be used, for the purpose of intercepting, collecting, obtaining or using groundwater or for the purpose of disposing of any water or waste water below the surface of the ground, or which extends to an aquifer;

- (h) "Conservation" includes, but not limited to improved efficiency efficiency, recycling, reuse or reduction of wastage or losses, preservation, and protection;
- (i) "Conservation Measures" refers to any measures adopted by a water right holder, or several water right holders acting in concert pursuant to an approved conservation agreement to reduce diversions or consumptive use or both associated with the exercise of a water right.
- (j) "Consumptive Use" means any use that diminishes the quantity or quality of water in a water source.
- (k) "Designated authority" means any body or organization so designated by the Government or by the Ministry of Water Resources to perform a specific function, or duty under this Act.
- (l) "ECNWRC" means the Executive Committee of the National Water Resources Council.
- (m) "Haor" means large natural water bodies in the form of bowl shaped depressions between the natural levees of rivers,
- (n) "Khal" means natural or man made water courses for inflow or out flow of water,
- (o) "Non-consumptive Use" is a beneficial use of water, whether in stream or by diversion from the waters of the country in such a manner that the water returns to or remains in the waters of origin at or near the point of origin without substantial diminution in quality or quantity and without resulting in or exacerbating a low flow condition.
- (p) "Pollution" in relation to a water resource means the direct or indirect alteration of the physical, chemical or biological properties of the water so as to make it:
- (1) less suitable for any beneficial purpose for which it is or may reasonably be expected to be used; or
 - (2) harmful or potentially harmful:
 - (a) to the welfare, health or safety of human beings;
 - (b) to any aquatic or non-aquatic organism;
 - (c) to the resource quality; or
 - (d) to property;
- (q) "Prescribe" means prescribed by rules under this Act.
- (s) "Servitude of abutment" means the right to occupy, by means of a water work, the bed or bank of a stream or adjacent land belonging to another.
- (t) "Servitude of aqueduct" means the right to occupy land belonging to another by means of a water work for abstracting or leading water.
- (u) "Servitude of submersion" means the right to occupy land belonging to another by submerging it under water.
- (v) "Stream flow reduction" means significantly reducing the availability of water in a watercourse to meet the need of other water users.
- (w) "Surface water" is water occurring on the land surface including in ponds, lakes, streams and rivers.
- (x) "Sustainable Development" in this Act means the integrated management of water resources to assure the efficient use and equitable access for the benefit of current and future generations, optimizing the use of non-renewable resources, and averting the exhaustion of renewable resources.

- (y) The "Sustainable Yield" of a water source is the amount of water available for diversion without impairing the long-term social utility of the water source, including the maintenance of the protected biological, chemical, and physical integrity of the source. The "sustainable yield" is determined by comparing the natural and artificial replenishment of the water source to existing or planned consumptive and non-consumptive uses.
- (z) "Underground or Ground Water" means water found beneath the ground surface, regardless of whether the water flows through defined channels or percolates through the ground, and regardless whether the water results from natural or artificial recharge.
- (aa). "Use" in relation to water, includes to withdraw, pump, extract, take, use or re-use or to divert for the purpose of using or re-using, that water.
- (ab). "Waste" includes any solid or liquid material or materials that is suspended, dissolved, or transported in water (including sediment) and which is spilled or deposited on land or into a water resource in such volume, composition or manner as to affect quality, or to be reasonably likely to affect the quality, of the water either during the whole year or part of a year;
- (ac) The "Waters of Bangladesh" include all waters, on the surface, underground, and in the atmosphere, within or under the jurisdiction of the Republic.
- (ad). "Water body" means an area submerged under water either during the whole year or part of a year;
- (ae). "Water course" means a river or spring, a natural or man made channel in which water flows regularly or intermittently, a wetland, lake or dam into which or from which water flows;
- (af). "Water Management institution" means a basin management agency, a water user association, a body responsible for international water management, or a water management utility responsible for protecting, maintaining, improving, allocating, and planning regarding the waters of Bangladesh pursuant to this Act;
- (ag). "Water resource" designates different forms of accumulation of water including surface water, groundwater, watercourse, estuary, aquifer, wetland, water body, or any other collection of water including the extent of coastal water that is necessary to be taken into account for conservation of other forms of accumulation of water;
- (ah) "Water Stress areas" are areas where the demand for water are approaching or exceed the available supply or where existing or potential water quality problem is serious
- (ai). "Water use right" is a property right to use a certain portion of the waters of Bangladesh in compliance with the provisions of this Act, whether subject to a permit or otherwise.
- (aj). "Wetland" means land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is periodically covered with shallow water, and which land in normal circumstances support or would support vegetation typically adapted to life in saturated soil.

(2) Words and expressions used in this Act, but not defined herein shall have the meaning assigned to them in the relevant Acts.

CHAPTER II ADMINISTRATION AND ENFORCEMENT

3. General Administrative and Enforcement: (1) The general administration and enforcement of the provisions of this Act, including the granting of licenses, resolution of inter-agency disputes and the imposition of penalties for administrative violations hereof, are hereby vested in the Ministry of Water Resources except in regard to those functions which under this Act are specifically conferred upon other agencies of the government.

(2) The Ministry of Water Resources may delegate its authority for resolution of inter-agency disputes to any of its agency or office or provide for the establishment of a water tribunal by promulgating Rules in this behalf.

(3) Unless otherwise stated, the Executive Committee of the National Water Resources Council (ECNWRC) on behalf of the government will be the coordinating body for the enforcement of this Act. It shall provide directives on all matters relating to planning, management and coordination of water resources across all sectors and hear and dispose of appeals from decisions of the Ministry of Water Resources in disputes between various agencies of the government.

(4) The Water Resources Planning organization (WARPO) will act as the secretariat of the ECNWRC and shall perform all other functions as are expressly provided in this act or rules made under this Act.

4. Delegation of Power by the Government

(1) Subject to sub-sections (2) the government may delegate its power, function or duty vested under this Act to -

- (a.) Any body or organization assigning a specific power, function, or duty by the government;
- (b.) A water management institution.

(2) The government may further permit a person or office to whom a power, function or duty has been delegated to further delegate that power, function and duty.

5. Power of agencies authorized to enforce the Act

Agencies authorized by the government to enforce this Act are empowered to enter upon private lands, with previous notice to the owner, for the purpose of conducting surveys and hydrological investigations, and to perform such other acts as are necessary in carrying out their functions.

6. The Government may give directives to a water management institution

The Government may give directives to a water management institution in relation to the exercise of any of the institution's powers or the performance of any of the institution's functions or duties including any power, function or duty assigned or delegated to that institution.

7. Ministry of Water Resources to have original jurisdiction over disputes

(1) The Ministry of Water Resources shall have original jurisdiction over all other disputes relating to appropriation, utilization, exploitation, development, control, conservation and protection of waters within the meaning and context of the provisions of this Act.

(2) The decisions of the Ministry of Water Resources on water rights controversies shall be immediately executed and enforcement thereof may be suspended only when a bond, in an amount fixed by the government to answer for damages occasioned by the suspension or stay of execution, shall have been filed by the appealing party, unless the suspension is by virtue of an order of a competent court.

- (3) All disputes shall be decided within sixty (60) days after the parties submit the same for decision or resolution.
- (4) For the purpose of exercising any power or performing any functions under this Act, the Ministry of Water Resources or any authority designated by the Ministry may request any law enforcing authority or any other government or statutory authority to render necessary assistance, and upon such request that agency or authority shall render such assistance.

8. Concurrence of the ECNWRC for water programs and projects

(1) No program or project involving the appropriation, utilization, exploitation, development, control, conservation, or protection of water resources may be undertaken without prior concurrence of the ECNWRC except those which the government may, in its discretion, exempt. The ECNWRC may designate any agency to review the plans and specifications and accord government's clearance.

(2) The ECNWRC may require consultation with the public prior to the implementation of certain water resources development projects.

9. Appeal to the ECNWRC

A person who is a party to a matter dealt with by a designated authority or by water management institution may appeal to the ECNWRC against a decision of that authority.

10. Government to prescribe penalties for infringement of the Act

For the implementation of the provisions of this Act, the government shall promulgate the necessary rules which may provide for penalties consisting of a fine, imprisonment, suspension or revocation of the water license or other right to the use of water or any of the aforesaid penalties.

11. Offences

The following acts shall be penalized by the Government under section 10:

- (a) Use water otherwise than as permitted under this Act;
- (b) Fail to provide access to any books accounts, documents or assets when required to do so under this Act;
- (c) Fail to comply with any condition attached to an authorized water use under this Act;
- (d) Fail to comply with a directive issued under this Act;

- (e) Unlawfully and intentionally or negligently tamper or interfere with any water work or any seal or measuring device attached to a water work;
- (f) Fail or refuse to give data or information or give false or misleading information when required to give information under this Act;
- (g) Fail to register an existing lawful water use when required by a designated authority;
- (h) Internationally refuse to exercise an obligation or obstruct any other person from exercising any of that person's rights or obligations under this Act;
- (i) Unlawfully and intentionally or negligently commit any act or omission which detrimentally affects or could affect or could affect a water resource or coastal marine waters;
- (j) Fail to comply with a temporary restriction to use water.
- (k) Non-observance of any standard specified for the use of water.
- (l) Unauthorized sale, lease, or transfer of water and/or water rights.
- (m) Failure to provide adequate facilities to prevent or control diseases when required by the Government in the construction of any work for the storage, diversion distribution and utilization of water.
- (n) Utilization of an existing well or pending or spreading of water for recharging subterranean or ground water supplies without permission of the relevant authority.
- (o) Violation of or non-compliance with any order, rule, or regulation of the Government.
- (p) Illegal taking or diversion of water in an open canal, aqueduct or reservoir.
- (q) Navigation interruption in a natural water body.

12. Offences by companies or firms

Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offences.

Provided that nothing contained in this section shall render any such person liable if he proves that the offence was committed without his knowledge or that he or she exercised all due diligence to prevent the commission of such offence.

13. Offences by government departments.

Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he or she proves that the offence was

committed without his or her knowledge or that he or she exercised all due diligence to prevent the commission of such offence.

CHAPTER III: OWNERSHIP, APPROPRIATION AND WATER USAGE RIGHT

14. Ownership

The State has sole ownership of all water and water resources including:

- a) All other categories of surface waters such as rivers and their natural beds, khals, beels, haors and baors; and other water bodies;
- b) Continuous and intermittent waters of springs and natural water channels;
- c) Subterranean or ground waters; and
- d) Seawater.

15. Ownership of waters on private land

Unless otherwise excluded by law, the following waters found on private lands also belong to the State:

- a) Continuous or intermittent waters naturally flowing through such lands;
- b) Naturally occurring lakes and water bodies that are connected to a river, stream or a water body in public domain;
- c) Waters in swamps and marshes located on such lands, and
- d) Subterranean or ground waters.

Provided that the owner of the land where the water is found may, subject to any zoning regulation, use the same for domestic, agricultural and industrial purpose. Provided further that The Government, however, may regulate such use when there is wastage, or in times of emergency.

16. Appropriation of water

Appropriation will be guided by the availabilities of the resources (both surface and ground water) and based on demand and priority responding to the national and community interest.

17. Purpose of appropriation

Water may not be appropriated for any purpose except the following:

- (a) Domestic: Use of water for domestic purposes is the utilization of water for drinking, washing, bathing, cooking or other household needs, home gardens, and watering of lawns or domestic animals.
- (b) Municipal: Use of water for municipal purposes is the utilization of water for supplying the water requirements of the community.
- (c) Fisheries: Use of water for fisheries is the utilization of water for the propagation and culture of fish as a domestic and commercial enterprise.
- (d) Wildlife: Use of water for wildlife is the utilization of water for preserving the habitat of natural wildlife located at various locations in the country.

- (e) Irrigation: Use of water for irrigation is the utilization of water for producing agricultural crops.
- (f) Power generation: Use of water for power generation is the utilization of water for producing electrical or mechanical power.
- (g) Industry: Use of water for industrial purposes is the utilization of water in factories, industrial plants and mines, including the use of water as an ingredient of a finished product.
- (h) Environment: Use of water for environmental purpose means the utilization of water for preserving the natural environment and the eco-system
- (i) Navigation: Use of water for navigation purpose means utilization of water for inland water transportation and oceanic transportation.
- (J) Sustenance of the river regime: Use of water for sustenance of the river regime means the allowing of minimum stream flows for maintaining the essential morphological characteristics of the river.
- (K) Salinity control: Use of water for salinity control means the utilization of water for checking saline intrusion in the coastal areas.
- (l) Recreation: Use of water for recreational purposes is the utilization of water for swimming, boating, water skiing, golf courses and other similar facilities in resorts and other places of recreation.
- (m) Others: Any other beneficial use for the people of the Republic

18. Exemption from appropriation

The Government, for reasons of public policy, may declare waters not previously appropriated, in whole or in part, exempt from appropriation for any or all purposes and, thereupon, such waters may not be appropriated for those purposes.

19. Water Use Right

Except as otherwise provided herein, no person, including government institutions or government owned or controlled corporations, shall appropriate water without a water use right.

20. Natural Water Use Right

Subject to the provisions of this Act, water use right is naturally conferred on any person for the use of natural bodies of water for the following purposes:

- a) Domestic use of water carried by means of hand carried receptacles; and,
- b) Bathing or washing, watering or dipping of domestic or farm animals, and navigation of boats and small watercrafts.

21. Water use right acquired through other means

Outside of the natural right of water use, water rights may not be acquired by any means except the following:

- a) Through an existing lawful water use rights as defined in section ?? →

- b) Through a general authorization as defined in Section ??
- c) By means of license, for specific purposes as may be determined by Rules, under this Act, to provide secure, defensible and enforceable ownership/ usufructary rights to ground water and surface water.

22. Grant of easement

No right of easements may be granted to a holder of a water license for the construction and maintenance of works and facilities needed for the use of water, except when it is subject to the requirements of just compensation and the following conditions:

- a) That he is the owner, lessee, mortgagee or one having legal right over the land upon which he proposes to use water; and
- b) That the proposed easement is the most convenient and the least onerous to the servient estate.

Provided that easements relating to the appropriation and use of waters may be modified by agreements of the contracting parties, provided the same is not contrary to law or prejudicial to third persons.

23. Easement on river banks

The banks of rivers and streams and the shores of the seas and lakes throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, and fishing. No person shall be allowed to stay in this zone longer than what is necessary for recreation, navigation, and fishing or to build structures of any kind.

24. Application of the Civil Procedure Code on easement

The establishment, extent, forms, and conditions of easements of water not expressly determined by the provisions of this Act shall be governed by the provisions of the Civil Procedure Code.

25. Transfer of water rights

Water rights may not be leased or transferred in whole or in part to another person without prior approval of the Ministry of Water Resources, and without due notice and hearing.

26. Protection of the rights of others

A water right shall not be exercised in such a manner that the rights of third persons or of other appropriators are unduly prejudiced.

27. Rights of a lower riparian

(1) A lower riparian right to receive water, which naturally flows from the higher estates without the intervention of man, shall not be violated.

(2) The owner of the lower estate cannot construct works which will impede the natural flow, unless he provides an alternative method of drainage.

28. Superior rights

Between two or more appropriators of water from the same source of supply, superior right shall be judged from the priority of use determined by Rules made under this Act.

Provided that, priorities may be altered on grounds of greater beneficial use, multi-purpose use, and other similar grounds after due notice and hearing, subject to payment of compensation in proper cases.

CHAPTER IV EXISTING LAWFUL USE OF WATER

29. Permissible water use

- (1) Water may not be used unless:
 - (i) that water use is permissible under Schedule 1;
 - (ii) that water use is permissible as a continuation of an existing lawful water use defined under SECTION ??
 - (iii) that water use is permissible under a general authorization issued under Section ??.
 - (iv) that water use is authorized by a license issued under Section ??
 - (v) A designated authority has dispensed with the license requirement under section ??

- (2) A person who uses water under subsection (1):
 - (a) must not use the water in violation of any condition of the relevant authorization for that use;
 - (b) can not be outside any limitation, restriction or prohibition under this Act or any other applicable law;
 - (c) in the case of discharge or disposal of waste or water containing waste, must comply with any applicable waste standards or management practices prescribed by relevant authorities unless the conditions of the relevant authorization provides otherwise;
 - (d) shall not waste water; and
 - (e) must return any seepage, run-off or water containing waste which emanates from that use to the water source from which the water was taken unless the responsible authority directs otherwise or the relevant authorization provides otherwise.

- (3) No authority outside that designated by the government may dispense with the requirement for a license for water use and only after it is satisfied that the purpose of this Act would be met with the grant of a license, permit or other authorization under any other law.

30. Existing lawful use of water

(1) An existing lawful water use, with any conditions attached, is recognized but may continue only to the extent that it is not limited, prohibited or terminated by this Act. No license is required to continue with an existing water use until a responsible authority requires a person claiming such an entitlement to apply for a license. If a license is issued it becomes the source of authority for the water use. If a license is not granted the use is no longer permissible.

(2) Subject to sub-section (2) an existing water use means a water use which took place at any time during a period of two years immediately before this Act commences, and which:

- (a) was permissible by custom or under any other law which was in force immediately before this Act commences;
- (b) is declared by licenses an existing lawful water use under section ??
- (c) is identified as controlled activity described in section ?? and in Schedule II.

(3) In the case of a controlled activity, existing lawful water use means a water use which took place at any time during a period of two years immediately before the date of the declaration of its legality.

31. Declaration of a lawful water use

- 1) A person may apply to an authority designated by the government to have a water use, which does not fall under section 19 declared to be an existing lawful water use.
- 2) The designated authority may also, on its own initiative declare a water use which does not fall under Article 3.5 to be an existing lawful water use.
- 3) The designated authority may only make a declaration under sub-sections (1) and (2) if, upon verifications, it is satisfied that the water use:
 - a) took place at a time more than two years before the commencement of this Act and was discontinued for good reasons, or
 - b) had not yet taken place at any time before the commencement of this Act, but would have been lawful had it taken place and steps towards effecting the use had been taken in good faith before this Act commenced..

32. Appeal against denial of lawful use

Any person, who is aggrieved by the decision of denial of any existing lawful use, may prefer an appeal to the designated authority within 60 days of the denial whereupon the decision shall be reviewed by offering him an opportunity of personal hearing.

33. Continuance of existing lawful water use

A person or his successor-in-title may continue with an existing lawful water use subject to:

- a) any existing conditions or obligations attached to that use;
- b) its replacement by a license under this Act;
- c) any other limitation or prohibition under this Act.

CHAPTER V GENERAL AUTHORIZATION AND LICENCE FOR WATER USE

34. General authorization

(1) The Ministry of Water Resources in concurrence with the ECNWRC, may, after public consultation, permit the use of water through a general authorization. A general authorization may be restricted to a particular water resource, a particular category of persons, a defined geographical area, a period of time, and would

require conformity to other relevant laws. The use of water under general authorization would not require a license.

- (2) No general authorization under sub-section (1) can be issued without the publication of due notice in the news paper:
 - (i) setting out the proposed general authorization, and
 - (ii) inviting written comments to be submitted on the proposed general authorization, specifying an address and a date before which the comments are to be submitted, which may not be earlier than 30 days after publication of the notice, andwithout considering all comments received.

35. License for water use

(1) As and when declared by the government, water use must be licensed unless it is a permissible use listed in Schedule 1, is an existing lawful use, is permissible under a general authorization, or if a lawful authority waives the need for a license.

(2) Such licenses shall specify the maximum amount of water which may be diverted or withdrawn, the maximum rate of diversion or withdrawal, the time or times during the year when water may be diverted or withdrawn, the point or points of diversion or location of wells, the place of use, the purposes for which water may be used, the environmental conditionalities, and such other requirements as may be deemed necessary.

36. Consideration for the issue of general authorizations and licenses

In exercising its power to issue a general authorization or license, the Ministry of Water Resources may take into account all relevant factors including:

- (i) existing lawful water use;
- (ii) efficient and beneficial use of water in public interest;
- (iii) the socio-economic impact of the water use to be authorized;
- (iv) any catchment management strategy applicable to the relevant resource;
- (v) the effect of the water use on the water resource and on other water users;
- (vi) water quality objectives;
- (vii) investment made by a water user in respect of the water use to be authorized.

37. Condition which may be applied to general authorization and license

The Ministry of Water Resources may apply conditions to every general authorization or license:

- (a) relating to the protection of:
 - (i) the water resource concerned;
 - (i) the stream flow regime; and
 - (ii) other existing and potential water users.
- (b) relating to water management by:

- (i) specifying management practices and general requirements for any water use, including water conservation measures;
 - (ii) requiring the monitoring, analysis and reporting on every water use and specifying measuring and recording devices, and imposing a duty to measure and record aspects of water use;
 - (i) requiring the preparation/approval of and adherence to a water management plan;
 - (ii) requiring the payment of charges for water use;
 - (iii) requiring the license to provide water to a person specified in the license.
- (c) relating to return flow and discharge or disposal of waste by:
- (i) specifying a water source to which it must be returned or other manner in which it must be disposed off;
 - (ii) specifying permissible levels for some or all of its chemical and physical components;
 - (iii) specifying treatment to which it must be subjected, before it is discharged.
- (d) In the case of a controlled activity:
- (i) Specifying the waste treatment, pollution control and monitoring equipment to be installed, maintained and operated; and
 - (ii) Specifying the management practices to be followed to prevent the pollution of any water resource.
- (e) In the case of withdrawal or storing water:
- (i) Setting out the specific quantity of water or percentage of flow which may be taken;
 - (ii) Setting out the rate of abstraction;
 - (iii) Specifying the construction of a borehole and the method of abstraction from the bore hole;
 - (iv) Specifying the place from where the water may be taken;
 - (v) Specifying the periods when water may be taken;
 - (vi) Identifying or limiting the area of land on which any water taken from a source may be used;
 - (vii) Limiting the quantity of water which may be stored;
 - (viii) Specifying the location where water may be stored;
- (f) In the case of stream flow reduction activity:
- (i) Specifying practices to be followed to limit stream flow reduction and other detrimental impact on water resources; and
 - (ii) Setting or applying a methodology for determining the extent of the stream flow reduction caused by the licensed activity.

38. Failure to comply with authorizations

- (1) The Ministry of Water Resources may, by notice in writing to a person who contravenes any provision of the authorization, direct that person, or owner of the property in relation to which the contravention occurs, to take any action specified in the notice to remedy the contravention, within the time (being not less than two working days) that is specified in the notice or any other longer time allowed by the authority.

- (2) If a contravention is not rectified within the time specified in the notice, or any longer time allowed, the authority may carry out any works and take any other action it decides is necessary to remedy the contravention and recover its reasonable costs from the person on whom the notice was served.

39. Essential requirement of license

The essential requirements of license, the procedure for its review, amendment, suspension and cancellation shall be regulated by Rules made by the Ministry of Water Resources.

40. Revocation of license or general authorization

Water license or authorization may be revoked by the Ministry of Water Resources after due notice and hearing on grounds of non-use for a certain period to be determined by the Ministry; gross violation of the conditions imposed in the license; unauthorized sale of water; willful failure or refusal to comply with rules and regulations or any lawful order; pollution, public nuisance or acts detrimental to public health and safety; when the appropriator is found to be disqualified under the law to exploit and develop natural resources of Bangladesh; when, in the case of irrigation, the land is converted to non-agricultural purposes; and other similar grounds.

41. Modification and cancellation of license or authorization

All water licenses and authorization are subject to modification or cancellation by the government, after due notice and hearing, in favor of a project of greater beneficial use or for multi-purpose development, and a water license holder who suffers thereby shall be duly compensated by the entity or person in whose favor the cancellation was made.

42. Curtailment of license or authorization during water shortage

At times of water shortage, the use of the water under a license or an authorization may, in the interest of equitable distribution of benefits among legal appropriators, be reduced after due notice and hearing.

43. Identifications of water stress areas

WAPRO shall identify and declare the water stress areas in the country and water extraction and utilization in the identified scarcity zones will be regulated, amongst other things, for sustaining rechargeable shallow groundwater aquifers.

44. Water allocation in water stress areas

(1) Unless special circumstances demands otherwise, water allocation schedules will be framed by local governments or any authority designated by the ECNWRC in specified water stress areas in general with the following priority - domestic and municipal uses, fisheries and wild-life, sustenance of the river regime, irrigation, industry, environment, salinity management, navigation, and recreation and by taking account of the specific users' existing rights and all the applications received and also in accordance with procedures to be determined by Rules.

- (2) The authority designated under subsection (1) may establish a procedure for licensing in respect of any aspect of water use in the water stress areas.

- (3) License issued under this section replace all previous entitlement to any existing lawful water use.

CHAPTER VI CONTROL OVER WATER

45. Declaration of flood control area

- (1) To promote the coordinated protection of flood plains, the ECNWRC may designate flood risk zones and establish flood control areas in those zones.
- (2) In respect of declared flood control areas rules may be promulgated to prohibit or control activities including cultivation of sand bars and tidal flats and erection of private embankments or revetments, that may damage or cause deterioration of water catchments and embankments, obstruct the flow of water, change the natural flow of river, increase flood losses or aggravate flood problems and to protect in particular the regions of economic importance such as metropolitan areas, sea and air ports and export processing zones.

46. Storage of Water in reservoir

- (1) Water of a stream may not be stored in a reservoir by an individual in such amounts that may prejudice the right of any other user downstream. Whosoever operates the reservoir shall, when required, release water for minimum of stream flow.
- (2) No reservoir operations shall be outside the rules and regulations issued by the governments or any designated government agency.

47. Control and protection of ground water

- (1) No authority except the Ministry of Water Resources may approve the manner, location, depth, and spacing in which borings for ground water may be made, determine the requirements for the registration of every boring or alteration to existing borings as well as other control measures for the exploitation of ground water resources.
- (2) A person may not drill, construct, enlarge or otherwise alter a borehole, engage in a borehole drilling program, for the purpose of exploring for ground water, except in accordance with a permit issued by the Ministry of Water Resources in the manner prescribed by Rules.
- (3) A person may not cause or allow any ground water to run to waste from any borehole, except for the purposes of testing the extent or quality of supply, or cleaning, sterilizing, examining or repairing the bore hole.
- (4) No person shall utilize an existing well or pond or spread waters for recharging ground water supplies without prior permission of the ECNWRC.
- (5) No project for use of ground water shall draw down the water table below a critical limit to be determined by the Ministry of Water Resources.
- (6) The Ministry of Water Resources has power –

- (a) To determine the safe yield of any aquifer for the purpose of guiding determinations concerning the abstraction and use of water from the aquifer;
- (b) To require that an aquifer be used on a sustainable basis, including restricting abstractions so that they do not, individually or collectively, exceed the safe yield of the aquifer;
- (c) To impose special requirements and restrictions with respect to artesian wells, for the purpose of preventing wastage or contamination of water, or loss of artesian pressure and
- (d) To carry out programs for the recharge of aquifers.
- (e) For the purposes of this section " safe yield " means the amount of water which may be abstracted from an aquifer at a rate that will not reduce the supply to such an extent as would render such abstraction harmful to the aquifer, quality of the water or environment.

48. Standards for Minimum stream flows

After due notice and hearing when warranted by circumstances, minimum stream flows for rivers and streams and minimum water levels for lakes may be established by the ECNWRC under such conditions as may be necessary for the protection of the environment, control of pollution, navigation, salinity control, and general public use.

49. Declaration of Certain Protected areas

- (1) Any watershed or any area of land adjacent to any surface water or overlying any ground water may be declared by the Government as a protected area.
- (2) Rules and regulations may be promulgated to prohibit or control such activities by the owners or occupants thereof within the protected area which may damage or cause the deterioration of the surface water or ground water or interfere with the investigation, use, control, protection, management or administration of such waters.

50. Preservation of water bodies in major urban areas

No one shall fill up natural depressions and water bodies that are to be preserved for recharge of aquifers and rainwater management in major urban areas. The penalty for violation shall be prescribed.

51. Recreational use of water

No person shall develop a stream, lake, or a water body for recreational purposes without first securing permission of WARPO. Such use of water bodies will be allowed if it does not damage the environment.

52. Drainage and sanitation

The ECNWRC may direct any public water and sewage authority to take appropriate measures for drainage and sanitation, including treatment of domestic waste water and sewage, construction of sewage treatment plants, and the replacement of open drains in the interest of public health.

53. Clearance for the construction of dams, bridges and other structures

No construction of road, dams, bridges and other structures which may seriously interfere with the flow of navigable waterways shall take place without having an approved plan and Planning Proforma approved by planning commission after a clearance from WARPO.

54. Other controlled activities

(1) The government may regulate all other activities having detrimental impact on water resources that are identified as controlled activities in Schedule II or which has been declared by Rules to be a controlled activity or stream flow reduction activity.

(2) The government may, at the request of the water management institution concerned, order an owner or occupier of land who has been convicted of an offence relating to a stream low reduction activity to remove, cease or terminate the cause of the stream flow reduction from that land within a period stated in the order.

CHAPTER VII CONSERVATION AND PROTECTION

55. Zoning for Efficient land and water use

The ECNWRC shall develop appropriate zoning regulations including for industry, agriculture, brackish aquaculture, hatcheries, for efficient and sustainable use of water resources of the country.

56. Conjunctive use of water

All irrigation and urban water supply plans will consider the conjunctive use of all forms of surface and ground water including rain water for increasing water use efficiency.

57. Protecting flow of water from injurious substance

It shall be the duty of any person in control of a well containing water with minerals or other substances injurious to man, animals, agriculture, and vegetation to prevent such waters from flowing on the surface of the land or into any surface water or into any other aquifer or porous stratum. such activities for any other well shall not be permitted unless for beneficial use.

58. Preventing pollution of water resources

No person shall pollute any water resource in any manner except in accordance with pollution permit or waste disposal permit which shall be issued by designated authority with due regard to environmental standards under existing laws.

59. Exemption of certain discharge of effluents

The Designated Authority, on the basis of application made by any authority of person may exempt - (a) any person who discharges effluents from any septic tank, french drain or similar private sewerage facility for the disposal of household waste to any watercourse or groundwater. (b) may withdraw any exemption or amend such exemption by imposing new or further conditions, or by withdrawing certain conditions.

60. Preservation of haors and baors and wetlands

Natural water bodies like haors and baors, beels, swamps and marshes which are important for water flow propagation or migratory bird sanctuary will be preserved and protected and drainage schemes should, to the extent possible, avoid such areas

61. Water resource project and environment

No government agency shall take any water resource related project without due regard to the biodiversity, aquatic environment, fish habitat and natural drainage systems,

62. Mitigating adverse effect of water development projects

No water development activity or irrigation network should create serious environmental degradation and any adverse impact of water development and flood control projects shall be minimized through appropriate mitigation measures

63. Unauthorized encroachment on water resources

Any form of encroachment on water resources including rivers and streams, if not authorized under rules, will be deemed illegal. The definition of encroachment or the purpose of this section shall be determined by the Ministry of Water Resources and notified in the Official gazette.

64. Dewatering of water bodies

Total dewatering of these bodies for agriculture or grazing is not permissible and partial dewatering is allowed only where a substantial portion of the stored water or land area has traditionally been used for crop production or livestock grazing

65. Perennial links of water bodies with rivers

Perennial links of water bodies with rivers will not be disrupted by human action unless it is necessary in the greater interest of public projects.

**CHAPTER VIII
FINANCIAL PROVISION**

66. Water use charges

(1) The government from time to time, by notification in the Gazette, establishes a pricing policy for charges for any water use.

(2) Except for flood control and drainage projects for a period determined by the government, the pricing policy may set charges:

(a) for funding water resource management including the related cost of:

- (i) Monitoring water resource and their use
- (ii) Water resource protection, including the discharge of waste and protection of the Reserve, and
- (iii) Water conservation;

(b) for funding water delivery at actual cost including

- (i) the cost of investigation and planning

- (ii) The cost of design and construction
 - (iii) The cost of operation and maintenance
 - (iv) The cost of water distribution;
- (c) For achieving equitable and efficient allocation of water.
- (3) The pricing policy referred to in section (1) may -
- (a) differentiate on an equitable basis between:
 - (i) different geographic areas, such as limited cost sharing in rural areas and full cost pricing, including overhead and depreciation costs, in urban areas
 - (ii) Different categories of water use;
 - (iii) Different categories of water users;
 - (b) provide for a rebate for water returned to a water source, and
 - (c) provide on an equitable basis for some element of the charges to be waived in respect of specific users for specified period of time.
- (4) The pricing policy may differentiate under section (3) -
- (a) In respect of different geographic area, on the basis of:
 - (i) socio-economic aspect of the area concerned;
 - (ii) the physical attribute of the area;
 - (iii) the demographic attribute of the area;
 - (b) in respect of different types of use and water users, on the basis of:
 - (iv) The nature of consumption, with lower rate set for basic consummative uses and higher for commercial and industrial uses The extent of water use;
 - (v) The quantity of water returned to a water source;
 - (vi) The economic and financial status of water users.
- (5) The pricing policy may provide for a different rate for waste discharge, taking into account:
- (a) The characteristic of the waste discharged;
 - (b) The amount and quality of the waste discharged;
 - (c) The nature and extent of the impact on a water resource caused by the waste discharged;
 - (d) The extent of permitted deviation from prescribed water standards or management practice;
 - (e) The required extent and nature of monitoring of the water use.
- (6) In setting the pricing policy for water use charges, the government:
- (a) Shall consider the class and resource quality objectives for different water resources, and
 - (b) May consider -

- (i) Incentives and disincentives to promote the efficient use and beneficial use of water;
 - (ii) Incentives and disincentives to reduce detrimental impact on water resources, and
 - (iii) Incentives and disincentives to prevent the waste of water.
- (7) Before setting a pricing policy for water use charges, the government shall -
- (a) Publish a notice in the Gazette:
 - (i) Setting out the proposed pricing policy, and
 - (ii) Inviting written comments from the stakeholders to be submitted on the proposed policy, specifying address and a date before which the comments are to be submitted, which date may not be earlier than 30 days after publication of the notice in the Gazette, and
 - (b) Consider all comments received on or before the date specified in section ??.

67. Application of the pricing policy for water use charges

- (1) Water use charges:
- (a) May be levied within s specific water management area;
 - (b) Shall be levied in accordance to the pricing policy for water use charges set under Section ??.
- (2) May be levied by and are payable to the water management institution concerned;
- (3) In the case of O&M charges, must be retained locally for the provision of services within the project area;

Provided that any person liable to pay water charges to a water service institution for water supply services or sanitation services will not be charged for those services under this Act.

68. Recovery of water use charges by water management institutions

The government may direct any water management institution to recover any charges levied on behalf of the government from water users within its water management area or area of operation, as the case may be, and shall compensate the institution for its services.

69. Liability for a water user charge

- (1) Any person using water must pay all charges imposed under section ?? in respect of that water use.
- (2) On non-payment of water use charge the defaulter will be subject to suspension of water supply and made liable for interest payment during

the period of default at a rate determined from time to time by the government, by notice in the gazette, and in further default will be liable for other penalties as set in the Rules.

- (3) A person must be given the opportunity to make representations within a reasonable period on the imposed penalty under section (2) 9b) to a designated authority.

70. Water use charges are charges on land

- (1) A charge under Section??, including any interest, is a charge on the land to which the water use relates and is recoverable from the current owner of the land without recovering from any other person who may be liable for the charge.
- (2) The concerned authority or relevant water management institution must upon written application by any person, and within 30 days of the application, issue a certificate stating the amount of any unpaid water charges and any interest due in respect of the land.

71. Effect or restriction on suspension of water use

A person whose water use is for any reason restricted or suspended under Section ?? may not:

- (a) later claim the water he or she would otherwise have been entitled during the period of restriction or suspension; or
- (b) claim compensation for any damage resulting from the restriction or suspension.

72. Financial incentives

Financial incentives shall be provided for water re-use and conservation and for preventing over-exploitation and pollution.

73. Authority for water tariff

- (1) The government may empower different authorities for setting water, sewerage and drainage tariff and collection of charges from time to time
- (2) It may take measures for converting the public sector agencies into financial autonomous entities with effective authority to charge and collect water tariffs and fees.

CHAPTER IX WATER USER ASSOCIATION

74. In order to secure efficient distribution of water, incite an awareness of water conservation, participatory management and adequate maintenance of a project or system and to protect environment, the Government may authorize any officer or organization or local authorities to form water users association by the water users of a particular project, sub-project or hydrological or social unit of a project.

75. Procedure to establish water user association

(1) The government may determine procedures from time to time to establish water user associations, and revise these procedures for equitable, efficient and participatory water resource management including by ensuring the adequate representation of women, landless, share croppers and other vulnerable groups in the association.

(2) Until separate Rules are framed by the Government, the Associations shall be registered within the framework of Cooperative Societies Ordinance and the Rules made there under.

76. Functions of the Associations:

The broad tasks and responsibilities of the Association will, among other things, include the followings:

- a) Stakeholders' interactive activities through preliminary discussions, meetings, motivations etc.
- b) Formally represent the beneficiaries and project affected persons in all issues relating to water management
- c) Participate in all stage of project cycle
- d) Prepare annual crop/other production plan and O&M plans
- e) Mobilize local resources and collect beneficiary contribution towards schemes investment and operation and maintenance cost
- f) Frame the working procedure
- g) Keep books of account for record and auditing
- h) Work with implementing agencies, NGOs, Community level self-help groups and LGIs including in arranging relevant extension, training and other service for various stakeholder groups.
- i) Progressively take up full or shared water management responsibilities
- j) Resolve conflicts, elect/select office bearers, explore economic activities around water resource project, sub-project/scheme.

CHAPTER X ACCESS TO AND RIGHTS OVER LAND

77. Persons authorized to enter and inspect properties

- (1) A water management institution may in writing appoint any suitable person to enter any property to carry out the activities set out in Section ??
- (2) The person appointed under section (1) must be provided with a certificate of appointment signed by the authorized representative of the institution.

78. Power of persons appointed to enter and inspect properties

A person appointed under Section ?? may, enter a property:

- (a) After giving reasonable notice to the owner or occupier of the property;

- (b) To enquire whether this Act, any condition attached to an authorized water use under this Act, notice or directive is not being complied with.

79. Power to summon and examine witness etc.-

(1) Any person empowered under this Act to conduct an enquiry shall, while holding such enquiry have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) 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 affidavit; and
- (d) any other matter which may be prescribed.

(2) Every enquiry under this Act shall be deemed to be a judicial proceeding for the purposes of relevant sections of the Penal Code, 1860.

80. Issue of Warrant

A warrant shall be issued by a court which has jurisdiction in the area where the property in question is situated, and must only be issued if it appears from information obtained on oath that:

- (a) There are reasonable grounds for believing that this Act, any condition attached to any authorized water use under this Act, notice or directive, is not being complied with.
- (b) There are reasonable grounds for believing that any information supplied in connection with the use of water is inaccurate, or
- (c) Access to the property has been denied.

81. Mode of recovery of money.

Any amount due from any person in pursuance of the provisions of this Act or the rules made there under may, if the amount is in arrear, be recovered, without prejudice to any other mode of recovery, in the same manner as an arrear of public revenue due on land.

82. Acquisition of servitudes

- (1) A person who is authorized under this Act to use water may claim a servitude of Abutment or Aqueduct or Submission or obtain amendment of any such existing servitude.
- (2) The rights and duties of servitude holder and landowners shall be determined by Rules.

83. Ownership of waterworks placed in good faith

A water management institution:

- (a) Retains ownership of a water work placed in good faith on land belonging to another;

- (b) May transfer the rights held in respect of improvement on the land to another water management institution.

CHAPTER XI GENERAL PROVISIONS

84. Power to make rules and regulations

The Government may make rules and regulations:

- (a.) limiting or restricting the purpose, manner or extent of water use;
- (b.) requiring that the use of water from a water course be monitored, measured and recorded;
- (c.) requiring that any water use be registered with the responsible authority unless exempted by provisions of this Act;
- (d.) prescribing norms and standards for the design, construction, installation, operation and maintenance of water works;
- (e.) regulating the design, construction, installation, operation and maintenance of any water work, in order to protect a water source or coastal marine water;
- (f.) regulating or prohibiting any activity in order to protect a water source habitat or coastal marine water;
- (g.) prescribing waste standards which specify the quantity, quality and temperature of waste which may be discharged or deposited into or allowed to enter a water source or coastal marine water;
- (h.) prescribing management practices to be used to treat waste, or any class of waste, before it is discharged or deposited into or allowed to enter a water source or coastal marine water;
- (i.) requiring that waste discharged or deposited into or allowed to enter a water source or coastal marine water be monitored and analyzed and prescribing methods for such monitoring and analysis;
- (j.) prescribing methodology for making volumetric determination of water to be ascribed to a stream flow reduction activity for the purpose of water use allocation and the imposition of charges; and
- (k.) prescribing procedures for the allocation of water.
- (l.) requiring concerned departments/organizations to establish effective systems to collect, process and disseminate data/information on water resources.
- (m.) setting up of a mechanism that ensures that allocation of water between competing demands is compatible with sustainable use,
- (n.) prescribing that water must not be obtained for speculation or be wasted,
- (o.) requiring that end use must be socially acceptable,
- (p.) clarifying the entitlement and responsibilities of users and providers and the role of the state vis-a-vis stakeholders, and
- (q.) providing legal status for various water user groups.

85. Limitation of liability

Neither the state nor any other person is liable for any damage or loss caused by -

- (a) the exercise of any power, or the performance of any function or duty under this Act;
- (b) the failure to exercise any power, or perform any function or duty under this Act.

unless the exercise of or failure to exercise the power, or performance or failure to perform the function or duty was unlawful, negligent or in bad faith.

86. Amendment, substitution and withdrawal of instruments

- (1) A power to make an instrument under this Act, including any rule, regulation, license, directive or notice, unless the contrary intention appears in the relevant provision, includes a power to amend, substitute and withdraw that instrument.
- (2) A power to amend, substitute and withdraw an instrument under section must, subject to section (3), be exercised in the same manner and subject to the same conditions or limitations as the original power.
- (3) In the case of an amendment to an instrument which:
 - (a) Does not significantly alter the rights and obligation of any person;
 - (b) Corrects any clerical mistake, unintentional error or omission in an instrument;

The amendment may be made without following the procedure required for establishing or giving effect to the instrument, unless the contrary intention appears.

87. Overriding effect of the Act

- (1) Notwithstanding anything contained in any other law for the time being in force, the Act and rules made and order given under it shall prevail.
- (2) This Act overrides any provision in a prior law exempting a person from payment of a charge or limiting payment to a fixed charge for water use.

SCHEDULE - 1
PERMISSIBLE USE OF WATER

- (1) A person may, without a water use permit issued under this Act -
- (a) Take water for reasonable domestic use, small gardening and animal watering (excluding feedlots), by hand, hand-operated device (including portable containers) or small pump, directly from any water source including a stream, borehole and well to which that person has lawful access.
 - (b) Take water for reasonable domestic use, small gardening and animal watering (excluding feedlots) on land owned or occupied by that person, at a maximum rate of 5 liters per second not exceeding 5 cubic meters (5000 liters) per day directly from any water source to which that person has lawful access, and
 - (c) Store and use run-off water
 - (d) Construct any works thereon for rainwater harvesting or for recycling of used water otherwise than in a river or stream and abstract and use the water so conserved or recycled for domestic purposes
 - (e) May construct a shallow hand pump or dug-well and use the water for domestic purposes subject to any limitation on the depth of such wells in any area as may be prescribed in regulations made under this Act.
 - (f) In emergency situations, take water from any water source for beneficial use;
 - (g) For recreational purposes -
 - (i) Use the water or the water surface of a water resource to which that person has lawful access, or
 - (i) Portage any boat on any land adjacent to a watercourse in order to continue boating on that water course;
- (2) An entitlement under this Schedule does not override any other law, ordinance, by-law or regulation, and is subject to any limitation or prohibition hereunder.

SCHEDULE II
CONTROLLED ACTIVITIES

The following activities are controlled activities for the purposes of Article 41 of this Act.

- (a) Irrigation of any land with waste or water containing waste which is generated through any industrial activity or a water work;
- (b) Intentional or attempted modification of atmospheric precipitation;
- (c) Power generation activities which alter the flow regime of a water resource; and
- (d) Intentional recharging of an aquifer with any waste or water containing waste.

SCHEDULE III

POWERS, FUNCTIONS AND DUTIES WHICH MAY BE EXERCISED BY A WATER MANAGEMENT INSTITUTION ON ASSIGNMENT OR DELAGATION

1. General

Subject to the provisions of this Act, a water management institution may exercise any of the powers and perform any of the functions and duties set out in this Schedule or any other powers, functions and duties which the government considers to be necessary or desirable in order to ensure compliance with this Act.

2. Powers to manage, monitor, conserve and protect water resources and to implement catchment management strategies

A water management institution may -

- (a) manage and monitor permitted water use within its water management area;
- (b) conserve and protect the water resources and resource quality within its water management area; and
- (c) do anything necessary to implement catchment management strategies within its water management area.

3. Water management institutions may establish rules to regulate water use

- (1) A water management institution may establish rules to regulate water use.
 - (1) The rules established under sub-paragraph (1) may relate to, amongst other things, the manner in which -
 - (a) The times when;
 - (b) The places where;
 - (c) The manner in which; and
 - (d) The waterworks through which;

Water may be used.

- (2) A water user must adhere to the rules established under sub-paragraph (1) if those rules apply to the user.
- (3) A rule established under sub-paragraph (1) prevails over a distribution condition contained in any authorization.
- (4) Before establishing the rules under sub-paragraph (1), a water management institution must publish a notice inviting written comments to be submitted on the proposed rules, specifying an address and a date before which the

comments are to be submitted, which date may not be earlier than 30 days after publication of the notice.

4. Water management institution may direct the termination of illegal water use

- (1) A water management institution may direct any person whom in the opinion of the institution, uses water -
 - (a) In a manner which is not permissible under this Act; or
 - (b) In breach of any condition.

To terminate such illegal use within the period specified in the directive.

- (2) If a person to whom a directive was given under sub-paragraph (1) fails to comply with the terms of the directive within the period specified under sub-paragraph (1) the water management institution may -
 - (a) Suspend the authority to use the water for a period specified in the notice and /or
 - (b) Remove a water work used for the purpose.

5. Water management institution may temporarily control, limit or prohibit the use of water during periods of water shortage.

- (1) Despite anything to the contrary in an authorization, a water management institution may -
 - (a) By written notice to the water user in the area, who, in the opinion of the institution may be affected;

If that authority on reasonable grounds believes that a water shortage exists or is anticipated within an area -

- (i) Limit or prohibit the use of water;
 - (ii) Require any person to release stored water under that person's control;
 - (iii) Prohibit the use of any water work;
 - (iv) Require that specified water conservation measures be taken.
- (2) A notice given under sub-paragraph (1) must -
 - (a) Specify the geographical area or water resource to which the notice relates;
 - (b) Set out the reason for the notice; and
 - (c) Specify the dates of commencement of the measures.
- (3) In exercising the powers under sub-paragraph (1), the responsible authority must-
 - (a) Give preference to the maintenance of the reserve;
 - (b) Treat all water users on a basis that, in the opinion of the water management institution, is fair and reasonable; and

- (c) Consider -
 - (i) The actual extent of the water shortage, and
 - (ii) The likely effects of the shortage on the water users.
- (4) If the owner or person in control of a water work contravenes a notice issued under sub-paragraph (1), the water management institution may -
 - (a) Modify, or require the owner of the water work to modify the water work so that it cannot be used take more water than that allowed for in the notice, or
 - (b) Remove the water work or require the owner to remove the water work if the notice contains a prohibition on the use of that water work.
- (5) A water management institution may recover from the owner any reasonable costs incurred by it in acting under sub-paragraph (4).