

# GROUND WATER ACT 1969

Act No. 55 of 1969

Proclaimed by [\[Proclamation No. 12 of 1970\]](#) w.e.f. 1<sup>st</sup> September 1970

I assent,

19th December, 1969.

A. L. WILLIAMS,  
Governor-General.

## ARRANGEMENT OF SECTIONS

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**An Act to provide for the ownership, control and exploitation of  
ground water and for matters incidental thereto and  
connected therewith**

[20<sup>th</sup> December, 1969]

ENACTED by the Parliament of Mauritius, as follows-

### 1. Short title.

This Act may be cited as the Ground Water Act, 1969.

### 2. Interpretation.

In this Act, unless the context otherwise requires-

"ground water" means any water under the surface of the ground, and includes underground streams, natural sub-surface reservoirs and lakes and any water held underground in a zone of saturation; it does not include water flowing in or contained in artificial pipes, conduits or reservoirs, nor does it include surface water having as its immediate origin atmospheric precipitation or natural springs issuing at the ground surface, and flowing over, or retained on, the surface of the ground;

"Permanent Secretary" means the Permanent Secretary, Ministry of Works or any other officer designated by the Permanent Secretary;

"works" means any structure, apparatus, contrivance or device for abstracting, diverting obstructing, measuring or using ground water.

### **3. Ground water public property.**

Subject to the provisions of this Act, all ground water is Ground hereby declared to vest in the Crown.

### **\*4. Licence to abstract ground water.**

(1) Subject to the provisions of this Act no person shall-

(a) abstract, divert, obstruct, measure or use any ground abstract water;

(b) construct or erect any works unless he has obtained a licence (hereinafter referred to as a " Ground Water Licence") which shall specify the operations which the holder thereof is allowed to carry on and the conditions subject to which it has been issued:

Provided that the provisions of this subsection shall not apply to any person acting for or on behalf of the Permanent Secretary.

(2) A Ground Water licence issued under this Act shall be in the prescribed form.

### **5. Applications for licences.**

(1) Any person wishing to obtain a Ground Water licence shall make an application on the prescribed form to the Permanent Secretary and cause a notice of the application to be published in the Gazette, and in two daily newspapers approved by the Minister.

(2) The applicant shall furnish to the Permanent Secretary such information, data, documents and plans as the Permanent Secretary may require.

(3) Applications for the renewal of a Ground Water licence shall be made on the prescribed form to the Permanent Secretary not later than six months before the expiry of the existing licence and shall be published in the Gazette and in two daily newspapers approved by the Minister.

- (4) The Minister may exempt any applicant for a Ground Water licence who before the commencement of this Act, was drawing ground water from a well exclusively for domestic purposes, from publishing his application as required by sub-sections (1) and (3) of this section.

## **6. Right and grounds of objection to licence.**

Any person may, within twenty-one days of the last day of publication under section 5 of this Act, object to the grant or the renewal of a Ground Water licence by lodging written reasons therefor with the Permanent Secretary, who shall within fifteen days communicate these reasons to the applicant by registered post.

## **7. Decision of Minister.**

- (1) The Minister shall, after considering the merits of an application and any objections thereto, grant or reject it. His decision shall be communicated in writing, within twenty one days, to the applicant and to any objector and shall specify the operations which the applicant will be allowed to carry on and the conditions subject to which the Ground Water licence may be issued
- (2) If the application is granted a Ground Water licence shall be issued to the applicant on payment of the prescribed fee:

Provided that any applicant who has benefited from an exemption under subsection (4) of section 5 of this Act shall, if his application for a Ground Water licence is granted, be issued with a licence free of charge.

## **8. Appeal against decision of Minister.**

- (1) Any person aggrieved by a decision of the minister under section 7 of this Act may at any time appeal in writing against the decision to the Supreme Court, setting out the grounds of such appeal.
- (2) Any appeal under subsection (1) of this section shall be proceeded with, heard and determined in such manner as may be provided by rules made by the Supreme Court.
- (3) On any such appeal the Supreme Court may give any such directions as it thinks proper including any such direction as to the costs of the appeal, and the order of the Supreme Court shall be final and conclusive.
- (4) Nothing in this section shall be construed as in any way derogating from the power of the Supreme Court to make or issue any prerogative writ or order.

## **9. Exemption for parties to an agreement with the Government.**

Nothing in this Act shall affect the rights of any person who, before the commencement of this Act, has been a party to a written agreement with the Government in relation to the abstraction, diversion, obstruction, measurement or use of any the ground water.

## **\*\*10. Other persons already abstracting, etc, ground water.**

- (1) Any person, not being a person to whom the provisions of the last preceding section apply, who has within the ten years preceding the commencement of this Act, abstracted, diverted, obstructed, measured or used ground water, or erected any works and has ceased and does not intend to do so, shall within three months of the commencement of this Act, give notice in writing to the Permanent Secretary of his operations in relation to ground water, and shall furnish, in relation to those operations, such information, data, documents and plans, as the Permanent Secretary may, from time to time, require.
- (2) Any person, not being a person to whom the provisions of the last preceding section apply, who has before the commencement of this Act, abstracted, diverted, obstructed, measured or used ground water or erected any works for this purpose and intends continuing to do so shall, in respect of each premises occupied by him for that purpose apply for a Ground Water licence in compliance with the provisions of this Act, within two months of the commencement of this Act.

#### **11. Power of entry.**

Any person licensed under this Act shall keep such records of his operations as may be required in writing by the Permanent Secretary and produce such records for inspection whenever required so to do by the Permanent Secretary.

#### **12. Power of entry.**

- (1) It shall be lawful for any officer authorised in writing by the Permanent Secretary, on giving twenty-four of entry. Hours' notice to the occupier of any land-
  - (a) to enter the land for the purpose of-
    - (i) inspecting any ground water or any works;
    - (ii) taking any measurement which may appear to the Permanent Secretary to be necessary;
    - (iii) ascertaining whether an offence has been, is being or is about to be committed against this Act;
    - (iv) conducting investigations and experiments to ascertain the availability and amount of ground water under such land and the possibility of exploiting such ground water;
    - (v) giving effect to the provisions of this Act;
  - (b) to install temporarily on any such land any machinery or instrument in connection therewith.
- (2) The occupier of any land to which an officer has been given access under the preceding subsection shall, whenever it is necessary, provide a passage for materials and for persons.

- (3) Where the owner or occupier of any property sustains any damage, including the loss of value to the property by reason of any works carried out by an officer authorised under sub-section (1) of this section, such owner or occupier shall be entitled to compensation in respect of such damage.
- (4) Where under the last preceding subsection compensation is applied for and is refused or where the owner or occupier of the property is dissatisfied with the amount of the compensation offered whatever the value of the property involved or the amount of compensation claimed, anything to the contrary notwithstanding in any law for the time being in force, such owner or occupier may, within fifteen days of the date on which the decision of the Permanent Secretary has been duly notified to him, require the Minister to appoint a Tribunal, composed of one or more members, for the purpose of settling the dispute.

### **13. Persons striking ground water.**

- (1) Any person who, in the course of any digging, boring or drilling operations on any premises, strikes ground water shall immediately notify the Permanent Secretary in writing of the existence of the ground water.
- (2) The owner of such premises, or if the owner is unknown, the occupier thereof shall thereafter take such measures and comply with such directions as the Minister, may, from time to time, require for the conservation of such ground water.

### **14. Steps to be taken by Minister.**

Whenever any person satisfies the Minister that he has insufficient means to comply with any direction given by the Minister under this Act, the Minister may take such steps as he may deem advisable at the Government's expense for the conservation of ground water:

Provided that any such person may thereafter apply for a licence under section 5 of this Act.

### **15. Offences.**

- (1) Any person who fails to comply with the provisions of this Act, of any regulations made thereunder or with the conditions attached to a Ground Water licence issued under this Act, shall be guilty of an offence, and liable on conviction to a fine not exceeding one thousand rupees and to imprisonment for a period not exceeding six months.
- (2) Any works used in the commission of an offence under this section may be forfeited.

### **16. Regulations.**

The Minister shall have power to make regulations generally for the carrying out of the provisions of this Act, and any such regulations, may, without prejudice to the generality of the foregoing-

- (a) prescribe anything which is permitted or required by this Act to be prescribed.

(b) provide for returns to be made by holders of a ground water licence.

**17. Commencement.**

**Proclaimed by [\[Proclamation No. 12 of 1970\]](#) w.e.f. 1<sup>st</sup> September 1970**

This Act shall come into force on a day to be fixed by Proclamation.

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\*R&R – Act 32/89

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