

THE ANDHRA PRADESH WATER RESOURCES REGULATORY COMMISSION
ACT, 2009

(ACT NO. 15 OF 2009)

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THE ANDHRA PRADESH WATER RESOURCES REGULATORY COMMISSION
ACT, 2009

(Act No. 15 of 2009)

[09th September, 2009]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE ANDHRA PRADESH WATER RESOURCES REGULATORY COMMISSION FOR REGULATION OF WATER RESOURCES WITHIN THE STATE OF ANDHRA PRADESH, FACILITATE EFFECTIVE UTILIZATION OF WATER RESOURCES WITHIN THE STATE TO ENSURE ITS SUSTAINABLE AND SCIENTIFIC MANAGEMENT FOR DRINKING, AGRICULTURE, INDUSTRIAL AND OTHER PURPOSES AND MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Sixtieth year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement - (1) This Act may be called the Andhra Pradesh Water Resources Regulatory Commission Act, 2009.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in Official Gazette, appoint.

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

(a) "Category of Use" means use of water for different purposes such as for domestic, agricultural irrigation, agro-based industries, industrial or commercial, environmental, etc., and includes such other purposes as may be prescribed;

(b) "Chairperson" means the Chairperson of the Commission;

(c) "Commission" means the Andhra Pradesh Water Resources Regulatory Commission established under section 3;

(d) "Government" or "State Government" means the Government of Andhra Pradesh;

(e) "Irrigation Project" means a project constructed to provide irrigation facilities to the land situated in the command area in accordance with the project reports and orders issued in this regard, as revised from time to time;

(f) "Member" means a Member of the Commission and includes the Chairperson;

(g) "Notification" means a notification published in the Andhra Pradesh Gazette and the word notified shall be construed accordingly;

(h) "Prescribed" means prescribed by rules made under this Act;

(i) "Selection Committee" means a Selection Committee constituted under Section 5;

(j) "State" means the State of Andhra Pradesh;

(k) "Water Users' Association" means a Water Users' Association formed at the minor level or above, under the Andhra Pradesh Farmers Management of Irrigation Systems Act, 1997;

(l) "Water Users Association, or "Distributary Committee" or "Project Committee" means the Committees constituted under the Andhra Pradesh Farmers Management of Irrigation Systems, Act, 1997 (A.P. Act No. 11 of 1997).

(2) Words and expressions used and not defined in this Act but defined in various irrigation or water resources related Acts in the State shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

ANDHRA PRADESH WATER RESOURCES REGULATORY COMMISSION

3. Establishment and Incorporation of Commission - (1) The Government shall within three months from the date of the Commencement of this Act, by notification, establish a Commission to be known as Andhra Pradesh Water Resources Regulatory Commission to perform the functions and duties assigned to it.

(2) The Commission established under subsection (1) shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to contract, acquire, hold and dispose of property, both movable and immovable and to do all things necessary for the purposes of this Act and may sue or be sued by its corporate name.

(3) The Commission shall consist of a Chairperson and two other members.

(4) The Head office of the Commission shall be at Hyderabad.

(5) The Chairperson and the other Members of the Commission shall be appointed by the Governor of Andhra Pradesh on the recommendation of the Selection Committee constituted under section 5.

4. Qualifications for appointment and the manner of selection of members- (1) The Chairperson and the Members of the Commission shall be appointed as follows:

(a) The Chairperson shall be a person who is or who was of the rank of Chief Secretary of the State or equivalent thereto or a person of eminence in the field of water resources management with proven track record.

(b) One Member shall be expert from the field of water resources engineering.

(c) One Member shall be expert from the field of water resources economy.

(2) Special invitees as and when required by the Commission: The Commission may as and when needed and decided by them invite special invitees from,-

(a) experts who are having adequate knowledge, experience or proved capacity in dealing with the problems relating to engineering, agriculture, drinking water, industry, law, economics,

commerce, finance or management for assisting the Commission in taking policy decisions.

(b) Members from farmers Organisations with in the State.

(3) The Chairperson and other Members of the Commission shall not hold any other office of profit.

5. Constitution and functions of Selection Committee- (1) The Government shall, by notification, for the purposes of selection of the Chairperson, and other Members of the Commission, constitute a Selection Committee consisting of:

(a) The Chief Secretary of the State - Ex-officio Chairperson.

(b) Special Chief Secretary/Principal Secretary/Secretary to Government of the following departments shall be the Ex-Officio Members, -

(i) Finance

(ii) Planning

(iii) Irrigation and Command Area Development - Convener

(2) The Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or Member of the Commission, and six months before the superannuation or end of tenure of Chairperson or any Member, make a reference to the Selection Committee for selection.

(3) The Selection Committee shall finalize the selection of the Chairperson and Members within one month from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as the Chairperson or Member of the Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest, which is likely to affect pre-judicially his functions as a Member.

(6) No appointment of the Chairperson and Members of the Commission shall be invalid merely by reason of any vacancy in the Selection Committee.

6. Term of office of members - (1) The Chairperson and Members of the Commission shall hold office for a period of five years or till attaining the age of 65 years, whichever is earlier.

(2) The Chairperson and the Members of the Commission shall not be eligible for second term appointment.

7. Salaries and allowances of members - (1) The Chairperson and Members of the Commission shall be paid such fees or salaries and such allowances as may be prescribed by the Government.

(2) The salary and allowances and other conditions of service of the Chairperson and Members of the Commission shall not be varied to their disadvantage after appointment.

8. Conditions of service - (1) Notwithstanding anything contained in Section 6, the Chairperson and Members of the Commission may:

(a) relinquish the office by giving in writing to the Government, notice of not less than three months; or

(b) be disqualified from his office in accordance with the provisions of Sections 9 and 10.

(2) The Chairperson and Members of the Commission ceasing to hold office as such shall:

(a) not be eligible for further employment under the Government for a period of two years from the date the person ceases to hold such office;

(b) not accept any commercial employment for a period of two years from the date the person ceases to hold such office.

Explanation - For the purposes of this sub-section:

(i) "Employment under the Government" includes, employment under any local or other authority within the territory of Andhra Pradesh or under the control of the Government or under any corporation or society owned or controlled by the Government.

(ii) "Commercial Employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in the water Resources Sector and also includes a director of a company or partner of a firm and also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

9. Disqualifications for being a member of the Commission - (1) A person shall be disqualified for being appointed as, or for being, a Chairperson and Members of the Commission:

(a) if the person is of unsound mind or has become physically incapable of performing his duties.

(b) if the person is an un-discharged insolvent,

(c) if the person has been convicted of an offence involving moral turpitude,

(d) if the person has such financial or other interest as is likely to affect pre-judicially his functions as a Member of the Commission,

(e) if it is proved beyond reasonable doubt that the person has so abused his position as to render his continuance in office prejudicial to the public interest.

(f) if he acts prejudicial to the public interest and Government directions.

(2) Subject to the provisions of sub-section (1), the Chairperson and Members of the Commission shall be removed from office by order of the Government on the ground of proved misbehavior in an enquiry held in accordance with the procedure as may be prescribed.

(3) The Government may, during the period of inquiry as specified in sub-section (2), suspend the Chairperson and Members of the Commission.

10. Conflict of interest to disqualify members - Before appointing a person to be the Chairperson and Member of the Commission, the Government shall satisfy itself that the person will have no such financial or other interest as is likely to affect pre-judicially his functions as a Chairperson and member of the Commission.

11. Power of Government to depute Officers and employees to Commission and their service conditions - (1) The Commission may, with the prior approval of the Government, appoint a Secretary and such number of officers and employees as it considers necessary either on contract or on deputation for the performance of its duties and functions.

(2) The Commission may engage consultants as and when required to assist the Commission in the discharge of its functions.

12. Proceedings of Commission - (1) The Commission shall meet at the head office or at any place and at such time as the Chairperson may direct.

(2) Two out of three members including the Chairperson shall constitute the Quorum for the meetings of the Commission.

(3) If the Chairperson is unable to attend a meeting of the Commission, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present among themselves shall preside at the meeting.

(4) All decisions of the Commission shall be on the basis of majority of the Members present and voting.

(5) In case of difference in opinion of any two members on any issue or resolution, the full Commission shall decide the matter on a majority basis:

Provided that for a meeting of the Commission to review any previous decision taken by the Commission, the quorum shall be that all members shall be present.

(6) Commission for any specific purpose may invite special invitee depending up on the need to give expert opinions to the Commission. However, the special invitees shall not have any voting right.

(7) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorized by the Chairperson in this behalf.

13. Vacancies, etc., not to invalidate act or proceedings - (1) No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy in the Commission.

(2) In case of difference of opinion between the Chairperson and the Member, the view of the Chairperson shall prevail.

CHAPTER III
POWER, FUNCTIONS AND DUTIES OF THE COMMISSION

14. Powers, functions and duties of the Commission - The powers, functions and duties of the Commission shall be as under:

(1) (a) To determine the water requirement for various categories of users (such as irrigation, municipal/rural drinking water/industry etc.) on a yearly/season basis.

(b) To determine the requirement of irrigation water for the various levels of Farmers Organizations (namely, Project Committee, Distributary Committee and Water User Association) based on the cropping pattern approved by the project authorities on a yearly/season basis and implement the same.

(2) (a) To determine the adequate operation and maintenance (O&M) cost of irrigation/multipurpose water projects, (b) The State shall ensure provisions for full operation and maintenance requirements of such projects as determined by the Commission, through an appropriate budgetary support, to ensure that the quality of the service delivery is not allowed to suffer for want of systems Operation and Maintenance needs.

(3) To promote efficient management of irrigation water:

(a) Providing Guidelines/Procedures/ modalities for plough back of operation and maintenance amount to the farmers organizations for the operation and maintenance of the irrigation systems as well as standards of services,

(b) Monitoring the technical standards for operation and maintenance, cyclical repairs and minimum rehabilitation of irrigation system,

(c) Ensure that the principle of "tail to head" irrigation is implemented by the project authorities.

(4) To promote efficient use of water resources and minimizing wastage of water by:

(a) Fixing and monitoring implementation of stipulated quality standards for management of water resources by various water users/ departments and recommend actions against violations.

(b) Fixing and monitoring implementation of stipulated quality standards for the services to be provided by various water resources service providers and recommend actions against violations,

(c) Fixing and monitoring implementation of stipulated quality standards for disposal of waste water by various water users and recommend actions against violations,

(d) Fixing and monitoring implementation of stipulated standards for protection of all water resources in the State including pollution,

(e) Supporting and aiding enhancement and preservation of water quality within the State in close coordination with the relevant

State Agencies and in doing so following the principle that "the person who pollutes shall pay".

(5) To ensure publication of an annual report containing following information by project authorities:

(a) Irrigation status containing all statistical data relating to irrigation including details of the project wise irrigation potential and its actual utilization, water user efficiency and productivity relating to the projects.

(b) Benchmarking of irrigation/ multipurpose water projects to identify projects with best management practices for emulation by other projects.

(c) Water Audit or Irrigation/ multipurpose water projects giving a systematic and scientific water account of the projects.

(6) (a) The Commission shall devise a suitable mechanism for financial incentives/disincentives to the farmer's organizations and other water users for ensuring delivery of services to their members as per the determination.

(b) The Commission shall in case of non-compliance of the specific directions in discharge of the powers under this Act, recommend to the Government suitable disciplinary action against such Government officials.

(7) To perform any other powers, functions and duties as assigned to the commission by the State Government by notification.

15. General policies of the Commission - The Commission shall work according to the framework of the State Water Policy and other existing laws of the state.

CHAPTER IV ACCOUNTS, AUDIT AND REPORTS

16. Grants and advances to Commission - The Government may, after appropriation duly made by the State Legislature, by law in this behalf, make such grants and advances to the Commission as it may deem necessary for the performance of its functions and discharge of its duties under this Act; and all grants and advances made shall be on such terms and conditions as the State Government may determine.

17. Budget of Commission - The Commission shall prepare in such form and at such time in each financial year as may be prescribed, its budget for the next financial year and forward it to the Government.

18. Accounts of Commission - (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Government in consultation with the Accountant General.

(2) The Accounts of the Commission shall be audited by the Accountant General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Accountant General.

(3) The Accountant General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Accountant General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Accountant General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Government by the Commission and the Government shall cause the audit report to be laid, within a period of six months from the date of its receipt, before the State Legislature.

19. Annual Reports of Commission - (1) The Commission shall prepare once in every year in such form, and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be sent to the Government.

(2) A copy of the report received under subsection (1) shall be laid, within six months, after it is received, before the State Legislature.

CHAPTER V MISCELLANEOUS

20. General Powers of the State Government - The Government shall have the power to issue policy directions to the Commission on matters concerning water in the State including the overall planning and co-ordination.

21. Members, officers and other staff of commission to be public servants - The Chairperson, members, officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or rules or regulations made there under, to be the public servants within the meaning of Section 21 of the Indian Penal Code (Central Act 45 of 1860).

22. Protection of action taken in good faith - No suit, prosecution or other legal proceedings shall lie against the Government or the Commission and officer of Government or any Members, officer or other employees of the Commission for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or rules or regulations made there under.

23. Power to make Rules - (1) The State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while in session for a total period of fourteen days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the Official Gazette, the rule shall, from the date of publication of such decision in the Official Gazette, have effect only in such modified form or be of no effect, as the case may be; so

however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

24. Dispute Resolution Mechanism - (1) The Government by an order issued in its behalf authorize any competent officer or officers for each project as Primary Dispute Resolution Officer to resolve the disputes with regard to the issuance or delivery of determined water under the Act.

(2) The Primary Dispute Resolution Officer shall follow such procedure as may be prescribed while hearing the disputes.

25. Powers of Commission to make regulations - The Commission with the prior approval of the State Government may make regulations for discharging its duties consistent with this Act and the rules made thereunder.