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The following Act passed by the Parliament on 15th Magh 1424, i.e. 28 January 2018, has been approved by the President and herewith being published for public knowledge: ---

05 No. Act of year 2018

This Act is formulated after repealing the **The Ground Water Management Ordinance, 1985** and making timely changes in the same with the purpose to re-enacting it

Whereas by the Constitution (Fifteenth Amendment) Act, 2011 (Act No. 14 of 2011), the paragraph 19 of Fourth Schedule of People's Republic of Bangladesh related to approval and acceptance of ordinances issued by military decree during the period 24 March 1982 to 11 November 1986 has been annulled and the effectiveness of those ordinances became extinct with the annulling of the Constitution (Seventh Amendment) Act 1986 (Act No. 1 of 1986) that gave them legal sanction with the declaration of Martial Law as unconstitutional in the verdict given by the Appeal Section of the Supreme Court in Civil Appeal No. 48/2011; and

Whereas a few Ordinances among the aforesaid Ordinances are kept effective by Act No. 7 of 2013; and

Whereas the government has decided to enact a new Act in Bengali after reviewing the necessity and relevance of those Ordinances and after making necessary amendments and refinements of the Ordinances considered necessary taking into consideration opinions of all stakeholders and related ministries and departments; and

Whereas it is expedient and necessary in the light of above-mentioned decisions of the government to repeal The Ground Water Management Ordinance 1985 (Ordinance No. XXVII of 1985) and re-enact the same with timely changes:

Therefore, the Act is being promulgated herewith as following: ---

1. **Short title, application and introduction:** --- 1) This Act will be known as the Groundwater Management in Agricultural Activities Act 2018.
2) This Act will be applicable in the case of tube wells used for agricultural activities.
3) It will be effective immediately.
2. **Definitions:** --- In this Act, unless there is anything repugnant in the subject or context, ---
 - 1) "Shallow tube well" means such tube well, which is run by centrifugal pump as its prime mover and has the capacity of lifting water from a vertical depth of up to 7 (seven) meters between the centrifugal pump and the level of water being extracted;
 - 2) "Upazila Parishad" means Upazila Parishad established under the Upazila Parishad Act 1998 (Act No. 24 of 1998);
 - 3) "Authority" means the concerned Upazila Parishad;
 - 4) "Deep tube well" means such tube well, which is run by submersible pump set or turbine pump attached with the prime mover with the capacity of extracting water when the depth of water level is more than 7 (seven) meters;
 - 5) "Tube well" means any kind of shallow or deep tube well used for extracting water;
 - 6) "Prescribed" means prescribed by the rules formulated under this Act;
 - 7) "Aquifer" means a layer between underground soil or rocks that contains and flows water and from where water can be extracted;
 - 8) "License" means licence sanctioned under section 5;
3. **Prevalence of the Act:** --- Whatever may be in force at present under any other act, the provisions of this Act will prevail.
4. **Upazila Irrigation Committee:** --- 1) To fulfil the objectives of this Act, an Upazila Irrigation Committee will be constituted in every Upazila in the prescribed manner;
2) The structure, number of members and functions of the Upazila Irrigation Committee will be decided by the rules.
5. **Licence for installing a tube well:** --- 1) Without licence issued by the Upa-zila Parishad, no tube well can be installed for irrigation purposes in any area.
2) For getting licence to install tube well, one has to apply to the Upazila Parishad in a form along with prescribed fee.
3) No application will be received by the Upazila Parishad until applied with the prescribed fee;

4) If applied under sub-section (2), the Upazila Parishad will direct the Upazila Irrigation Committee to verify the authenticity of the place and information mentioned in the application and submit written statement within the prescribed time.

5) After receiving direction under sub-section (4), Upazila Irrigation Committee will conduct spot verification in the place mentioned in the application and submit statement regarding the following, such as: ---

- a) status of aquifer in the proposed place for tube well installation;
- b) distance from the nearest existing tube well;
- c) estimated area to be benefitted by the proposed tube well;
- d) probable impact on existing tube wells including the domestic ones;
- e) suitability of the place for installation of tube well;

6) If the Upazila Parishad, after taking into consideration the recommendation of the Upazila Irrigation Committee, is satisfied with the view that by the installation of the tube well applied for----

- a) agricultural activities will be benefitted in the area where the tube well is proposed to be installed;
- b) no adverse impact will happen on the surrounding environment; or
- c) implementable in any other way;

Then the Upazila Parishad will issue licence to the applicant withing specified time, form, terms and conditions.

7) If the Upazila Parishad is not satisfied with the recommendation of the Upazila Irrigation Committee, it may reject the application for licence and inform the same to the applicant within the specified time.

8) If the Upazila Parishad rejects an application for licence under sub-section 7, the aggrieved person may apply to the authority for re-consideration of the same within the specified time, but the decision of the said authority will be regarded as final.

6. Licence for existing tube well: --- After implementation of this Act, application will have to be submitted within the period specified by the government for tube wells for which licence had not been acquired.

7. Suspension of licence: --- 1) If any person violatate any condition of the licence, then the Upazila Irrigation Committee, by written order mentioning reasons, may temporarily suspend licence of the said person under specified terms and conditions and send the same immediatly for approval to the Upazila Parishad.

2) If the Upazila Parishad is satisfied that the suspension of licence is reasonable having enough grounds existing, then it will approve the suspension order or it may reject the same in the absence of reasonable and sufficient grounds;

But with the condition that the Upazila Parishad will not approve any suspension order of licence without offering reasonable opportunity for hearing the licence-holder.

3) Under sub-section (2), the suspension of licence will remain effective for a period of 45 (forty-five) days.

4) If any suspension of licence is approved by the Upazila Parishad under sub-section (2), the aggrieved person can apply for reconsideration of the same within specified time to the authority, but the decision of the said authority will be regarded as final.

8. Cancellation of licence: --- If a licence is suspended for 3 (three) times within the last one year, the Upazila Parishad may cancel the licence after providing reasonable opportunity of hearing to the licence-holder and taking into consideration the recommendation of the Upazila Irrigation Committee.

9. Restrictions regarding supply of tube wells by Corporation and others: ---

Notwithstanding any provision of any Act presently operating, the Bangladesh Agricultural Development Corporation established under Agricultural Development Corporation Ordinance 1961 (East Pakistan Ordinance No. XXXVII of 1961) or any other authority or any person associated with tube well business cannot supply tube well to any person other than those licenced under this Act to install tube well.

10. Crime and punishment: ---- If a person violates any rule of this Act, he/she will be penalised by a fine of not more than 50 (fifty) thousand taka, or simple imprisonment of 30 (thirty) days on non-payment of the fine.

11. Adjudication of crime and trial: --- 1) Without written permission from the authority, no court of law will accept any case for adjudication under this Act.

2) The rules of Code of Criminal Procedure 1898 (Act No. V of 1898) will be applicable for adjudication of any crime and proceedings thereof committed under this Act.

12. Power to formulate rules: -- To fulfil the objectives of this Act, the government can formulate rules by notification in the Government Gazette.

13. Power to exempt: ---- The government, by notification in the Government Gazette, can exempt any project or area, mentioned in the notification, from application of this Act.

14. Repeal and custody: --- 1) The Ground Water Management Ordinance 1985 (Ordinance No. XXVII of 1985), mentioned as Ordinance hereafter, is repealed herewith.

2) Even after being repealed under sub-section (1), under the above-mentioned Ordinance

a) any work, any step undertaken, or licence issued, or any running work will be considered as work, step, issued or running under this Act;

b) subject to being consistent with this Act, any rule formulated will be considered as formulated under this Act; and

c) if any lawsuit remains pending, it will be settled as if the Ordinance is not repealed.
